

AGREEMENT OF LEASE
BETWEEN
BROWARD COUNTY
AND
NORTH PERRY CENTRAL, LLC

INDEX

<u>ARTICLE</u>	<u>PAGE</u>
1. DEFINITIONS AND INSTRUCTIONS.....	1
2. LETTING	7
3. TERM	10
4. RENT, FEES AND OTHER CHARGES	10
5. USES OF THE PREMISES	19
6. CONSTRUCTION BY LESSEE	23
7. CONSTRUCTION CONTRACTS, BONDS, INDEMNIFICATION AND INSURANCE REQUIREMENTS FOR CONTRACTORS.....	34
8. OBLIGATIONS OF LESSEE.....	37
9. INGRESS AND EGRESS	42
10.COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS	43
11.MAINTENANCE AND REPAIR.....	43
12.INSURANCE REQUIREMENTS.....	45
13.DAMAGE TO OR DESTRUCTION OF PREMISES.....	49
14.INDEMNITY	51
15.SIGNS	52
16.OBSTRUCTION LIGHTS.....	52
17.RIGHTS OF ENTRY RESERVED.....	52
18.ASSIGNMENT, SUBLEASE, LEASEHOLD MORTGAGE	54
19.DEFAULT, TERMINATION.....	59
20.REMEDIES TO BE NON-EXCLUSIVE	61

21. SURRENDER	62
22. ACCEPTANCE OF SURRENDER OF LEASE	63
23. REMOVAL OF PROPERTY	63
24. LIMITATION OF PRIVILEGES GRANTED	65
25. NOTICES	65
26. CONSTRUCTION AND APPLICATION OF TERMS	66
27. NON-LIABILITY OF INDIVIDUALS	68
28. UTILITIES	68
29. ABATEMENT	69
30. AIRPORT SECURITY	69
31. NONDISCRIMINATION	70
32. ENVIRONMENTAL COMPLIANCE, ENVIRONMENTAL CONTAINMENT AND REMOVAL	71
33. SECURITY DEPOSIT	78
34. QUIET ENJOYMENT	79
35. MISCELLANEOUS	79
36. OTHER PROVISIONS	81
37. EARLY TERMINATION AND COUNTY BUY-OUT	84
38. ENTIRE AGREEMENT	91
EXHIBIT A	PARCEL
EXHIBIT B	NONDISCRIMINATION REQUIREMENTS
EXHIBIT C	INITIAL ENVIRONMENTAL ASSESSMENT (ON FILE AT THE OFFICES OF THE AVIATION DEPARTMENT)
EXHIBIT D	ENVIRONMENTAL DOCUMENTS
EXHIBIT E	PREVAILING WAGE RATES
EXHIBIT F	STATEMENT OF COMPLIANCE – PREVAILING WAGE RATE ORDINANCE

AGREEMENT OF LEASE

This AGREEMENT OF LEASE ("Agreement") is made by and between BROWARD COUNTY, a political subdivision of the State of Florida ("County"), and NORTH PERRY CENTRAL, LLC, a Florida limited liability company, having offices at North Perry Airport, 1620 SW 75th Avenue, Pembroke Pines, Florida ("Lessee").

RECITALS

WHEREAS, County owns and has jurisdiction over the development, operation and maintenance of the North Perry Airport located in Broward County, Florida; and

WHEREAS, Lessee desires to lease from County certain Premises located at North Perry Airport, and County desires to lease those Premises to Lessee; and

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, County and Lessee hereby agree as follows:

ARTICLE 1 DEFINITIONS AND INSTRUCTIONS

The terms set forth below, when used in this Agreement, are defined as follows:

- 1.1 Affiliate an "affiliate" of a specified person means a person who (i) is directly or indirectly controlled by, or under common control with, the specified person; or (ii) owns directly or indirectly thirty-five percent (35%) or more of equity securities of the specified person; or (iii) is a general partner, officer, director, non-financial institution trustee or fiduciary of the specified person or of any person described in (i) or (ii), preceding; or (iv) is a son, daughter, spouse, parent, sibling or in-law of the specified person.
- 1.2 Agreement and Lease means Articles 1 through 38 of this Agreement of Lease, including any supplements, exhibits, modifications or amendments thereof.
- 1.3 Aircraft Fuel Farm Facility means the Aircraft Fuel Farm Facility to be constructed at the Premises pursuant to Article 6 and other applicable provisions of this Agreement, and also every fuel facility and appurtenances thereto that are now or hereafter located on the Premises. Aircraft Fuel Farm Facility also means every fuel facility and appurtenances thereto that are now or hereafter located anywhere else at the Airport and that were or will be installed by Lessee.

- 1.4 Airport or HWO means the North Perry Airport, located in Broward County, Florida.
- 1.5 Airport Manager means the Airport Manager or Acting Airport Manager for the Airport, as may change from time to time, and as may be identified on the website for the Airport.
- 1.6 Applicable Environmental Laws means any and all applicable federal, state, County and local statutes, ordinances, regulations, rules, laws, permits, and orders and directives of any federal, state or local court or entity with jurisdiction of such matter, relating to the generation, use, storage, transportation, or disposal of hazardous materials, that have been, or may hereinafter be adopted, and as may be amended from time to time, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC § 9601, et. seq.), the Resources Conservation and Recovery Act of 1976 (42 USC § 6901, et. seq.), the Clean Water Act (33 USC § 1251 et. seq.), the Safe Drinking Water Act (42 USC § 300 et. seq.), the Hazardous Materials Transportation Act (49 USC § 5101 et. seq.), and the Toxic Substance Control Act (15 USC § 2601, et. seq.), all as may be amended from time to time.
- 1.7 Applicable Laws means any and all applicable laws, codes, advisory circulars, rules, regulations, ordinances or resolutions of any governmental or quasi-governmental entity relating to the Airport, the Premises, or activities at the Airport or the Premises, that have been, or may hereinafter be adopted, and as may be amended from time to time, including without limitation all applicable federal, state, County, local and any quasi-governmental agency laws, codes, advisory circulars, rules, regulations, ordinances, resolutions, development orders, grant agreements, the Minimum Standards and Applicable Environmental Laws.
- 1.8 Approved Leasehold Mortgagee means as defined in Article 18 of this Lease.
- 1.9 Approved Plans means plans and specifications for improvements to the Premises that have received the Aviation Department's prior written approval under Article 6 of this Agreement.
- 1.10 Aviation Department means the Broward County Aviation Department or any other successor agency and the duly authorized representatives of that agency.
- 1.11 Aviation Director and Director of Aviation means the Director of Aviation or the Acting Director of Aviation of the Aviation Department, or such other person as may be appointed by the Broward County Administrator to be the administrator over all Aviation Department functions.
- 1.12 Board and Commission means the Board of County Commissioners of Broward County, Florida.

- 1.13 Capital Expenditure means the costs paid for work done, services rendered, and materials furnished for construction of improvements at the Premises that are made in accordance with Approved Plans and all requirements of this Agreement and that Lessee, its contractors, subcontractors and sublessees (as permitted hereunder) install after the Effective Date, subject to the following:
- (a) All costs submitted by Lessee to be considered as Capital Expenditure costs must be reviewed and approved in writing by the Aviation Department.
 - (b) The actual cost of demolition, construction and acquisition of improvements, plus the cost of required bonds, construction insurance, building impact and concurrency fees will qualify as Capital Expenditure costs.
 - (c) Payments made to independent contractors for surveying, engineering and architectural design work will qualify as Capital Expenditure costs, provided that those costs do not exceed ten percent (10%) of the total of all other sums included in the determination of the total Capital Expenditure amount.
 - (d) Only true third party costs will qualify as Capital Expenditure costs.
 - (e) Costs for consultants (other than engineering and design consultants, as provided above), legal fees and accountants' fees will not qualify as Capital Expenditure costs.
 - (f) Finance, interest expenses, administration, supervisory, overhead and internal costs of Lessee, its sublessees and any affiliates of Lessee and its sublessees will not qualify as Capital Expenditure costs.
 - (g) Costs associated with acquisition or installation of any personalty whatsoever, including without limitation furnishings, trade fixtures, and equipment that are not permanently affixed to the Premises, will not qualify as Capital Expenditure costs, unless specifically identified in Sections 6.3 or 6.5, or as may be specifically approved in writing by the Aviation Department, upon Lessee's separate written request, made before incurring the costs.
 - (h) Costs of interior decorations (other than standard Aviation Department approved finishes), special finishes, wall tile or other special wall finishes and coverings, construction photographs and special external and internal lighting and signage do not qualify as Capital Expenditure costs, unless specifically approved in writing by the Aviation Department, upon the separate written request of the Lessee, made before incurring the costs.

- (i) Costs associated with any improvements that are not specifically identified in Sections 6.3 and 6.5, hereof, do not qualify as Capital Expenditure costs, unless specifically approved in writing by the Aviation Department, upon Lessee's separate written request, made before incurring the costs.
 - (j) Costs incurred by a sublessee of Lessee for improvements described in Sections 6.3 and 6.5 that are made in accordance with Approved Plans and all requirements of this Agreement, may be submitted by Lessee in writing to the Aviation Department for review and possible written approval to qualify as Capital Expenditures. Any costs incurred by a sublessee before any Aviation Department approval will not qualify as Capital Expenditure costs. Furthermore, only those costs incurred by a sublessee of Lessee, which sublease had the prior written approval of the Aviation Department under Article 18, may be considered for approval as Capital Expenditure costs. Any sublessee costs submitted by Lessee must also meet all the requirements of this Section 1.13 to be considered for approval by the Aviation Department as Capital Expenditure costs.
 - (k) Costs incurred by an Approved Leasehold Mortgagee in accordance with Article 18 will qualify as Capital Expenditure costs, if the costs would otherwise qualify as a Capital Expenditure if incurred by Lessee.
 - (l) Any costs incurred by any affiliate of Lessee or of a sublessee or of an Approved Leasehold Mortgagee will not qualify as Capital Expenditure costs, unless specifically approved in writing by the Aviation Department, upon a separate written request, made before the cost is incurred, and such costs must also meet all the requirements of this Section 1.13 to be considered for approval by the Aviation Department as Capital Expenditure costs.
- 1.14 CO means either: (a) a shell certificate of occupancy that is issued by the appropriate governmental authority for any building that is constructed upon the Premises, or (b) as to any other improvement on the Premises, "CO" means the improvement is capable of being used for its intended purpose.
- 1.15 CO Date and the date that any improvement is deemed to be completely constructed, means either: (a) the date on that a shell certificate of occupancy is issued by the appropriate governmental authority for any building constructed on the Premises; or (b) for any other improvement on the Premises, the date that the improvement may first be used for its intended purpose, regardless of whether it is the actual first date of usage.

- 1.16 Completion Date means, as applicable, the Phase 1 Completion Date or the Phase 2 Completion Date, as provided in Article 6 of this Agreement.
- 1.17 Construction Period means the period of time commencing on the day immediately after the last day of the Due Diligence Period and ending on the last day of the first (1st) Lease Year.
- 1.18 County Attorney means the chief legal counsel for the County who directs and supervises the Office of the County Attorney pursuant to Section 2.10 of the Broward County Charter.
- 1.19 CPA means a duly licensed independent firm of certified public accountants.
- 1.20 Days as used herein, "days" means the calendar days of the week, consisting Sunday through Saturday.
- 1.21 Due Diligence Period means the period of time commencing on the Effective Date and ending on the one hundred and eightieth (180th) day thereafter.
- 1.22 Effective Date means the date this Agreement is fully executed by all parties.
- 1.23 FAA means the Federal Aviation Administration, or any successor agency.
- 1.24 Fuel Flowage Fees means the additional fees payable to the County with respect to aviation fuels and lubricating oils purchased by Lessee and its sublessees, as provided in Section 4.14, below.
- 1.25 Improvements as used herein, "improvements" means any and all buildings, hangars, pavements, fixtures, permanently affixed equipment, facilities (both above ground and below ground), and all other structures now or hereafter constructed on the Premises, and all additions, alterations, modifications, renovations, and replacements thereto.
- 1.26 Lease Year means the period beginning on the earlier of: (a) the first day of the month following the Effective Date, or (b) the Effective Date, if it occurs on the first day of a month; and ending on the last day of the twelfth month thereafter, and each twelve(12)-month period thereafter, until the termination of this Agreement.
- 1.27 Lessee means North Perry Central, LLC, its successors and assigns, as permitted herein.
- 1.28 Master Plan means the North Perry Airport Master Plan or update thereto, and all amendments and replacements thereof.

- 1.29 Minimum Standards means the North Perry Airport Minimum Standards for Commercial Aeronautical Activities, a/k/a Minimum Standards Policy for General Aviation at Broward County Airports, as may be amended from time to time, which were adopted under Section 2-143, Broward County Code of Ordinances, and which standards have been provided to Lessee and are available on North Perry Airport's website.
- 1.30 Parcel means the parcel more particularly identified on **Exhibit A**, attached hereto and made a part hereof, subject to rights-of-way and all other property interests of record.
- 1.31 Person as used herein, "person" means any individual, firm, trust, estate, partnership, joint venture, company, corporation, association, or any other legal entity or business enterprise. The reference in this Agreement to any one of the foregoing types of persons is a reference to all other types of persons.
- 1.32 Phase 1 Improvements means the improvements identified in Section 6.3.
- 1.33 Phase 2 Improvements means the improvements identified in Section 6.5.
- 1.34 Phase 1 Minimum Capital Expenditure means the minimum amount of Four Hundred Thousand Dollars (\$400,000.00) in Capital Expenditures required to be spent for the Phase 1 Improvements, as provided in Article 6.
- 1.35 Phase 2 Minimum Capital Expenditure means the minimum amount of Three Hundred Ninety Thousand Dollars (\$390,000.00) in Capital Expenditures required to be spent for the Phase 2 Improvements, as provided in Article 6.
- 1.36 Premises means the Parcel identified in **Exhibit A**, subject to easements and rights-of-way of record, together with all buildings, hangars, structures, pavements, facilities and other improvements now or hereafter constructed thereon, the equipment permanently affixed therein, including without limitation, electrical, plumbing, sprinkler, fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, communications, gas and other systems and their pipes, wires, mains, lines, tubes, conduits, equipment and fixtures and all paving, drains, culverts, ditches and catch basins.
- 1.37 Public Landing Area as used herein, "public landing area" means the area of land at the Airport, including runways, taxiways and the areas between and adjacent to runways and taxiways, designated and made available from time to time by County for the landing and taking off of aircraft.
- 1.38 Runways as used herein, "runways" means the portions of the Airport used for the purpose of landing and taking off of aircraft, including approaches thereto and the areas used for the taking off and landing of aerial banner towing aircraft.

- 1.39 Taxiways as used herein, "taxiways" means the portion of the Airport used for the purpose of ground movement of aircraft to, from and between the runways, the public ramps and apron areas, aircraft parking and storage spaces and other portions of the Airport (not including, however, any taxiways the exclusive use of which is granted to the Lessee or any other person by lease, permit or otherwise).
- 1.40 Term and Term of this Agreement or words of similar import means the Term as provided in Article 3 hereof, subject to earlier termination as provided in this Agreement.
- 1.41 Termination Date means the date this Agreement terminates or expires.

ARTICLE 2 LETTING

- 2.1 Letting. County hereby lets to Lessee and Lessee hereby hires and takes from County, the Premises as defined in Article 1. The Premises shall be used solely for the purposes described in Article 5 and for no other purposes.
- 2.2 Operated for Public Use. Lessee shall operate the Premises for the use and benefit of the public; shall make available all Airport facilities and services to the public, without unjust discrimination; and shall refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges or fees for any airport service.
- 2.3 Right to Develop and Improve Airport. County reserves the right to develop and improve the Airport, including but not limited to, all public landing areas of the Airport, as it sees fit, regardless of the desires or views of Lessee, and without interference or hindrance, subject to Article 9.
- 2.4 Government Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by the County nor shall anything included herein be construed as consent by the County to be sued by third parties in any matter arising out of this Agreement or any other contract.
- 2.5 No Rights in Airspace. Except to the extent required for the performance of Lessee's obligations hereunder, nothing contained in this Agreement grants Lessee any rights whatsoever in the air space above the Premises. County reserves the right to take any action whatsoever that it considers necessary to protect the aerial approaches of the Airport against obstruction, including but not limited to, demolition or removal of structures upon the Premises, together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure at the Airport that, in County's opinion, would limit the

usefulness of, or interfere with, the operations at the Airport or constitute a hazard to aircraft.

- 2.6 Subordination of Agreement. This Agreement and all provisions hereof are subject and subordinate to the provisions and conditions of the instruments and documents under which County acquired the Airport from the United States of America and will be given only such effect as will not conflict or be inconsistent with the provisions and conditions contained in those instruments and documents and any existing or subsequent amendments thereto. This Agreement and all provisions hereof are subject and subordinate to Applicable Laws. This Agreement and all provisions hereof are subject and subordinate to any agreement made between County and the United States Government relative to the operation or maintenance of any of County's airports, or the execution of which was required as a condition precedent to the transfer of federal rights or property to County for airport purposes, or the execution of which was required as a condition precedent to the expenditure of federal funds for the improvement or development of any of County's airports, including without limitation the expenditure of federal funds for the development of any of County's airports under the Federal Aviation Act of 1958, as codified in Title 49, United States Code, as amended from time to time. In addition, this Agreement is subordinate and subject to all resolutions heretofore and hereafter adopted by County in connection with any revenue bonds issued by County with respect to the operations of any of County's airports, or any improvements to any of County's airports or any of County's airport facilities, and to all documents executed in connection with any such bonds, including without limitation, any pledge, transfer, hypothecation or assignment made at any time by County to secure any of those bonds.
- 2.7 Right of Flight. County reserves for itself, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the Premises together with the right to cause in that airspace any noise and other intrusions as may be inherent in the operations of aircraft, now known or hereafter used for navigation or flight in the airspace and for aircraft landing on, taking off from, or operating at the Airport.
- 2.8 Height Restriction. Lessee shall restrict the height of structures, objects of natural growth and other obstructions on the Premises to a height to comply with all provisions of this Agreement and all applicable Federal Aviation Regulations and any amendments thereto, including but not limited to, 14 CFR Part 77.
- 2.9 No Interference with Airport's Operations or Maintenance. Lessee shall prevent any use of the Premises that would interfere with or adversely affect the operation or maintenance of the Airport or otherwise constitute a hazard to aircraft or others.

- 2.10 Maintenance of Utility Easements. County reserves the right to maintain any utility easements on the Premises as County may now or in the future determine are necessary to serve the needs of the Airport. Lessee takes the Premises subject to these easement requirements. Those easements may be used for, but are not limited to, the installation of water distribution, sewage collection, underground electrical, telephone and telecommunications conduits, and above ground lighting and power poles. County will restore any improvements Lessee has made, if the improvements are materially damaged by any utilities installation made by County and County shall take reasonable steps to insure that any such installation is the least disruptive to Lessee's operations.
- 2.11 Condition and Use of the Premises. County makes no representations or warranties whatsoever as to: (a) the condition of the Premises; or (b) whether the Premises, or any part thereof, is in compliance with Applicable Laws; or (c) the permitted or available uses of the Premises under Applicable Laws, including without limitation, those of County. County makes no representations or warranties whatsoever as to the legality, permissibility or availability of any use of the Premises that may be contemplated by Lessee. County makes no representations or warranties concerning habitability or fitness for any particular purpose. Lessee shall conduct its own due diligent investigation as to the Premises and the suitability thereof for Lessee's purposes. The Premises and all components thereof are hereby demised in "**AS IS CONDITION**" and "**WITH ALL FAULTS.**" Lessee represents to the County that Lessee has had sufficient opportunity to inspect the Premises, and all components thereof, and Lessee hereby accepts the Premises, and all components thereof, in "**AS IS CONDITION**" and "**WITH ALL FAULTS.**" Lessee hereby **ASSUMES ALL RISK** of non-compliance of the Premises, or any part thereof, with Applicable Laws, including without limitation, those of the County. Upon receipt of notice of any non-compliance with Applicable Laws, Lessee shall make any and all repairs, alterations, and additions to the Premises and take all corrective measures as may be necessary to bring the Premises into compliance with Applicable Laws. County will not adjust Lessee's rent or any other payments because of the condition of the Premises, or the failure of any of the component parts of the Premises to be in working order, or because Lessee needs to repair or take corrective actions to any part of the Premises, or because Lessee cannot obtain, or is delayed in obtaining, any required development approvals from any governmental body having jurisdiction, including but not limited to, County agencies. Furthermore, Lessee hereby releases County of any and all claims and liabilities whatsoever because of the Premises' condition, the failure of any of the component parts to be in working order, the need to repair or take corrective actions to any part of the Premises, or the inability to obtain, or any delay in obtaining, any required development approvals from any governmental body having jurisdiction, including but not limited to, County agencies. If any conflict exists between these provisions and any other provisions of this Agreement, this Section 2.11 shall control. Notwithstanding anything herein to the contrary, the

provisions of this Section 2.11 are not intended to address or apply to the release of any "Materials" (as defined in Article 32) at the Premises and with respect to any such Materials, Article 32 shall be applicable.

ARTICLE 3

TERM

- 3.1 Term. The Term of this Agreement shall commence on the Effective Date and shall end on the last day of the twentieth (20th) Lease Year, as may be earlier terminated as provided in other provisions of this Agreement.
- 3.2 Obligations and Liabilities Remain. The expiration or termination of this Agreement does not release Lessee from any liabilities or obligations hereunder that accrued on or before the effective Termination Date. Upon the expiration or termination of this Agreement, Lessee shall cease forthwith all operations upon the Premises, immediately vacate the Premises and surrender same in accordance with this Agreement, and pay in full all fees and other amounts to County that are then due and owing.

ARTICLE 4

RENT, FEES AND OTHER CHARGES

- 4.1 Annual Rental. Commencing on the first day of the second (2nd) Lease Year and for each Lease Year thereafter, Lessee shall pay annual rent to the County, which shall be subject to adjustments as provided in this Lease. The annual rent for each Lease Year rent is payable, shall be paid in twelve (12) equal monthly installments, together with all applicable sales taxes thereon, in advance and without demand, set off or deduction. There will be no annual rent during the period from the Effective Date until the end of the first (1st) Lease Year, since that period of time comprises the Due Diligence Period and the Construction Period.
- (a) The first monthly installment of rent shall be paid in advance on first day of the second (2nd) Lease Year, together with all applicable sales taxes thereon. Thereafter monthly installments of annual rent shall be payable in advance on the first (1st) day of each and every month, together with all applicable sales taxes thereon.
- (b) The annual rent for the second (2nd) Lease Year shall be One Hundred Twenty-Six Thousand Five Hundred Two Dollars (\$126,502.00), plus applicable sales taxes thereon. Each monthly installment of rent during the second (2nd) Lease Year shall be Ten Thousand Five Hundred Forty-Two Dollars and (\$10,542.00), plus applicable sales taxes.
- 4.2 Annual Increases in Rent. On the first day of the third (3rd) Lease Year and on the first day of each Lease Year thereafter (each such date being referred to as

an "Adjustment Date"), County shall adjust the annual rent for the Premises in accordance with the percentage rent adjustment provisions of Section 4.3 below, or in accordance with an appraisal process pursuant to Sections 4.4 through 4.10, below. The adjusted rent (together with applicable sales taxes thereon) will be the new annual rent for the Premises for the succeeding Lease Year.

4.3 Percentage Rent Adjustment. On each Adjustment Date (except the first day of the eleventh (11th) Lease Year which is subject to Sections 4.4 through 4.10, below), County will increase the annual rent to an amount equal to the greater of: (a) the product of the annual rent established for the entire Premises for the immediately preceding Lease Year, multiplied by the "CPI Multiplier" (as hereinafter defined); or (b) the product of the annual rent established for the Premises for the immediately preceding Lease Year, multiplied by 1.03. The product of that multiplication will be the amount of the annual rent payment to be made during the next succeeding Lease Year for the Premises, starting on the first day of that Lease Year and subject to any adjustment pursuant to Article 13.(c), Section 6.28 and Section 6.29. Upon determining the rent adjustment, the Aviation Department shall advise Lessee of the new annual rent and the monthly installment payment of rent for the Premises. In no event will any adjusted annual rent established under this Section 4.3 be less than the total annual rent paid during the immediate prior Lease Year.

- (a) The "CPI Multiplier" is a fraction, the numerator of which is the "CPI Index Number" (as hereinafter defined) indicated for the month that is three (3) months before the adjustment date and the denominator of which is the CPI Index Number indicated for the month that is fifteen (15) months before the adjustment date.
- (b) The "CPI Index Numbers" are the index numbers of retail commodity prices designated "CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS-UNITED STATES CITY AVERAGE - ALL ITEMS" (1982-1984=100) ("Consumer Price Index") issued by the Bureau of Labor Statistics, United States Department of Labor. The rent and the adjustment made based upon the provisions of this section will be made solely by County. Any publication by either the United States Department of Labor or the United States Department of Commerce in which such Index numbers are published is admissible in evidence in any legal or judicial proceeding involving this Lease without further proof of authenticity. Should the Bureau of Labor Statistics cease publishing the above-described Index, then such other Index as may be published by the United States Department of Labor that most nearly approximates the discontinued Index will be used in making the adjustments described above. Should the United States Department of Labor discontinue publication of an Index approximating the Index contemplated, then such Index as may be published by another United States governmental

agency which most nearly approximates the Index first above referenced shall govern and be substituted as the Index to be used.

- 4.4 Rent Adjustment Based on Appraisal. On the first day of the eleventh (11th) Lease Year the annual rent will be adjusted (up or down) to an amount equal to the "Full Market Rent," which will be established as hereinafter provided. Upon determining the Full Market Rent, the Aviation Department shall advise Lessee of the new annual rent and the new monthly installment payment of rent. The Full Market Rent established hereunder will remain in effect for the eleventh (11th) Lease Year. Thereafter, on the first day of the twelfth (12th) Lease Year and on the first day of each Lease Year thereafter, rent will be adjusted as provided in Section 4.3, and be subject to any adjustment pursuant to Section 6.28 and Section 6.29.
- (a) Full Market Rent will be determined based on the Full Market Rent of the entire Premises, considering its current use at the time of the appraisal and considering the existing rent rates for comparable properties within comparable Florida airports with comparable uses taking into consideration the restrictions of this Lease.
 - (b) Full Market Rent is equal to the total of the "Land MR," the "Pavement MR" and the "Improvements MR" (as such terms are hereinafter defined).
 - (c) The "Land MR" will be determined based upon the market rent of the leased fee, without any value being attributed for any pavement or any other improvements thereon.
 - (d) The "Pavement MR" will be determined based upon the market rent of all pavements at the leased fee, without any value being attributed for any other improvements located on the pavement.
 - (e) The "Improvements MR" will be determined based upon the market rent of all improvements that exist on the Premises at the time of the appraisal (excluding the pavements and excluding the Aircraft Fuel Farm Facility to be constructed at the Premises).
- 4.5 Appraiser and Appraisal Report Standards. Any appraiser retained by any of the parties to prepare an appraisal under this Article 4 must be an MAI Appraiser or a State of Florida Certified General Appraiser (or a member of a professional group of similar stature, that has been approved by the Aviation Department), having an office in Broward, Miami-Dade or Palm Beach County. Each appraisal report obtained by County or the Lessee will follow the Summary Appraisal format, the content of which will conform to the Uniform Standards of Professional Appraisal Practice. Each appraisal of Fair Market Rent, must contain determinations of Land MR, Pavement MR and Improvements MR pursuant to Section 4.4 above, and shall be in accordance with the requirements of this Article 4.

- 4.6 Requirement for Two County Appraisals. Should an appraisal finding obtained by County result in a projected total Full Market Rent for the then remaining Term of the Lease that exceeds Two Million Dollars (\$2,000,000.00), then a second appraisal will be obtained by the Aviation Department, and in that case the Full Market Rent will be determined either by County, through its Department of Public Works, Real Property Section, or successor thereto (the "Real Property Section") acting as the review appraiser or by a review appraiser selected by the Real Property Section.
- 4.7 Notice of Adjusted Full Market Rent. The Aviation Department shall provide Lessee written notice of the adjusted Full Market Rent amount based on County's appraisal(s) as appropriate, which notice shall include copies of the appraisal(s) and review appraisal, if any. If Lessee does not agree with the adjusted Full Market Rent amount established by County, Lessee may hire its own appraiser to perform a Full Market Rent appraisal. Lessee's appraisal must be obtained and provided to the Aviation Department within sixty (60) days after receipt of the Aviation Department's notice of the adjusted rent and Lessee's appraisal must satisfy the requirements of this Article 4. If Lessee fails for any reason whatsoever to obtain an appraisal and provide it to the Aviation Department within the aforesaid sixty (60) day period, then Lessee will thereafter have no further right to dispute the adjusted Full Market Rent amount (and all components thereof) as set forth in the Aviation Department's notification of the adjusted rent.
- 4.8 Lessee's Appraisal. If Lessee obtains an appraisal and provides the appraisal to the Aviation Department within the sixty (60) day period required by Section 4.7, and if the appraisal's finding of Full Market Rent does not agree with County's finding of Full Market Rent, then the Real Property Section shall compare and review all the appraisal reports. The Real Property Section shall schedule a meeting with the appraiser(s) selected by County and the appraiser selected by Lessee. The Real Property Section will attempt to resolve the appraisal differences within fifteen (15) days of receipt of the appraisal reports.
- 4.9 Dispute Resolution Appraiser. If at the end of the aforesaid fifteen (15) day period, the attempt by Real Property Section to resolve the appraisal differences is not successful for any reason whatsoever, the Real Property Section shall give written notice of the failure to the Aviation Department and Lessee, and thereafter the appraiser(s) selected by County and the appraiser selected by Lessee shall together select another appraiser ("Dispute Resolution Appraiser") within fifteen (15) days following the date Real Property Section provides the notice of its failure to resolve the appraisal differences. If the appraiser(s) selected by County and the appraiser selected by Lessee fail for any reason whatsoever to select a Dispute Resolution Appraiser within fifteen (15) days after Real Property Section provides notice of its failure to resolve the appraisal differences, then Lessee will thereafter have no further rights to dispute the Full Market Rent amount (including all components thereof) as set forth in the

Aviation Department's notification of the adjusted rent.

- 4.10 Dispute Resolution Appraisal. The Dispute Resolution Appraiser selected in accordance with Section 4.9 above shall, within fifteen (15) days of receipt of the appraisal reports, compare and review all the appraisal reports and thereafter schedule a meeting with the appraisers. At that meeting, the Dispute Resolution Appraiser shall try to resolve the appraisal differences. If for any reason whatsoever the Dispute Resolution Appraiser fails within thirty (30) days following the selection of the Dispute Resolution Appraiser to resolve the appraisal differences, the Dispute Resolution Appraiser shall proceed as follows:
- (a) The Dispute Resolution Appraiser shall prepare and complete an appraisal ("Dispute Resolution Appraisal") within sixty (60) days of its employment that sets forth the Dispute Resolution Appraiser's findings of Full Market Rent, including determinations of Land MR, Pavement MR and Improvements MR pursuant to Section 4.4 above. The Dispute Resolution Appraiser shall provide copies of the Dispute Resolution Appraisal to both the Aviation Department and Lessee.
 - (b) If the values established by the County's appraisal(s), the Lessee's appraisal and Dispute Resolution Appraisal as to Full Market Rent are within a ten percent (10%) range (without regard to the values of the individual components of the appraisals), then the average of the Full Market Rent amounts that are stated in all of the appraisal reports will be the value for establishing the Full Market Rent. This determination shall be binding on Lessee and County, and the parties will have no right to dispute that Full Market Rent amount.
 - (c) If the values established by County's appraisal(s), the Lessee's appraisal and Dispute Resolution Appraisal as to Full Market Rent are not within a ten percent (10%) range, then the finding of Full Market Rent (and all components thereof) established by the Dispute Resolution Appraisal shall be binding on Lessee and County, and the parties will have no right to dispute the Full Market Rent amount (and all components thereof) as set forth in the Dispute Resolution Appraisal.
 - (d) The parties shall share equally the expense of obtaining the Dispute Resolution Appraisal. Lessee's portion of that expense will be paid to County immediately after receipt of County's invoice for same.
- 4.11 Effective Date of Rental Adjustment. If a rent adjustment is required under this Article 4, or under Section 6.28 or Section 6.29, the previous monthly rent amount will continue to be paid by Lessee until the Aviation Department provides

notice of the adjusted rent amount. The adjusted rent amount shall be retroactive to the last date that rent was adjusted. The amount that is the difference between the total rent paid by Lessee from the last date the rent was adjusted, and the total amount of rent due for such period until Lessee commences paying the adjusted rent, shall be due and payable within thirty (30) days following the Aviation Department's notice of the new adjusted rent amount. If Lessee disputes the amount of any adjustment of the rent payments, Lessee shall continue paying rent to County in the amount required before the rent adjustment until such time as the dispute has been settled, at which time an adjustment (with interest at the rate of eighteen percent (18%) per annum) will be made retroactive to the beginning of the adjustment period in which the dispute arose.

- 4.12 Notification of New Rental. Upon determining a rent adjustment under this Article 4 or under Section 6.28 or Section 6.29 , the Aviation Department shall advise Lessee of the new monthly rent installment for such period, which will be accompanied by evidence supporting the manner in which the new adjusted rent was determined, which will be in sufficient detail to enable Lessee to verify the calculations.
- 4.13 County Policy on Rent Adjustments. Notwithstanding anything to the contrary herein, if at a future time County adopts as policy for the Airport (under a resolution adopted by the Board), a requirement that rent adjustments be made on the same date for all leases, then the adjustments of rent based on appraisals and the other annual adjustments of rent will be made in accordance with, and at the uniform times established by, that policy.
- 4.14 Aviation Fuel Flowage Fees. There will be an additional fee payable by Lessee for the account of County ("Fuel Flowage Fees") based on the cost of aviation fuels and lubricating oils purchased by Lessee and its sublessees from the supplier of such products.
- (a) The Board shall establish the amount of the Fuel Flowage Fees by an adopted resolution, and the Board may increase or decrease the amount of the Fuel Flowage Fees from time to time in its sole discretion.
 - (b) Lessee may either pay the Fuel Flowage Fees directly to County, using the forms required by the Aviation Department, or Lessee may elect to have the supplier collect the Fuel Flowage Fees from Lessee and its sublessees and remit them to the County.
 - (c) If Lessee makes direct payments to County, payments of the Fuel Flowage Fees incurred in the preceding month are due monthly, on the tenth (10th) day of the following month. If Lessee elects to have its supplier collect the Fuel Flowage Fees, then Lessee, its sublessees and the supplier shall complete and execute the required Aviation Department Release and Authorization form. Lessee shall provide the original

executed Release and Authorization form to the Aviation Department. The supplier must make monthly payments of the required Fuel Flowage Fees to the County, on the tenth (10th) day of the month following the month in which the aviation fuels and lubricating oils were sold by the supplier, which payments will be accompanied by the reporting form required by the Aviation Department.

- (d) Lessee shall provide such reports and back-up documentation to County on a monthly basis, as the Aviation Department may require to verify all Fuel Flowage Fees payable to the County, which reports and documentation must be provided on or before the tenth (10th) day of each month.
- 4.15 Licenses, Fees and Taxes. Lessee shall pay, on or before their respective due dates, all federal, state, County, and local taxes and fees, and all special assessments of any kind, which are now or may hereafter be levied upon the Premises (including all improvements) or the estate hereby granted, or upon Lessee, or upon the business conducted on the Premises, or upon any of Lessee's property used in connection therewith, or upon any rents or other sums payable hereunder, including, but not limited to any ad valorem taxes attributable to the Premises, and sales or excise taxes on rents, and personal property taxes against Lessee's tangible and intangible personal property. Lessee shall maintain in current status all federal, state, County and local licenses and permits required for the operation of the business conducted by Lessee.
- 4.16 Utilities. Lessee shall pay, when due, all utilities fees or charges which are now or hereafter charged or assessed with respect to operations at the Premises.
- 4.17 Other Fees and Charges. County has established, or will establish, from time to time, various fees and charges for the use of various facilities, equipment and services provided by County and not leased to or specifically provided to Lessee (which may include, but are not limited to, landing fees), and the procedures relating to payment of same. In addition to rent for the Premises, Lessee shall pay all rents, rates, fees and charges payable by Lessee for use of any Airport facilities, or under any agreement between Lessee and County pertaining to Lessee's operations at the Airport and in the manner prescribed by County. In addition to the foregoing, Lessee shall collect from its customers and tenants, as applicable, and remit to County, any user fees or other fees or charges that may now or in the future be established by County regarding general aviation uses of the Airport (which may include, but are not limited to, landing fees) under a resolution adopted by the Board (collectively, "County Fees"). In any such event, Lessee shall collect and submit County Fees to County in accordance with County established procedures, including completion and submittal of any County required forms. Lessee shall separately state County Fees on the receipts provided by Lessee to its customers and the stated amount shall in no

event exceed County Fees that are actually imposed by County. Lessee will not in any manner attribute or imply that any other fees collected by Lessee from its customers are fees imposed by County. Lessee shall honestly and fairly represent its prices and policies and County's prices and policies to its customers. Any charges or fees imposed by Lessee on its customers for use of any facilities of Lessee will be separately stated on Lessee's invoice or charge slip and will not be aggregated together with any County Fees.

- 4.18 Additional Rent and Charges. If County is required or elects to pay any sum or sums or incur any obligations or expense by reason of Lessee's failure, neglect or refusal to perform or fulfill any one or more of the conditions, covenants or requirements contained in this Agreement or as a result of any act or omission of Lessee contrary to those conditions, covenants or requirements, Lessee shall pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same will be and become additional rent recoverable by County in the same manner and with like remedies as if it were originally a part of the rent as established by this Agreement. Lessee shall pay all these sums of money within ten (10) days after written demand therefore.
- 4.19 Late Payments - Interest. County is entitled to collect interest at the rate of eighteen percent (18%) per annum from the date due until the date paid on any amounts that are due under this Agreement. Lessee's obligation to pay interest to the County is in addition to all other remedies of County under this Agreement, at law and in equity.
- 4.20 Dishonored Check or Draft. If Lessee delivers a dishonored check or draft to County in payment of any obligation under this Agreement, Lessee shall incur and pay a service charge in the amount established by County from time to time. In such event, the Aviation Department may require that future payments be made by cashier's check or other means acceptable to the Aviation Department.
- 4.21 Place of Payments. Lessee shall make all payments required under this Agreement payable to "Broward County." Lessee shall deliver all payments required under this Agreement to the Finance Division, Broward County Aviation Department-North Perry Airport, 2200 SW 45th Street, Suite 101, Dania Beach, FL 33312, or to such other office or address as may be substituted for this address.
- 4.22 Books and Records. Lessee shall keep true and accurate books and records, which must, among other things, show all County Fees, Fuel Flowage Fees, Capital Expenditures, all labor, overhead and all sales tax collected, and other records required under this Agreement, and the aggregate amount of all sales and services and orders of all Lessee's business done upon or within the Premises, or in connection with the Airport. Lessee shall also keep and maintain

copies of all invoices, cash receipts, financial records, supporting records, supporting documents, statistical records, and all other documents pertinent to this Agreement. Lessee shall keep its books and records in accordance with generally accepted accounting principles and shall maintain such other books and records as County, its employees or agents, may request. The provisions of this Section 4.22 shall apply to all of Lessee's sublessees and to all other's that engage in any activities with respect to this Agreement, including without limitation, all affiliates of Lessee and of its sublessees, and Lessee shall ensure compliance herewith by all such sublessees, affiliates and others. Lessee, all sublessees and all others who are required to keep books and records pursuant hereto shall keep separate books and records for operations covered by this Agreement.

- (a) All books and records required to be maintained pursuant to this Section 4.22 shall be kept and maintained during the "Retention Period" (as hereinafter defined). The "Retention Period" is the greater of: (1) the required retention period under the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or (2) the period of time covering the term of this Agreement and any extensions thereof and for a period of three (3) years after the expiration or termination of this Agreement, or (3) if any audit has been initiated and audit findings have not been resolved at the end of the three (3) years, the books and records shall be maintained until resolution of the audit findings. If the Florida Public Records Act is determined by the County Attorney's Office to apply to any books and records, Lessee, its sublessees and all others that are subject to these provisions shall comply with all requirements thereof; however, any confidentiality or non-disclosure requirement of either federal or state law shall not be violated.
- (b) Upon County's request, Lessee shall open its agreements, invoices, or cash receipts and all other books and records of Lessee, its sublessees, and all others subject to these provisions pertaining to operations under this Agreement to inspection by County's authorized representatives. Upon reasonable notice to Lessee, County may audit all such books and records relating to operations under this Agreement to determine the correctness of County Fees, Fuel Flowage Fees, Capital Expenditures, and any other amounts payable by County or Lessee or any others pursuant to this Agreement, and to ensure compliance with the provisions of this Agreement. Lessee shall make all books and records covered by this Section 4.22 available upon fourteen (14) days' notice. Lessee shall make all books and records required to be maintained hereunder available to County at the Airport, at the corporate headquarters of Lessee or of its sublessees, or at the Aviation Department's offices, or at such other place as may be directed by the Aviation Department.

- (c) If any audit reflects that the total amounts Lessee or any other entity covered by this Lease actually paid to County during a Lease Year were less than the amounts due and owing for that Lease Year, then, upon written demand, Lessee shall immediately pay County the difference with interest thereon at eighteen percent (18%) per annum from the date the amounts were due. If, as a result of any audit, it is established that any amounts owed to County under this Lease are understated in any report filed with County by ten percent (10%) or more of the amount paid to County during the reporting period, Lessee shall bear the entire expense of that audit. County shall provide Lessee with a copy of any audit results obtained by County, upon Lessee's written request.

- 4.23 The provisions of this Article 4 shall survive the expiration or any other termination of this Agreement.

ARTICLE 5 USES OF THE PREMISES

- 5.1 Required Services. Lessee shall use the Premises solely for general aviation purposes. Lessee must, at a minimum, offer the services that are provided by a Fixed Base Operator ("FBO") as stated in the Minimum Standards, which services must include the following:
 - (a) Aircraft arrival guidance on the ramp, aircraft parking, tie-down services and aircraft maintenance and repair.
 - (b) Line services, with a qualified attendant on duty.
 - (c) Flight planning and flight service facilities.
 - (d) Aircraft hangar storage and pilot and passenger amenities, including pilot and passenger lounges and restrooms.
 - (e) Removal of disabled aircraft, up to the maximum certificated take-off weight established in Chapter 2-137(a), Broward County Code of Ordinances, as it may be amended from time to time.
 - (f) Aircraft wash rack.
 - (g) Lessee must dispense and sell aviation fuels and lubricating oils within the confines of the Premises at the Aircraft Fuel Farm Facility to be constructed pursuant to Article 6.
 - (1) Lessee may also sell aviation fuels and lubricating oils within the confines of any common area of the Airport that is mutually opened to all other lessees having aviation fuels and lubricating oils sales

privileges. County shall provide those privileges at any such common areas to Lessee under the same terms and conditions provided to all the other lessees that are granted those privileges. However, County will in no way be hampered from granting rights for the sale and dispensing of aviation fuels and lubricating oils on premises other than those covered by this Agreement under such terms and conditions as County may deem advisable.

- (2) In connection with the sale or dispensing of aviation fuels and lubricating oils products on the Premises or otherwise, County assumes no responsibility for the acts of any supplier regarding delivery, quality of product, or maintenance of supplier-owned or Lessee-owned equipment.
- (3) Lessee shall store and dispense aviation fuels and lubricating oils in accordance with Applicable Laws and other requirements, as they may be amended, regarding the sale and storage of such fuels and oils, including without limitation, any rules, regulations or Minimum Standards that are from time to time established by the Aviation Department.
- (4) Before dispensing and selling fuels, Lessee shall submit to the Aviation Department, for review and comment, Lessee's Spill Prevention Control and Countermeasure Plan.

5.2 Optional Services. In addition to the services listed in Section 5.1, Lessee, may, at its option provide the following services, subject to the written consent of the Aviation Department prior to commencement of specific services:

:

- (a) Aerial survey.
- (b) Aerial photography and mapping.
- (c) Air ambulance.
- (d) Aircraft painting.
- (e) Scheduled and nonscheduled air charter services for transporting passengers, cargo and mail.
- (f) Avionics and instrument repair.
- (g) Propeller repair.
- (h) Manufacture of aircraft components and accessories.

- (i) Merchandise shop, selling aviation-related products incidental to the activities of a fixed base operation.
- (j) Ground and flight instructional services for training pilots, provided however, flight instruction is limited to the extent necessary to ensure the safe, efficient, and orderly flow of air traffic on the Airport and in the traffic patterns.
- (k) Aircraft rental.
- (l) Rental of offices for aviation purposes only.
- (m) Crop spraying and agricultural aviation.
- (n) Limited food and beverage service provided only by vending machines, for customers and employees of Lessee and its sublessees.
- (o) Cafeteria provided solely for the employees of Lessee and its sublessees.
- (p) Banner towing operations.
- (q) Other compatible aviation related services for which the Aviation Department, in its sole discretion, has given its prior written consent.

5.3 Prohibited Services. Lessee is expressly prohibited from providing or allowing the following services:

- (a) Any terminal facilities for passenger operations, other than those covered by Federal Aviation Regulations 14 CFR Parts 91 and 135.
- (b) Restaurant, coffee shop, lounge, or cafeteria (except a cafeteria provided solely for the employees of Lessee and its sublessees).
- (c) Sale or dispensing of alcoholic beverages.
- (d) Sale of non-aviation products.
- (e) Air shows.
- (f) Any use prohibited by law or not related to aviation.
- (g) Parking or storage, or allowing parking or storage, of any vehicles whatsoever on the Premises that are not used in the daily operation of the general aviation business permitted to be conducted on the Premises.

- 5.4 Service Standards. In connection with sales and services to the public, Lessee and its sublessees shall furnish good, prompt and efficient service adequate to meet all demands for its services at the Airport and shall conduct such hours of business as may be necessary to provide those services or as required by the Minimum Standards. Lessee and its sublessees shall furnish services on a fair, equal and non-discriminatory basis to all users thereof and Lessee and its sublessees shall ensure that charges are fair, reasonable and non-discriminatory for each unit of sale or service. However, reasonable and non-discriminatory discounts, rebates, or other types of price reductions may be granted to volume purchasers. As used in this section, the word "services" includes the furnishing of parts, materials and supplies (including the sale thereof and the furnishing of service).
- 5.5 Compliance With Applicable Laws. Lessee and its sublessees will not use the Premises for any purposes other than as specifically allowed by this Agreement. Lessee and its sublessees will not use the Premises in any manner that violates Applicable Laws, including without limitation FAA Advisory Circular No. 150/5300-13, Chapter 333, Florida Statutes, and Chapter 2 and Chapter 39, Section 39-359, et. seq., Broward County Code of Ordinances.
- 5.6 Observation of Rules and Standards of Conduct. Nothing in this Agreement prohibits Lessee from requiring its employees, contractors, sublessees, invitees, agents, guests and any others entering upon or using the Premises to observe reasonable and non-discriminatory rules and standards of conduct to maintain the Premises in the manner required by the provisions of this Agreement and to preserve the Lessee's and its sublessees' peaceful enjoyment of the Premises; provided that the rules and standards of conduct comply with this Agreement and with Applicable Laws. In addition, nothing in this Agreement prohibits Lessee from taking any lawful action to enforce compliance with this Agreement and the rules and standards of conduct established by Lessee (as described by the first sentence hereof).
- 5.7 Aircraft Fuel Farm Facility. Subject to Aviation Department consent pursuant to Article 18, Lessee may lease the Aircraft Fuel Farm Facility that is required to be constructed on the Premises pursuant to Article 6, under a construction/lease agreement. Lessee must notify the Aviation Department prior to entering into any such construction/lease agreement, and must provide the Aviation Department with a complete copy of the construction/lease agreement, including all exhibits, amendments, modifications, and extensions of such agreement. Any construction/lease agreement must provide that it is subject to termination, in the sole discretion of the County, upon any termination of this Agreement.

ARTICLE 6
CONSTRUCTION BY LESSEE

- 6.1 Due Diligence Period. Lessee shall have a period of one hundred eighty (180) days after the Effective Date as a Due Diligence Period ("Due Diligence Period"). There will be no extensions of the Due Diligence Period.
- (a) Lessee's Activities During Due Diligence Period. During the Due Diligence Period, Lessee shall inspect the Premises and evaluate the feasibility of the Premises for its development and use as contemplated by this Agreement. Also, during the Due Diligence Period, Lessee shall submit development plans and phasing schedules to the Aviation Department's project review committee ("PRC") and the Aviation Department and Lessee shall agree on a phasing schedule associated with the construction of the Phase 1 Improvements and the Phase 2 Improvements. At Lessee's option, Lessee may submit applications for site plan and building permit approvals to the applicable governmental authorities and obtain approvals as a result of any such submissions. All of the foregoing activities and requirements will be at Lessee's sole expense. During the Due Diligence Period Lessee may advise the Aviation Department of any concerns Lessee has regarding the Premises in order to determine if any of such concerns are capable of being alleviated. However, County is not obligated to take any action or spend any money with respect to any of Lessee's concerns or objections.
- (b) Due Diligence Termination Notice. If before the expiration of the Due Diligence Period, Lessee determines that it is not feasible to use and develop the Premises as contemplated by this Agreement, then Lessee may give written notice to that effect to the Aviation Department ("Due Diligence Termination Notice"). The Due Diligence Termination Notice must be delivered to the Aviation Department by no later than the last day of the Due Diligence Period. If the Due Diligence Termination Notice is timely delivered, this Lease will terminate in accordance with Section 6.1(c), below and the other provisions of Section 6.1(c) will apply.
- (c) This Lease will terminate on the thirtieth (30th) day after Lessee gives a timely Due Diligence Termination Notice to County ("Due Diligence Termination Date"), and County will be entitled to record a notice to that effect in the public records of Broward County. On or before the Due Diligence Termination Date, the Lessee shall: vacate the Premises, return the Premises to the state it was before the Effective Date, and leave the Premises free and clear of all liens, claims and encumbrances whatsoever as may have been caused by Lessee. Lessee shall pay County for all expenses incurred by County as a result of any activities of Lessee at the Premises, which payment must be made before the later to occur of:

Lessee's complete vacation of the Premises, or the Due Diligence Termination Date. In the event of a termination under these provisions, Lessee will have no right to payment of any amounts described by Section 35.3 or Article 37. County shall return the Due Diligence/Improvements Security Deposit to Lessee within one hundred twenty (120) days following the Due Diligence Termination Date, less any costs incurred by County caused by Lessee or any of "Lessee's Parties" (as defined in Section 32.1, hereof).

- (d) If Lessee fails to provide the Due Diligence Notice by the last day of the Due Diligence Period, then Lessee will have no further right to terminate this Agreement under this Section 6.1.
- (e) The provisions of this Section 6.1 shall survive the expiration or any other termination of this Agreement.

6.2 Phasing Schedule. During the Due Diligence Period, County and Lessee shall agree on a phasing schedule associated with the construction of the Phase 1 Improvements and the Phase 2 Improvements. The Lessee shall complete construction of the Phase 1 Improvements and the Phase 2 Improvements in accordance with the approved phasing schedule for such improvements and by no later than the respective Phase 1 Completion Date and Phase 2 Completion Date, as provided in Section 6.3 and Section 6.5, below.

6.3 Phase 1 Improvements. Lessee shall construct and complete the following Phase 1 Improvements by no later than the last day of the second (2nd) Lease Year ("Phase 1 Completion Date"):

- (a) As to the East Hangar (see designated facility on **Exhibit A**): paint the hangar, refinish the floors of the hangar, and replace or repair the roof of the hangar.
- (b) Install new signage on the hangars and buildings at the Premises.
- (c) Build and install an Aircraft Fuel Farm Facility that provides a full-service and self-service aviation fuel depot and supplies Avgas (100LL) and Jet A fuels.
- (d) Refurbish the Line Shack (see designated facility on **Exhibit A**).
- (e) Demolish and remove the current interior partitions in the West Hangar (see designated facility on **Exhibit A**), build out the interior of the West Hangar to include maintenance, storage, and office facilities, install restrooms in the West Hangar, and paint the exterior of the West Hangar.

- (f) Complete any and all structural, electrical, and plumbing updates that are required for all improvements in order to achieve a CO for all Phase 1 Improvements.

6.4 Phase 1 Minimum Capital Expenditure. Lessee shall spend a minimum Capital Expenditure amount of Four Hundred Thousand Dollars (\$400,000.00) ("Phase 1 Minimum Capital Expenditure") to complete all the improvements required in Section 6.3 by no later than the Phase 1 Completion Date. Only costs paid for the construction of the Phase 1 Improvements that qualify as Capital Expenditures, as defined in Article 1 and that satisfy Section 6.8, will count towards the Phase 1 Minimum Capital Expenditure. The Phase 1 Minimum Capital Expenditure is in addition to, and not in lieu of, the Phase 2 Minimum Capital Expenditure. Capital Expenditure costs for improvements identified in Section 6.5 will not count toward the Phase 1 Minimum Capital Expenditure, no matter when the costs were incurred or whether the costs exceed the Phase 2 Minimum Capital Expenditure.

6.5 Phase 2 Improvements. Lessee shall construct and complete the following Phase 2 Improvements by no later than the last day of the third (3rd) Lease Year ("Phase 2 Completion Date"):

- (a) Resurface and rearrange the existing ramp area (see designated facility on **Exhibit A**) to accommodate and attract transient overnight parking for normal traffic, as well as special event traffic.
- (b) Develop an aircraft wash rack with water filtering recycling system.
- (c) Build twenty-five (25) T-port shade hangars on existing tie-down space (see tie-down area designated on **Exhibit A**).
- (d) Install a reception center in Building 25, and replace the roof, doors, windows and mechanical systems in Building 25 (see designated facility on **Exhibit A**).
- (e) Complete any and all structural, electrical, and plumbing updates that are required for all improvements in order to achieve a CO for all Phase 2 Improvements.

6.6 Phase 2 Minimum Capital Expenditure. Lessee shall spend a minimum Capital Expenditure amount of Three Hundred Ninety Thousand Dollars (\$390,000.00) ("Phase 2 Minimum Capital Expenditure") to complete all the improvements required in Section 6.5 by no later than the Phase 2 Completion Date. Only costs paid for the construction of the Phase 2 Improvements that qualify as Capital Expenditures, as defined in Article 1 and that satisfy Section 6.8, will count towards the Phase 2 Minimum Capital Expenditure. The Phase 2 Minimum Capital Expenditure is in addition to, and not in lieu of, the Phase 1 Minimum

Capital Expenditure. Capital Expenditure costs for improvements identified in Section 6.3 will not count toward the Phase 2 Minimum Capital Expenditure, no matter when the costs were incurred or whether the costs exceed the Phase 1 Minimum Capital Expenditure.

- 6.7 Contracts for Phase 1 Improvements and Phase 2 Improvements. By no later than the last day of the first (1st) Lease Year, Lessee shall enter into a contract with at least one (1) general contractor for all of the Phase 1 Improvements identified in Section 6.3. Before the last day of the second (2nd) Lease Year, Lessee shall enter into a contract with at least one (1) general contractor for all of the Phase 2 Improvements identified in Section 6.5. Lessee may contract with more than one (1) general contractor. Within ten (10) days following execution of each construction contract for the Phase 1 Improvements and for the Phase 2 Improvements, Lessee shall provide the Aviation Department with a copy the fully executed contract. Each contract with a general contractor must contain the provisions and insurance coverage required by Article 7 hereof.
- 6.8 Other Requirements for Minimum Capital Expenditures. Costs and expenses incurred by Lessee must meet all of the following criteria to qualify as part of either the Phase 1 Minimum Capital Expenditure or the Phase 2 Minimum Capital Expenditure.
- (a) Any cost or expense incurred by Lessee must satisfy the criteria for Capital Expenditure, as defined in Article 1 of this Agreement.
 - (b) Any cost and expense for the improvements must be expended in compliance with the Approved Plans and the requirements of this Agreement.
 - (c) The Aviation Department must have received copies of all of the certificated statements and documentation required by Section 6.19, below.
 - (d) The Aviation Department must have received the schedule of all Capital Expenditure costs and the opinion from the CPA firm as required by Section 6.20, below.
 - (e) The Aviation Department must have received the "as-built" plans required by Section 6.22, below.
- 6.9 Capital Expenditure Report. If requested by the Aviation Department (not more than once each Lease Year), Lessee shall provide the Aviation Department with a report ("Capital Expenditure Report") of the total Capital Expenditures that have been expended as of the date of the report, with an indication in the report as to which expenditures qualify as Capital Expenditures for the Phase 1

Minimum Capital Expenditure and which expenditures qualify as Capital Expenditures for the Phase 2 Minimum Capital Expenditure. The Aviation Department, at its option, may audit the costs provided by Lessee or may engage a CPA firm to conduct an audit of the costs.

- 6.10 Obligations Before Construction. Before starting construction or refurbishment of any facilities on the Premises (including but not limited to those described in Sections 6.3 and 6.5 above), Lessee shall submit to the Aviation Department for its written authorization, a site plan and complete plans and specifications of the contemplated construction. The plans and specifications must be certified by an architect or engineer licensed to practice in Florida and must consist of the following: (a) working drawings; (b) technical specifications; (c) bid documents, if applicable; (d) schedule for accomplishing improvements; (e) schedule of finishes and graphics; (f) list of furnishings, fixtures and equipment; (g) certified estimate of the design, development and construction costs; and (h) such other information as may be required by the Aviation Department.
- 6.11 Approved Plans. The plans and specifications for the facilities (including any amendments and changes thereto) that have received the Aviation Department's written consent and that also have been approved by all other applicable governmental agencies, are hereinafter referred to collectively, as the "Approved Plans." No work may be performed on the Premises, except pursuant to Approved Plans. All construction, improvements, signs, equipment and landscaping must be made in accordance with the requirements set forth in this Agreement and must conform to the standard requirements of the Aviation Department that are applicable to tenants of the Airport. All of the plans and specifications must be in enough detail to reasonably permit the Aviation Department to determine whether the facilities will be consistent with this Agreement and the standards of the Aviation Department. No material changes will be made to any Approved Plans, without the Aviation Department's prior written approval, which will not be unreasonably withheld or delayed. Any change that requires the issuance of a building permit or modifies an existing building permit is a material change.
- 6.12 Identification of Utilities on Plans. All plans and specifications, including without limitation, "as-built" plans provided under Section 6.22 below, must identify the purpose of utilities and any conduits by generic reference only (e.g., "phone conduit," "telecommunications conduit," or "power conduit"), and shall not identify any utility or conduit ducts for cable, telecommunications, electric service, and the like, by any specific company name.
- 6.13 Construction Standards. Lessee shall perform any and all construction in such a manner as to provide that the facilities and improvements:

- (1) are structurally sound and safe for human occupancy, and free from any hazards;
- (2) provide sufficient clearance for taxiways, runways and aprons, and shall not intrude into any aeronautical surfaces or exceed any height limitations and shall not interfere with the operations of arriving and departing aircraft at the Airport;
- (3) are designed solely for those uses permitted under Article 5, hereof;
- (4) comply with the deed under which the County acquired its title to the Airport from the United States of America, and any grant agreements or other agreements between the County and the United States government or the State of Florida that are applicable to the Premises; and
- (5) comply with the terms and conditions of this Agreement as well as all Applicable Laws.

The Aviation Department reserves the right to require that all development within the Airport be consistent with the overall Airport system architecture and the Master Plan, as well as reasonable standards of safety and quality. The Aviation Department may refuse to grant consent if, in its opinion, the proposed facilities as shown on the plans and specifications will not meet the criteria set forth above, or will not satisfy any other provisions of this Agreement, or Applicable Laws, or for any other reason whatsoever, in its sole discretion.

- 6.14 Cost to Relocate Utilities and Navigational Aids. During any construction or refurbishment undertaken by Lessee, Lessee shall pay all costs associated with any removal, replacement, relocation and protection of all utilities and navigational aids, including but not limited to, water, wastewater disposal, sewer, telephone, electric, airfield lighting system, conduit ducts for cable, telecommunications and electric service, and navigational aids, whether such are located at the Premises or on adjacent property. All underground conduits installed at the Premises, including without limitation cable, electric and telecommunications, are leasehold improvements. Lessee shall install all such conduits at its expense, and shall ensure the conduits are free of all liens, claims and encumbrances, including any claims of any utilities provider.
- 6.15 Improvements to Comply With Applicable Laws. All improvements, equipment, interior design and decor constructed or installed at the Premises must comply with Applicable Laws. The Aviation Department's consent of any plans, specifications, or designs is not a representation or warranty as to such conformity, and the responsibility for compliance all times shall remain with Lessee.

- 6.16 Construction of Approved Facilities and Improvements. Upon approval of plans, specifications and schedules by the Aviation Department and the obtaining of other necessary approvals, Lessee shall immediately begin construction, installation or refurbishment, as applicable, of the approved facilities and improvements, as required by this Article 6. Lessee shall perform any work impacting portions of the Airport other than the Premises within schedules approved by the Aviation Department.
- 6.17 Periodically Scheduled Meetings. If requested by the Aviation Department, Lessee and its architect/engineer and contractor shall meet with the Aviation Department in periodically scheduled meetings to assess the current status of completion.
- 6.18 Ownership of Leasehold Improvements. All fixtures, structures, facilities, hangars, pavements and other leasehold improvements and any additions and alterations made to the Premises (except trade fixtures, equipment and personalty that are not permanently affixed to the Premises and the Aircraft Fuel Farm Facility and its appurtenances that is to be constructed on the Premises) will revert to County and be surrendered with and remain on the Premises at the end of the Term. Any addition, fixture or other improvement that is nailed, bolted, stapled, or otherwise affixed to the Premises and is not readily removable as a trade fixture or item of equipment, is a leasehold improvement. If the removal of any personalty, trade fixtures or equipment causes damage to the Premises, then Lessee shall repair such damage and restore the Premises to its original condition before the damage occurred.
- 6.19 Certified Statements. Within one hundred twenty (120) days after the CO Date with respect to any improvements, and also at such other times as may be requested by the Aviation Department, Lessee shall provide the following to the Aviation Department:
- (1) a certified statement from the construction contractor(s) specifying the total construction cost and stating that the improvements are free and clear of all liens, claims or encumbrances by any material suppliers, subcontractors, or laborers; and
 - (2) a certified statement from the architect or engineer stating the total architect's or engineer's fees and that the improvements have been constructed in accordance with the Approved Plans and in compliance with Applicable Laws, and
 - (3) Upon request, such back-up documentation and releases of lien as may be required by the Aviation Department.

- 6.20 Schedule of Capital Expenditure Costs for Phase 1 Improvements and Phase 2 Improvements. Within one hundred twenty (120) days after the Phase 1 Completion Date and within one hundred twenty (120) days after the Phase 2 Completion Date, and also at any other time requested by the Aviation Department, Lessee shall provide to the Aviation Department a schedule of Capital Expenditure costs ("schedule") to be considered by the Aviation Department as to whether such costs do qualify as Capital Expenditures as defined in Article 1, The schedule shall show line item, detailed information as to each cost, including but not limited to, description, payee and date of payment. The schedule be accompanied by an Independent Auditor's Report. That Independent Auditor's Report must be based on an audit of the costs in the schedule that is conducted by a CPA firm in accordance with generally accepted government auditing standards. The Independent Auditors Report must contain a statement as to whether the Capital Expenditure amounts set forth in the schedule meet the requirements of Section 1.13 and a statement as to whether the schedule is in conformity with generally accepted accounting principles, subject to the limitations set forth in Section 1.13. The Independent Auditor's Report must state if any items on the schedule do not meet the requirements of Section 1.13. Lessee shall document for the CPA firm and the Aviation Department that the monies were spent, that they are true and correct, and why they are eligible to be included in the Capital Expenditure amount. Lessee shall provide, upon request, such invoices and other back-up documentation as may be required by the Aviation Department or the CPA firm to verify that the Phase 1 Minimum Capital Expenditure and the Phase 2 Minimum Capital Expenditure have been met by Lessee by the respective Phase 1 Completion Date and Phase 2 Completion Date. The Aviation Department, at its option, may conduct an audit of such expenditures, or may engage a CPA firm to conduct such audit.
- 6.21 Liens, Claims, and Encumbrances. The Premises and all improvements now and hereafter constructed or placed thereon must at all times be free and clear of all liens, claims and encumbrances. If any lien or notice of lien is filed against the Premises or any improvements, Lessee shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction. The provisions hereof do not apply to any leasehold mortgage to which County has consented as provided in this Agreement, or any purchase money security interest in any movable trade fixtures installed at the Premises.
- 6.22 "As-Built" Plans. Within ninety (90) days following the CO Date of any improvements, and also at such other times as may be requested by the Aviation Department, Lessee, at Lessee's sole expense, shall provide the Aviation Department with a complete set of "as-built" plans and specifications, including Mylar reproducible "record" drawings, and a complete set of machine readable disks containing electronic data in an AUTOCAD format that meets the Aviation

Department's graphic standards of the "as-constructed" or "record" plans for the improvements.

- 6.23 Other Approvals. In addition to the Aviation Department's authorization, Lessee shall obtain any required authorization from all other agencies having jurisdiction over any improvements, including but not limited to departments, divisions or offices of the County, local governments, the State of Florida, and the federal government.
- 6.24 Coordination with FAA. Lessee must coordinate all improvements with the FAA, including the filing of required forms and the provision of any documentation the FAA may request.
- 6.25 Conformity with ADA. All improvements hereafter made to the Premises must conform to, and be consistent with, all applicable provisions of the Americans with Disabilities Act of 1990, as may be amended from time to time.
- 6.26 Aviation Department's Approval of Improvements. Lessee must not make any additions, alterations, modifications or replacements to any improvements at the Premises unless Lessee first has submitted to the Aviation Department, for its written consent, complete plans and specifications for same in accordance with this Article 6. All additions, alterations, modifications and replacements must comply with this Agreement, including without limitation, this Article 6. If any addition, alteration, modification or replacement is made without Aviation Department authorization under this Article 6, then, upon notice in writing so to do, Lessee shall remove same or, at the option of the Aviation Department, cause same to be changed to the Aviation Department's satisfaction. If Lessee fails to comply with the notice, the Aviation Department may affect the removal or change and the Lessee shall pay the cost thereof to the County.
- 6.27 County Does Not Acquire Title to Aircraft Fuel Farm Facility. Notwithstanding any provision of this Agreement giving County title to improvements located on the Premises, County will not acquire title to any part of any Aircraft Fuel Farm Facility at any time whatsoever. Any Aircraft Fuel Farm Facility (and all appurtenances and component parts thereof) located at the Premises must be completely removed from the Premises upon the expiration or other termination of this Agreement or upon any termination of any construction/lease agreement with respect to the Aircraft Fuel Farm Facility, which removal must be performed in accordance with Applicable Laws.
- (a) If Lessee fails to remove the Aircraft Fuel Farm Facility from the Premises on or before the expiration or other termination of this Agreement, then, Lessee will be holding over under Section 35.2 and Lessee will be liable for charges payable pursuant thereto. In addition, if Lessee fails to remove the Aircraft Fuel Farm Facility within sixty (60) days after the

expiration or other termination of this Agreement, then, in addition to all remedies available hereunder and at law or in equity, County may remove the Aircraft Fuel Farm Facility and Lessee will be liable for all expenses and charges (whether direct or indirect) incurred by County in effectuating such removal (including any storage charges) that are in any way connected to the Aircraft Fuel Farm Facility, including interest thereon at the rate of eighteen percent (18%) per annum from the date incurred. In contracting for any such removal, County may dispose of the Aircraft Fuel Farm Facility in any way it sees fit, including without limitation, through demolition of such facility, through giving salvage rights to the contractor, through storage, or through public auction.

- (b) Lessee shall provide County with documentation satisfactory to the County that the Aircraft Fuel Farm Facility has been removed in accordance with Applicable Laws, including such back-up documentation as the County may reasonably request. The provisions of this Section 6.27 shall survive the expiration or any other termination of this Agreement.

6.28 Increase of Rent Upon Failure to Complete Construction of Phase 1 Improvements By Phase 1 Completion Date. If Lessee does not complete construction of all Phase 1 Improvements in accordance with this Article 6 and all other applicable provisions of this Agreement on or before the Phase 1 Completion Date, then on the Phase 1 Completion Date the annual rent then in effect for the entire Premises shall be increased to equal twice the annual rent that was in effect immediately prior to the Phase 1 Completion Date (hereafter, the "Phase 1 Adjusted Rent") and the Phase 1 Adjusted Rent shall thereafter be subject to future adjustment at the commencement of each Lease Year in accordance with Section 4.3 and the Phase 1 Adjusted Rent will also be subject to adjustment in accordance with provisions of this lease, as applicable, including without limitation Section 6.29. At all times during which Phase 1 Adjusted Rent is in effect, there will be no adjustments of rent based on the provisions of Sections 4.4 through 4.10. On the date the Lessee completes construction of the Phase 1 Improvements (subject to the provisions of Section 6.29, below), the annual rent will be adjusted to the rent that would then be in effect pursuant to the provisions of this Lease if the Phase 1 Adjusted Rent had not been imposed (including taking into account any adjustments pursuant to this Lease). The provisions of this Section 6.28 are in addition to all other rights and remedies of County, including without limitation, those set forth in Article 7 and Article 33 of this Agreement.

6.29 Increase of Rent Upon Failure to Complete Construction of Phase 2 Improvements By Phase 2 Completion Date. If Lessee does not complete

construction of all Phase 2 Improvements in accordance with Article 6 and all other applicable provisions of this Agreement on or before the Phase 2 Completion Date, then on the Phase 2 Completion Date the annual rent then in effect for the entire Premises (whether such rent was established accordance with Article 4, or is Phase 1 Adjusted Rent) shall be increased to equal twice the annual rent that was in effect immediately prior to the Phase 2 Completion Date and following such increase such adjusted rent for the Premises (hereafter, the "Phase 2 Adjusted Rent") shall be subject to future adjustments at the commencement of each Lease Year in accordance with Section 4.3 and any other required rent adjustments under this Lease. At all times during which Phase 2 Adjusted Rent is in effect, there will be no adjustments of rent based on the provisions of Sections 4.4 through 4.10. On the date the Lessee has completed construction of both the Phase 1 Improvements and the Phase 2 Improvements, the annual rent will be adjusted to the rent that would then be in effect pursuant to the provisions of this Lease if the Phase 1 Adjusted Rent had not been imposed (including taking into account any adjustments pursuant to this Lease). The provisions of this Section 6.29 are in addition to all other rights and remedies of County, including without limitation, those set forth in Article 7 and Article 33 of this Agreement.

- 6.30 Failure to Construct Improvements By Completion Date. The parties agree that if the Lessee has not expended the Phase 1 Minimum Capital Expenditure in constructing the Phase 1 Improvements by the Phase 1 Completion Date, or if the Lessee has not expended the Phase 2 Minimum Capital Expenditure in constructing the Phase 2 Improvements by the Phase 2 Completion Date, then in either such event, County may upon sixty (60) days' prior written notice, and at its option, either (i) reduce the Term of this Lease by six (6) months for each **Twenty-five Thousand Dollars (\$25,000.00)** of shortfall in required expenditures for the Phase 1 Minimum Capital Expenditure and reduce the Term of this Lease by six (6) months for each **Twenty-five Thousand Dollars (\$25,000.00)** of shortfall in required expenditures for the Phase 2 Minimum Capital Expenditure, or (ii) if there is any shortfall in either the Phase 1 Minimum Capital Expenditure or the Phase 2 Minimum Capital Expenditure that is greater than **Twenty-five Thousand Dollars (\$25,000.00)**, County may terminate this Lease effective upon such date set forth in County's written notice to that effect and upon any such termination Lessee will have no right to payment of any amounts under Article 37 or Section 35.3. The provisions of this Section 6.30 are in addition to all other rights and remedies of County, including without limitation, those set forth in Article 7 and Article 33 of this Agreement.

ARTICLE 7
CONSTRUCTION CONTRACTS, BONDS, INDEMNIFICATION
AND INSURANCE REQUIREMENTS FOR CONTRACTORS

- 7.1 Security Deposit for Due Diligence/Construction of Improvements. Lessee shall provide County with a "Due Diligence/Improvements Security Deposit" as security for due diligence activities by Lessee with respect to the Premises and for the improvements to be constructed as Phase 1 Improvements and Phase 2 Improvements, in the form of cash or Letter of Credit in the amount of Forty Thousand Dollars (\$40,000.00).
- (a) Lessee shall deliver the Due Diligence/Improvements Security Deposit at least five (5) days before the Board's approval of this Agreement.
 - (b) If Lessee fails to complete construction of the Phase 1 Improvements or the Phase 2 Improvements by the Phase 1 Completion Date or the Phase 2 Completion Date, as applicable, then County, upon written notice, may draw down the Due Diligence/Improvements Security Deposit, and apply same to any amounts due to County under any provisions of this Agreement, including any required rental payments pursuant to Article 4, or Sections 6.28 or 6.29, or to reimburse County for any expenditures of County pursuant to any provision of this Agreement.
 - (c) If any monies are drawn down from the Due Diligence/Improvements Security Deposit under this Agreement, then immediately upon receipt of notice of any such draw, Lessee shall replace the Due Diligence/Improvements Security Deposit with a new Letter of Credit or cash in the full amount of the Due Diligence/Improvements Security Deposit required hereunder.
 - (d) County will not pay interest of any kind on the Due Diligence/Improvements Security Deposit. If the Due Diligence/Improvements Security Deposit is in the form of a Letter of Credit, then the requirements of Section 33.2 are applicable.
 - (e) If the Aviation Department determines that all of the following requirements are satisfied, the Aviation Department shall release any remaining Due Diligence/Improvements Security Deposit.
 - (1) Lessee has spent the Phase 1 Minimum Capital Expenditure and the Phase 2 Minimum Capital Expenditure by the respective Completion Date for each phase, in accordance with the provisions of this Agreement; and

- (2) Lessee has provided all documentation required by this Agreement as to the Phase 1 Improvements and the Phase 2 Improvements; and
- (3) Lessee has constructed the required improvements in accordance with the provisions of this Agreement by the Phase 1 Completion Date and the Phase 2 Completion Date, as applicable.

7.2 Payment and Performance Bonds. Before starting any work or construction, Lessee shall require the contractor building any improvements to maintain, at all times, a valid payment bond and a valid performance bond, which bonds must be in an amount not less than the amount covering the full amount of the work being performed. Each bond must guarantee to County the completion of the work being performed by the contractor as well as full payment of all suppliers, material suppliers, laborers or subcontractors employed in the project.

7.3 Construction Contract Provisions. Lessee shall abide by and include the following provisions in all contracts it enters into with successful contractors in connection with the construction and completion of any improvements to the Premises:

"Contractor shall indemnify and hold harmless County, its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of Contractor, and other persons employed or utilized by Contractor in the performance of this Agreement. This section survives the expiration or any other termination of this Agreement. To the extent considered necessary by Aviation Department and County Attorney, any sums due Contractor under this Agreement may be retained by County until all of County's claims for indemnification under this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by County."

7.4 Insurance Requirements for Construction Contracts.

- (a) In the event Lessee enters into any agreement with any contractor to perform work or activities with respect to this Agreement, Lessee will obtain proof of insurance from the contractor, which insurance shall protect Broward County by adding Broward County as an additional insured. Lessee will provide County with a copy of the foregoing insurance coverage upon County's request.
 - (1) Such policy or policies must be issued by approved companies authorized to do business in Florida, and having agents upon whom service of process may be made in Florida. The Commercial

General Liability policy shall specifically protect County and the Board by naming County and the Broward County Board of County Commissioners as additional insureds.

- (2) Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Contractor is completed. All policies must be endorsed to provide County with at least thirty (30) days' notice of cancellation or restriction. If any of the insurance coverages will expire before the completion of the work, copies of renewal policies must be furnished at least thirty (30) days' before their expiration date. Any insurance coverage that is written on a "claims made" basis must remain in force for two (2) years after completion of the work.
- (b) Lessee shall provide to County, not less than ten (10) days before commencement of any improvements at the Premises, site certificates of insurance evidencing the insurance coverage as specified above. The required certificates of insurance must not only name the types of coverage provided, but also must refer specifically to this Agreement with the type of insurance that is being furnished, and must state that the insurance is as required by this Agreement. If the initial insurance expires before the completion of the improvements, Lessee shall furnish renewal certificates of insurance at least thirty (30) days before the expiration date. Lessee will not cancel, modify, or restrict insurance, without at least thirty (30) days prior written notice to County, and any insurance must be endorsed to provide the same. County shall review the aforesaid minimum limits of insurance from time to time and may require the same to be adjusted if County determines that the adjustment would protect County's interest. After Lessee delivers those policies or certificates to County, County may notify Lessee, in writing, at any time, that the insurance represented thereby does not conform to the provisions hereof because of the amount or because of the insurance company or for any other reason, and Lessee shall have fifteen (15) days to cure any identified defect.
- (c) Contractor shall have Broward County as a certificate holder for all coverage and an additional insured for its General Liability and Excess Liability coverage. The Contractor's certificate of insurance must be in a form that is satisfactory to the County's Risk Manager or Risk Management Division.

7.5 Provision of Documents. Lessee shall provide the Aviation Department with the certificates of insurance and any other documentation required by this Article 7.

ARTICLE 8
OBLIGATIONS OF LESSEE

- 8.1 Observation of Rules and Regulations. Lessee and all sublessees shall observe and obey, and shall require their employees, guests, invitees and those doing business at the Premises to observe and obey, the rules and regulations of the Aviation Department and the County (as are from time to time promulgated and amended) pertaining to the conduct and operation of the Premises, including without limitation the Minimum Standards. Lessee's and sublessees' obligation to require the observance and obedience of their guests, invitees and business visitors pertains only while those persons are on or in occupancy of any portion of the Premises.
- 8.2 Conduct of Operations. Lessee and all sublessees shall conduct their operations hereunder in an orderly and commercially reasonable manner, considering the nature of their operations so as not to unreasonably annoy, disturb, endanger or be offensive to others at the Airport.
- 8.3 Reasonable Measures. Lessee and all sublessees shall take all reasonable measures to reduce to a minimum vibrations tending to damage any equipment, structure, building or portion of a building that is at the Premises or located elsewhere on the Airport and to keep the sound level of their operations as low as possible. Any aircraft that operate within federal noise requirements do not violate this provision.
- 8.4 Conduct of Others on Premises. Lessee and all sublessees shall control the conduct, demeanor and appearance of their employees, guests, invitees and those doing business at the Premises. Upon objection from the Airport Manager concerning the conduct, demeanor and appearance of any such persons, Lessee shall immediately take all reasonable steps necessary to remove the cause of objection.
- 8.5 Removal of Garbage, Debris, and Other Waste Material. Lessee and all sublessees shall remove from the Airport, or otherwise dispose of in a manner approved by the Airport Manager, all garbage, debris and other waste materials (whether solid or liquid) arising out of the occupancy of the Premises or any operations at the Premises. Lessee and all sublessees shall ensure that any garbage, debris or other waste materials that are temporarily stored in the open, shall be kept in suitable garbage and waste receptacles, made of metal and equipped with tight-fitting covers and designed safely and properly to contain whatever material may be placed therein. Lessee and all sublessees shall use appropriate care when effecting removal of all such waste and shall comply with Applicable Laws.

- 8.6 No Nuisance, Waste or Injury. Lessee and all sublessees shall not commit any nuisance, waste or injury on the Premises and shall not do or permit to be done anything that may result in the creation or commission of any nuisance, waste or injury on the Premises.
- 8.7 No Obnoxious Odors, Smokes, or Noxious Gases or Vapors. Lessee and all sublessees shall not cause or allow any obnoxious odors or smokes or noxious gases or vapors at the Premises; provided, however, that fumes resulting from the normal operations of properly certified and maintained aircraft and properly maintained trucks and other vehicles are excepted from this provision. Lessee and all sublessees shall ensure that emissions generated by any aircraft, trucks, and other vehicles shall comply with Applicable Laws.
- 8.8 No Interference with Utilities. Lessee and all sublessees shall not do, or permit to be done, anything that may interfere with the effectiveness or accessibility of the utilities systems installed or located on or about the Premises that are also used by other entities at the Airport. Lessee shall repair any utilities that are damaged as a result of Lessee's or its sublessees' activities.
- 8.9 No Overloading of Floor or Paved Area. Lessee and all sublessees shall not overload any floor or paved area on the Premises, and Lessee shall repair any floor and paved area, including supporting members, that is damaged by overloading.
- 8.10 No Increase in Risk to Premises. Lessee and all sublessees shall not do, or permit to be done, anything upon the Premises: (a) that will invalidate or conflict with any fire insurance policies covering the Premises or any part thereof or covering other contiguous premises at the Airport; or (b) that may constitute a hazardous condition so as to increase the risks normally attendant upon the operations permitted by this Agreement.
- 8.11 Handling of Flammable Liquids. All flammable liquids that are kept or stored at the Premises must at all times be handled, stored and used by Lessee and all sublessees in accordance with Applicable Laws.
- 8.12 Fueling or Refueling of Aircraft or Other Equipment. Lessee and all sublessees shall not fuel or refuel aircraft or other equipment in the covered and enclosed portions of the Premises without the Airport Manager's prior consent; provided, however, that using gasoline or other fuel in such enclosed portions where necessary to repair and test component parts is not prohibited. In any such event, Lessee and all sublessees shall take all precautions reasonably necessary to minimize the hazard created by that use, and shall comply with Applicable Laws.

- 8.13 Public Landing Areas. Lessee and all sublessees shall prevent access to the public landing areas from the Premises, except for aircraft equipped with radio transmission devices suitable for use as required in the public landing areas.
- 8.14 Tests of Fire Extinguishing System. From time to time and as often as reasonably required by the Airport Manager or any governmental authority having jurisdiction, Lessee and all sublessees shall conduct pressure, water flow, and other appropriate tests of the fire extinguishing system and apparatus which are maintained by the Lessee or any sublessee.
- 8.15 No Vending Machines. Except for food and beverage vending machines as may be permitted under Article 5, above, Lessee and all sublessees shall not place any coin or token operated vending machine or similar device (including without limitation, pay telephones, beverage or food machines or other commodities) upon or within the Premises without the prior written consent of the Airport Manager.
- 8.16 Timely Payment of Permit Fees and Charges. Lessee and all sublessees shall pay before delinquency all licenses and permit fees and other charges for the conduct of any business conducted at the Premises.
- 8.17 Derelict Aircraft, Parking/Storage of Vehicles. Lessee and all sublessees shall not permit the temporary or permanent storage, and shall not allow the arrival at the Premises or the presence at the Premises at any time, of any derelict aircraft. Lessee and all sublessees shall not park or store or allow the parking or storage of any vehicles, boats, motorcycles, recreation vehicles, trailers or any other non-aviation equipment whatsoever on the Premises that are not used in the daily operation of the business permitted to be conducted at the Premises under Article 5 of this Agreement, without the Airport Manager's prior written approval. Any violation of these provisions is a default hereunder.
- 8.18 Emergency Evacuation and Hurricane Plans. Within thirty (30) days after the Effective Date, Lessee shall provide the Airport Manager with Emergency Evacuation and Hurricane Plans consistent with County's evacuation and hurricane plans for the Airport. These plans must contain detailed procedures of actions to be taken by Lessee and all sublessees if an evacuation is needed or if a hurricane alert is present and the plans must include emergency contact information. Before June 1 of each year, Lessee shall submit updated Emergency Evacuation and Hurricane Plans to the Airport Manager.
- 8.19 Weight Limitation on Aircraft on Premises. Lessee and all sublessees shall not permit the temporary or permanent storage of, allow the arrival of, or the presence of any aircraft at the Premises that has a weight equal to or more than 12,500 pounds maximum certificated gross takeoff weight as published by the FAA at any time, unless the runways within the Airport are upgraded or replaced

so that they can handle more than 12,500 pounds of maximum certificated takeoff weight and are approved for operating that aircraft size.

- 8.20 Safety Management System ("SMS"). Lessee and all sublessees shall report to the Airport Manager any and all incidents that are subject to the Aviation Department's rules, regulations and policies or are subject to regulations promulgated by the FAA (as such may be amended), which incidents occur as a result of any action or operations of Lessee or any sublessee, or any of their employees, contractors, or agents and have occurred either: (1) on or about Lessee's Premises; or (2) anywhere on Airport property. Lessee, its sublessees and their employees, contractors and agents shall cooperate with the Airport Manager with respect to any subsequent investigations of an incident. If a Safety Management System ("SMS") program is established at the Airport, Lessee and all sublessees shall comply with that program immediately upon notification and receipt of the same from County.
- 8.21 Disincentive Payment/Charges. One of County's primary goals in entering this Agreement is to ensure that customer service provided to the traveling public on the Premises is of the highest caliber and is consistent with the image that the Airport wants to project to its users and visitors. County will thus suffer damage if Lessee fails to meet these standards, including the Minimum Standards and its obligations under this Agreement, and, due to the nature of certain breaches, the actual damage to County would be impractical or difficult to remedy.
- (a) In addition to all other remedies available under this Agreement, Lessee shall be subject to the disincentive charges set forth in Section 8.21(b), below, if Lessee breaches the performance standards specified in Section 8.21(b). County's actual damages if Lessee breaches the performance standards would be impractical or difficult to determine. Thus, the amounts set forth in Section 8.21(b) are the parties' reasonable estimate of County's damages in the event of such breach. County's acceptance of a disincentive payment, as a result of a performance standard breach, will not prevent County from exercising any other right or remedy available to County under this Agreement, or at law or in equity.
- (b) Performance Standard Breaches. The following specified breaches are "Performance Standard Breaches." Lessee shall pay to County the amount specified below as a disincentive charge for the applicable breach.
- (i) Failure to store and dispense aviation fuels and lubricating oils in the manner described in Section 5.1(g), One Hundred Dollars (\$100.00) per violation.
- (ii) Failure to maintain buildings and improvements and keep the Premises and grounds tidy, Fifty Dollars (\$50.00) per day.

- (iii) Garbage, refuse, and other waste materials overflowing or outside of any garbage receptacles, One Hundred Dollars (\$100.00) per day after Airport Manager has provided Lessee with a written warning and Lessee has failed to cure the violation within forty-eight (48) hours.
- (iv) Foul smells of any kind, as determined by the Airport Manager in his or her sole discretion, emanating from or related to activity on the Premises, Fifty Dollars (\$50.00) per day.
- (v) Any foreign object debris (FOD) at the Airport caused by the operation or maintenance of any activity on the Premises, Fifty Dollars (\$50.00) per violation.
- (vi) Failure to operate during the business hours mandated by the Minimum Standards, One Hundred Dollars (\$100) per day.

8.22 Procedure for Determining Performance a Standard Breach. Except as otherwise provide for under this Agreement, the determination as to whether performance standards have been met is at the reasonable discretion of the Airport Manager.

- (a) Upon determining the existence of a Performance Standard Breach, the Airport Manager shall issue a written notice to Lessee of the occurrence of the breach and County's claim for disincentive payment.
- (b) The notice of Performance Standard Breach will become final unless, no later than ten (10) days after Lessee receives the notice of Performance Standard Breach, the Lessee provides the Airport Manager with a written statement from Lessee, accompanied by Lessee's evidence that the breach did not occur. The Airport Manager shall review that evidence and determine, in his or her reasonable discretion, whether Lessee has demonstrated that the breach did not occur.
- (c) The Airport Manager shall review Lessee's evidence as soon as reasonably possible after timely receipt of the evidence.
- (d) The Airport Manager shall render a decision sustaining or reversing the determination that a breach occurred and the claim for disincentive payment. A written notice of that decision will be delivered to Lessee.
- (e) If the written evidence is not received by the Airport Manager within ten (10) days of the date of the notice of Performance Standard Breach, the Airport Manager's determination is final and the applicable disincentive charges is immediately due and payable.

- 8.23 Draw Down From Security Deposit. If Lessee has not remitted payment to County within thirty (30) days after Lessee receives notice of a Performance Standard Breach and the Airport Manager has either sustained the decision in the notice or the Airport Manager's decision of breach has been deemed final under Section 8.22(e), County, in its sole discretion, may draw down the cost thereof from the Security Deposit that is posted by Lessee with County under Article 33, and Lessee shall thereafter immediately bring that Security Deposit back to the required amount.
- 8.24 Waiver of Disincentive Payments/Charges. Disincentive payments are waived during periods of severe weather, work stoppages, or when other conditions indicate that the failure was unavoidable, as solely determined by the Airport Manager. Any determination by the Airport Manager will be final and conclusive. If Lessee believes the occurrence of a particular event may cause delays, it is Lessee's responsibility to notify the Airport Manager of the event and to obtain prior written concurrence that disincentive charges will not be assessed.

ARTICLE 9 INGRESS AND EGRESS

- 9.1 Ingress and Egress to Premises Via Public Ways. Lessee, its invitees, licensees, agents, guests, contractors, suppliers of material and furnishers of services, will have ingress and egress to the Premises via appropriate public ways to be used in common with other tenants and users of the Airport, provided that County may, from time to time, substitute other suitable means of ingress and egress, so long as an alternate adequate means of ingress and egress is available.
- 9.2 Ingress and Egress Between Premises and Public Landing Areas. Subject to this Agreement, Lessee, its invitees, licensees, agents and guests will have ingress and egress between the Premises and the public landing areas at the Airport by means of taxiways existing or hereafter to be constructed by Lessee to be used in common with other tenants and users of the Airport, provided that County may, from time to time, substitute other suitable means of ingress and egress, so long as an alternate adequate means of ingress and egress is available.
- 9.3 Temporary or Permanent Closure. County may at any time temporarily or permanently close or consent to or request the closing of any roadway, taxiway and any other area at the Airport presently or hereafter used as such, so long as an alternate adequate means of ingress and egress is made available to the Premises. Lessee hereby releases and discharges County, its successors and assigns, of and from any and all claims, demands or causes of action that Lessee may now or at any time hereafter have against any of the foregoing arising or alleged to arise out of the closing of any street, roadway, taxiway, or other area used as such, whether within or outside the Airport, provided that

County makes available to the Premises an adequate means of ingress and egress.

ARTICLE 10
COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS

- 10.1 Compliance with Applicable Laws. Lessee and all sublessees shall comply with Applicable Laws, including but not limited to, Airport rules and regulations and Minimum Standards that now or at any time during the Term are applicable to the Premises and any operations at the Premises.
- 10.2 Assurance of Proper Safeguards. Lessee and all sublessees shall comply with governmental requirements to assure proper safeguards for the protection of persons and property on the Premises. This requirement is not to be construed as a submission by County to the application to itself of such requirements.
- 10.3 Right of Entry, Inspection, and Testing. Lessee and all sublessees shall permit entry, inspection, and testing, at all reasonable times, by inspectors of any federal, state or County agency having jurisdiction under any law, rule, regulation or order, applicable to the Premises or the operations at the Premises. This right of entry, inspection and testing does not impose a duty on County to take any action and will not impart liability on County should it not take any action.

ARTICLE 11
MAINTENANCE AND REPAIR

- 11.1 Responsibility for Maintenance and Repair. Throughout the Term of this Agreement, Lessee shall assume the entire responsibility, and shall relieve County from all responsibility, for all repair and maintenance whatsoever on the Premises (which includes, without limitation, all buildings and improvements thereon), whether the repair or maintenance is ordinary or extraordinary, structural or otherwise. Lessee shall ensure maintenance and repairs are completed in a manner and class to preserve the Premises in good order and condition, and that any repair leaves the items or structures being repaired in a condition comparable to the original work.
- 11.2 Lessee's Obligation to Maintain Buildings and Improvements. Lessee shall keep all buildings and other improvements in good, tenantable, useable condition throughout the Term of this Agreement, and without limiting the generality thereof, Lessee shall:
- (a) For all metal, aluminum or steel pre-engineered improvements, (hereinafter defined as any improvements constructed of or using prefabricated sections or parts): (i) upon expiration of the manufacturer's

warranty, Lessee shall repair and paint or seal the exterior and interior of the improvements to a condition satisfactory to the Aviation Department, as determined in its sole discretion; and (ii) if the warranty has not expired but there are visible signs of product deterioration, as determined by the Aviation Department in its sole discretion, then within one hundred eighty (180) days after receipt of written notice from the Aviation Department, the Lessee shall repair the exterior and interior of the improvements to a level satisfactory to the Aviation Department and in compliance with the manufacturer's warranty. For all other improvements, Lessee shall paint or seal the exterior and interior of the Premises every five (5) years, or as may be requested by the Aviation Department, and Lessee shall also repair and maintain the Premises to a standard that is satisfactory to the Aviation Department, which repair and maintenance shall include, but not be limited to, all doors, windows, pavements, fencing, equipment, lighting fixtures, light bulb replacement, HVAC, furnishings, fixtures, roof, exterior walls, ramp seal coating, ramp markings and all structural support system.

- (b) Keep the Premises at all times in a clean and orderly condition and appearance, including without limitation, upkeep and maintenance of all landscaping and upkeep and maintenance of all of Lessee's fixtures, equipment and personal property which are located in any part of the Premises which is open to or visible by the general public.
- (c) Provide and maintain all obstruction lights and similar devices, fire protection and safety equipment and all other equipment of every kind and nature required by any law, rule, order, ordinance, resolution or regulation of any applicable governmental authority.
- (d) Repair any damage to the paving or other surface of the Premises caused by operations of Lessee, its sublessees, agents, employees, or invitees and any others entering upon or using the Premises, including without limitation any oil, gasoline, grease, lubricants or other liquids and substances having a corrosive or detrimental effect thereon and report the incident of such spill in accordance with Article 32.
- (e) Take anti-erosion measures, including but not limited to, the planting and replanting of grasses with respect to all portions of the Premises not paved or built upon.
- (f) Be responsible for the maintenance and repair of all utilities, including but not limited to, service lines for the supply of water, gas service lines, electrical power, telephone and telecommunications conduits and lines, sanitary sewers and storm sewers that are now, or that may later be, located upon the Premises and that are used exclusively by Lessee or any of its sublessees.

- 11.3 Right to Entry and Inspection. Representatives of the County, including without limitation Aviation Department representatives, may in their sole discretion, enter the Premises at reasonable times to inspect same to determine if Lessee is maintaining the Premises as required by this Agreement. If Lessee fails in any material respect to: (i) commence to maintain, clean, repair, replace, rebuild or paint within the period of time required under this Agreement, or as may be requested by the Aviation Department and after written notice from the Aviation Department to do so; or (ii) fails in any material respect to diligently continue to complete the maintenance, repair, replacement, rebuilding or painting of the Premises as required under the provisions of this Agreement, then the Aviation Department may, at its option, and in addition to all other remedies that may be available, maintain, repair, replace, rebuild or paint all or any part of the Premises and Lessee shall pay the cost thereof, plus any additional administrative costs, upon demand. Lessee shall have thirty (30) days to commence any required action hereunder, except for emergency and public safety items that must be immediately undertaken by Lessee.

ARTICLE 12 INSURANCE REQUIREMENTS

- 12.1 Insurance Coverage. To ensure the indemnification obligation contained in Article 14, Lessee shall, at a minimum, provide, pay for, and maintain in force at all times during the Term of this Agreement starting from the Effective Date (unless otherwise provided), the insurance coverages set forth in the subsections below, in accordance with the terms and conditions required by this Article 12. Lessee shall obtain those policies without any deductible amount (except as may be expressly authorized herein). Those policies also will be issued by companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in the State of Florida. Lessee shall specifically protect County and the Board by naming Broward County as additional insureds under the Property Damage Insurance, Airport Liability or Commercial General Liability Policy and all environmental and impairment liability policies only.
- (a) At all times during the term of this Agreement Lessee shall, at a minimum, provide, pay for, and maintain in full force and effect, insurance coverages in accordance with the terms and conditions required by this Article 12, including without limitation General Liability and Workers Compensation.
 - (b) At least ten (10) days before the expiration of any insurance coverage as required pursuant to this Agreement, Lessee shall: (i) provide revised, renewed or updated certificates of insurance to the Aviation Department for submission to the County's Risk Management Division for review, approval and determination that the insurance coverage and certificate are in compliance with the terms and conditions of this Agreement, and (ii)

provide County with proof that the renewed or updated insurance coverage and certificate are in compliance with the terms and conditions of this Agreement.

- 12.2 Fire & Extended Coverage Insurance. Lessee shall, starting on the Effective Date, insure and keep insured to the extent of not less than one hundred percent (100%) of the insurable replacement value thereof, all buildings, structures, fixtures and equipment on the Premises against such hazards and risks as may now or in the future be included under the Standard Form of Fire and Extended Coverage insurance policy of the state of Florida and also against the following hazards and risks:
- (a) Sprinkler leakage - by which is meant damage caused by water or any other substance discharged from any part of the fire protection equipment for the Premises or from adjoining premises; collapse or fall of tanks forming part of such fire protection equipment or the component parts or supports of such tanks.
 - (b) Damage caused by such perils and hazards as may now or in the future be included under any Boiler and Machinery policy filed with and approved by the Insurance Commissioner of the State of Florida, or if there be no such policy so filed, then reasonable coverage against perils and hazards occasioned by the existence and operation of such boilers, provided that Lessee shall maintain such insurance only for such buildings and structures in which boilers are installed.
 - (c) These insurance policies will be limited to a deductible for windstorm of not more than five percent (5%) of the insurable replacement value of the improvements. In addition, the deductible for all other than windstorm perils will be no more than Ten Thousand Dollars (\$10,000.00). In the event of any damage to the Premises, if the cost of repair or replacement is less than the deductible amount, Lessee shall nevertheless make such repair or replacement and restore the Premises to the condition required by Article 13. For "all other perils" the deductible must not exceed Ten Thousand Dollars (\$10,000.00) per occurrence except for wind and flood as stated above.
 - (d) All policies of such insurance and renewals thereof must insure County and Lessee as their interest may appear, and must provide that the loss, if any, is adjusted with and payable to County, except as otherwise provided in Article 13 hereof.
 - (e) If the Premises or any part thereof is damaged by any casualty against which insurance is carried under this Article, and if such loss is to be adjusted with and payable to County, Lessee shall promptly furnish to

County such information and data as may be necessary to enable County to adjust the loss.

- (f) County shall carry property insurance in excess over any other valid and collectible insurance carried by Lessee, including but not limited to, the insurance obtained by Lessee under this Agreement.

12.3 Airport Liability or Commercial General Liability Insurance. Lessee shall provide Airport Liability or Commercial General Liability Insurance to protect against bodily injury liability and property damage in an aggregate amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit and Two Million Dollars (\$2,000,000.00) per aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: Premises or Operations, Personal Injury, Independent Contractors, Broad Form Property Damage and Broad Form Contractual Coverage covering all liability arising out of the provisions of this Agreement. Lessee is responsible for all deductibles in the event of a claim.

12.4 Business Automobile Liability Insurance. Lessee shall provide Automobile Liability Insurance in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per occurrence combined single limit, for bodily injury and property for automobiles that are only driven to the Airport and parked in non-airside parking spaces. For automobiles that are used during Lessee's operations at the Airport, including without limitation, driving airside or used in the operations of any business conducted by Lessee at the Airport, then such vehicles shall be covered by Business Automobile Liability Insurance in the amount of at least Two Million Dollars (\$2,000,000.00) per occurrence, combined single limit, for bodily injury and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: Owned, Non-owned and Hired vehicles.

12.5 Environmental and Impairment Liability Insurance. Lessee shall provide Environmental and Impairment Liability Insurance in the minimum amount of One Million Dollars (\$1,000,000.00) per claim, subject to a maximum deductible of Fifty Thousand Dollars (\$50,000.00) per claim. Such policy shall include a Two Million Dollars (\$2,000,000.00) annual policy aggregate and name Broward County as additional insured. Lessee is responsible for all deductibles in the event of a claim.

- (a) From time to time, the County's Risk Management Division shall review the necessity for environmental insurance and the coverage required, including a review of activities at the Premises, geographic of location,

other leases and subleases at the Premises or Airport, as well as the insurance market (which may present changes in reasonable availability and premium costs.) As a result of such review, the County, through its Risk Management Division, may determine to require environmental insurance, or may adjust the requirements to increase or decrease coverage requirements. In the event of any such requirement or adjustment, Lessee shall provide evidence of such coverages to the County within thirty (30) days following notice of such requirement or adjustment. If the County's Risk Management Division requires that Lessee obtain environmental and impairment liability insurance, the Risk Management Division may allow Lessee to provide self-insurance in the required amount, which must be certified by the Lessee's Chief Financial Officer, provided that the Risk Management Division is satisfied with the financial ability of Lessee to meet the self-insurance requirements and Lessee shall provide the Risk Management Division with all requested documentation. If self-insurance is permitted, then if at any time the self-insurance funds are reduced below the specified limit, such failure is a default hereunder.

- (b) "Environmental and Impairment Liability Insurance" is defined as a specialized insurance policy that covers liability and cleanup costs associated with discharge of "Materials", as defined in Article 32. It provides broader coverage than the general liability policy by covering gradual as well as sudden and accidental releases.

- 12.6 Workers' Compensation and Employer's Liability Insurance. Lessee shall provide Workers' Compensation and Employers' Liability Insurance for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include: Employers' Liability with a limit of Five Hundred Thousand Dollars (\$500,000.00) each accident.
- 12.7 Certificates of Insurance. Lessee shall furnish to the Aviation Department, - "Certificates of Insurance" evidencing the insurance coverages specified by this section on the Effective Date of this Agreement.
- 12.8 Continuous Coverage. Coverage is not to cease and is to remain in force (subject to cancellation notice) throughout the Term of this Agreement and until all performance required hereunder is completed. All policies must be endorsed to provide County with at least thirty (30) days' prior written notice of expiration, cancellation or restriction. If any insurance coverages will expire before the termination of this Agreement, Lessee shall furnish copies of renewal certificates at least thirty (30) days' before their expiration. Any insurance coverage that is written on a "claims made" basis must remain in force for two (2) years after the termination of this Agreement. Comprehensive General and Commercial Liability

Insurance must be written on an "occurrence" basis, and may not be written on a "claims made" basis.

- 12.9 County's Review of Limits. County shall review the aforesaid minimum limits of insurance from time to time and may adjust if County determines that an adjustment protects County's interest. When the policies or certificates have been delivered by Lessee to County, County may notify Lessee, in writing, that the insurance represented thereby does not conform to this Article 12 either because of the amount or because of the insurance company or for any other reason, and Lessee shall have ten (10) days to cure any such defect.
- 12.10 Subrogation. Notwithstanding anything to the contrary herein, Lessee waives any right of recovery against County for any loss or damage to the extent the same is required to be covered by Lessee's insurance hereunder. Lessee shall obtain from its insurers a waiver of any subrogation the insurer may have against County in connection with any loss or damage covered by Lessee's insurance.
- 12.11 Certificate Holder Address. The certificate holder address shall read "Broward County, c/o Aviation Department North Perry Airport, 2200 SW 45 Street, Suite 101, Dania Beach, FL 33312."

ARTICLE 13 DAMAGE TO OR DESTRUCTION OF PREMISES

- 13.1 Removal of Debris. If the Premises or any part thereof is damaged by fire, the elements, or other casualty, Lessee shall promptly remove all debris resulting from such damage from the Premises, and Lessee shall promptly take such actions and cause such repairs to be made to the Premises as will place the Premises in a neat and orderly condition and as are necessary for the safety of persons entering the Premises. To the extent, if any, that such measures are covered by any insurance obtained by Lessee, the proceeds thereof will be made available to Lessee for such purpose. If Lessee fails to promptly comply with the provisions hereof, then County may take such measures as it deems necessary to render the Premises in a neat, orderly, and safe condition, and Lessee shall be responsible for any expenses of County in connection therewith and the proceeds of any insurance covering such measures must be adjusted with and paid to County.
- 13.2 Minor Damage. If the Premises, or any part thereof is damaged by fire, the elements, or other casualty but not rendered untenable or unusable, then there will be no abatement of rent and Lessee, at Lessee's sole expense, shall repair the Premises within ninety (90) days following the occurrence in accordance with the plans and specifications for the Premises as they existed before such damage, or in accordance with new plans approved by County under

Article 6, hereof. The proceeds of any insurance covering such repairs by Lessee will be adjusted with and paid to Lessee.

13.3 Major Damage to or Destruction of the Premises. If the Premises or any part thereof is destroyed or so damaged by fire, the elements or other casualty as to render the Premises untenable or unusable, then:

- (a) Lessee shall have the option to make the necessary repairs or replace the Premises in accordance with the plans and specifications as the same existed before the damage or destruction, provided that Lessee, within ninety (90) days after the occurrence of the damage or destruction (the "Election Period") notifies the County in writing that it elects to exercise its option to make the necessary repairs or replacements. If Lessee elects to make the repairs or replacements it shall do so within one hundred eighty (180) days from the date of the Lessee's notice to County and, if such destruction or damage was covered by insurance, the proceeds thereof will be adjusted with and paid to Lessee.
- (b) If by the end of the Election Period, Lessee has failed to notify County in writing pursuant to subparagraph (a), above that it intends to make the necessary repairs or replacements, or if Lessee notifies County in writing that Lessee does not intend to make the repairs or replacements, then then County may at its election make the repairs or replacements as long as County notifies Lessee of its election to do so within ninety (90) days after the expiration of the Election Period. If County elects to make the repairs or replacements, it shall do so at its sole discretion and without cost to Lessee, except that if such destruction or damage was covered by insurance, the proceeds thereof will be adjusted with and paid to County. If County makes the repairs or replacements, then the annual rent required to be paid by Lessee under Article 4 hereof, will be adjusted upwards following completion of the repairs and replacements to an amount equal to the annual rent in effect immediately before the adjustment, plus ten percent (10%) of the County's actual cost of the repairs and replacement improvements, and County shall give Lessee written notice of such adjusted rent and the date that adjusted rent commences. Thereafter, the additional rent established under this provision, will be adjusted in accordance with Article 4, and Sections 6.28 and 6.29, as applicable.
- (c) In the event the restoration is made pursuant to either subparagraph (a) or (b), above, the rent will abate from the date of the damage or destruction until the Premises have been placed in a usable condition. Such abatement will be made pursuant to Article 29. All restoration work will be made under the plans and specifications that have received County's prior approval, and all such work will comply with the provisions and conditions of this Agreement, including without limitation, Article 6.

- (d) In the event that neither of the two parties elects to make such repairs and replacements, then this Lease shall terminate upon the earlier of: (i) the expiration of seventy-five (75) calendar days from the occurrence of such destruction or damage or (ii) the date established by written notice by the County to the Lessee. Any and all proceeds collected from Lessee's insurance will be applied first to County's costs and expenses associated with restoring the Premises to a safe, tenantable and usable condition as determined by County in its sole discretion, which costs shall include, but are not limited to, the removal of debris, the removal or demolition of any improvements, and the general cleanup of the Premises. Thereafter, the remaining insurance proceeds shall be distributed between the Lessee and the County as follows: (i) the proceeds payable to the Lessee shall not exceed the unamortized value of the improvements existing on the Premises as of the date immediately preceding the date of the casualty (excepting any improvements for which rent has been paid by the Lessee based on the a percentage of the value of the improvements, which shall be excluded from the calculation), depreciated over the Term of the Lease, and (ii) County shall receive any balance remaining of the proceeds after payment to Lessee in accordance with subparagraph (i), preceding. In such event, the payment of rentals shall terminate as of the date of the damage or destruction. If there is any leasehold mortgage recorded against the Premises, Lessee shall obtain a full satisfaction of such mortgage and shall provide a certified copy of the recorded mortgage satisfaction to the Aviation Department.

ARTICLE 14 INDEMNITY

Lessee shall at all times hereafter indemnify, hold harmless and, at the County Attorney's option, defend or pay for an attorney selected by the County Attorney to defend County, its officers, agents, servants, and employees against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Lessee, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. If any lawsuit or proceeding is brought against County by reason of any such claim, cause of action, or demand, Lessee shall, upon written notice from County, resist and defend such lawsuit or proceeding by counsel satisfactory to County or, at County's option, pay for an attorney selected by County Attorney to defend County. To the extent considered necessary by the Director of Aviation and the County Attorney, any sums due Lessee under this

Agreement (including without limitation the Security Deposit) may be retained by County until all of County's claims for indemnification under this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County. The provisions of this Article 14 shall survive the expiration or any other termination of this Agreement.

ARTICLE 15 SIGNS

- 15.1 Prior Written Approval. Except with the Aviation Department's prior written approval, which approval may be withheld by the Aviation Department in its sole discretion, Lessee will not erect, maintain or display any signs or any advertising at or on the exterior parts of the Premises or in the Premises so as to be visible from outside the Premises. No billboards are permitted at the Premises.
- 15.2 Removal of Signs on Expiration/Termination of the Agreement. Upon the expiration or termination of this Agreement, Lessee shall remove, obliterate or paint out, as the Aviation Department may direct, any and all signs and advertising on the Premises and, in connection therewith, shall restore the portion of the Premises affected by such signs or advertising to the same condition as existed before the placing thereon of such signs or advertising. If Lessee fails to remove, obliterate or paint out each and every sign or advertising and to restore the Premises, the Aviation Department may perform the necessary work and Lessee shall pay the costs thereof to County on demand.
- 15.3 Removal of Unauthorized Signs. County reserves the right to remove any signs not authorized by County which are located anywhere on Airport property.

ARTICLE 16 OBSTRUCTION LIGHTS

Lessee shall install, maintain and operate at its own expense such obstruction lights on the Premises as the FAA may direct or as the Aviation Department may reasonably direct, and shall energize such lights daily for a period starting thirty (30) minutes before sunset and ending thirty (30) minutes after sunrise and for such other periods as may be directed or requested by the Control Tower of the Airport.

ARTICLE 17 RIGHTS OF ENTRY RESERVED

- 17.1 County's Right to Enter and Inspect. County, by its officers, employees, agents, representatives and contractors may, at all reasonable times, enter the Premises to inspect the Premises, to observe Lessee's performance of its obligations under this Agreement, and to do any act or thing that County must or may do under this Agreement or otherwise.

- 17.2 Utility, Mechanical, and Other Systems. Without limiting the generality of the foregoing, County, by its officers, employees, agents, representatives, contractors and furnishers of utilities and other services, may, from time to time, for its own benefit or for the benefit of others or for the benefit of Lessee, construct, maintain, repair, alter, replace, install, and rebuild, over, in, or under the Premises, existing and future utility, mechanical, electrical and other systems and parts thereof, and enter the Premises at all reasonable times for any such purposes, as may, in County's opinion, be deemed necessary or advisable. But, in the exercise of rights under this Section 17.2, County will not unreasonably interfere with Lessee's actual use and occupancy of the Premises.
- 17.3 Lessee Must Not Obstruct County's Access. If any personal property of Lessee obstructs the access of County, its officers, employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems or part thereof, Lessee shall move such property, as directed by County, so that County, its officers, employees, agents, representatives, contractors and furnishers of utilities and other services can access the system or part thereof. If Lessee fails to remove the property after direction from County to do so, County may remove such property and Lessee shall pay all costs incurred by County upon County's demand for same.
- 17.4 Entry to Exhibit and View. At any time and from time to time during Lessee's ordinary business hours, County, through its agents and employees, whether or not accompanied by prospective occupiers or users of the Premises, may enter the Premises to exhibit and view all parts of the Premises. During the six (6) month period preceding the termination of this Agreement, County may place and maintain on the Premises "To Let" signs, which signs Lessee shall permit to remain without molestation.
- 17.5 Removal of Property from Premises. If, during the last month of the Term of this Agreement, Lessee and all sublessees have removed all or substantially all of their property from the Premises, County may immediately enter, alter, renovate and redecorate the Premises.
- 17.6 No Eviction of Lessee. The exercise of any or all of the foregoing rights by County or others is not an eviction of Lessee or grounds for any abatement of rent or the basis for any claim or demand for damages, consequential or otherwise.
- 17.7 Police and Regulatory Powers. Nothing herein contained will limit County's ability to exercise its police and regulatory powers or its powers of eminent domain.

ARTICLE 18
ASSIGNMENT, SUBLEASE, LEASEHOLD MORTGAGE

- 18.1 Prior Written Consent. Lessee will not (i) sublet the Premises or any part thereof; (ii) permit any transfer, assignment, pledge, mortgage, or encumbrance of any sublease; (iii) transfer, assign, pledge, mortgage, or otherwise encumber this Agreement or any rights or obligations hereunder; (iv) allow this Agreement or any rights or obligations hereunder to be assigned by operation of law; or (v) permit any sublessee to sublet the Premises or any part thereof (any such action being called an "assignment"), without County's prior written consent, which consent may be conditioned upon additional terms and conditions as may be imposed in the County's sole discretion.
- 18.2 Lessee's Request for Consent. Lessee's request for consent to an assignment must include copies of all documentation pertaining to the assignment. In addition, Lessee must provide the County with such additional information and documentation as may be reasonably requested.
- (a) County's decision whether to consent to an assignment shall be made in its sole discretion, and may include, without limitation, a consideration of whether the proposed assignee meets standards of creditworthiness; whether the Premises will be used only for the purposes described herein; the ability of the proposed assignee to perform the obligations under this Agreement; and any prior history with the County or the Aviation Department.
- (b) In the event of any assignment, Lessee will not be released of any liability hereunder and the assignee will be required to execute a written assumption agreement, agreeing to assume all obligations and liabilities under this Agreement and to abide by all of the terms and conditions of this Agreement, which assumption agreement must be acceptable to the County in all respects. If Lessee seeks County's consent to an assignment to an affiliate, then as a condition of that assignment, Lessee (or those persons or entities that have majority ownership of Lessee, directly or indirectly) may be required to execute an irrevocable Guaranty of Payment and Performance of this Agreement, which will be in form and substance satisfactory to the County.
- 18.3 No Assignment if Lessee is in Default. In no case will an assignment be permitted if Lessee is in default of this Agreement and the default is uncured.
- 18.4 Definition of "Assignment." An "assignment" includes any transfer of this Agreement by merger, consolidation or liquidation or by operation of law, or if Lessee or any sublessee is a corporation, any change in control of or ownership of or power to vote a majority of the outstanding voting stock of Lessee, or any

sublessee or of any parent corporation of Lessee or any sublessee from the owners of such stock or those controlling the power to vote such stock on the date of this Agreement (whether occurring as a result of a single transaction or as a result of a series of transactions), or if Lessee or any sublessee is a limited or a general partnership or joint venture, any transfer of an interest in the partnership or joint venture (or a transfer of an interest in a corporate general partner or corporate joint venturer) which results in a change in control (either directly or indirectly) of such partnership or joint venture from those controlling such partnership or joint venture on the date of this Agreement (whether occurring as a result of a single transaction or as a result of a series of transactions). Notwithstanding the foregoing, a transfer of stock among current stockholders or among current stockholders and their immediate families, any transfer of stock resulting from the death of a stockholder, a transfer of partnership or joint venture interests among existing partners or among existing partners or joint venturers and their immediate families, or any transfer of such an interest resulting from the death of a partner or joint venturer, shall not be deemed an assignment for purposes of this section. Notwithstanding the foregoing, this Section 18.4 will not apply to any public trades of registered stock of a Lessee or sublessee that occurs on a national stock exchange.

- 18.5 Action Without County Consent is Null and Void. If any action specified in this Article 18 is taken without County's prior written consent, then that assignment or other action is null and void and of no force or effect, and in addition to all other available remedies, County may immediately terminate this Agreement. Any written consent required hereunder is not effective unless evidenced by a written document signed by County's authorized representative.
- 18.6 Prior Written Approval to Sublet. Lessee shall obtain the Aviation Department's prior written approval to sublet any portion of the Premises. Each sublessee of Lessee is subject and subordinate to all of the terms and conditions of this Agreement, including but not limited to the requirement that each such sublessee must comply with Applicable Laws that at any time are applicable to the sublessee or the operations of such sublessee at the Premises. Notwithstanding any sublease of the Premises to which County has consented, Lessee shall remain responsible for ensuring that each and every provision of this Agreement is abided by and complied with and, in that regard, any failure by any sublessee to abide by or comply with any provision of this Agreement is a default hereunder, entitling County to any and all remedies available hereunder. Each sublease to which County has consented is subordinate in all respects to all terms and conditions of this Agreement and upon any termination of this Agreement, all subleases of the Premises shall also terminate.
- 18.7 Ability to Collect Rent from Wrongfully Assigned Occupant. If, without County's prior written consent, Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of this Article 18 or if the Premises are occupied by

anyone other than Lessee, County may collect rent from any assignee, sublessee or anyone who claims a right to this Agreement or letting or who occupies the Premises, and County shall apply the net amount collected to the rent herein reserved. But no such collection is a waiver by County of this Article 18 or any acceptance by County of any such assignee or sublessee.

18.8 Lessee's Mortgage Does Not Bind County. No mortgage of this Agreement is binding upon County in the enforcement of its rights under this Agreement.

18.9 Rights of Lessee to Mortgage Lessee's Interest Under This Agreement and Rights of Approved Leasehold Mortgagees. Lessee has the right, subject to County's prior written consent as provided in Section 18.1, above, to mortgage Lessee's interest under this Lease to any lender that is both authorized to make leasehold mortgage loans in the State of Florida and that has been approved by County under Section 18.1, subject to the other provisions of this Lease. The phrase "Approved Leasehold Mortgage" means a leasehold mortgage that has obtained County's prior written consent under this Article 18 and that has not been satisfied in the public records of Broward County, Florida. The phrase "Approved Leasehold Mortgagee" means a lender under an Approved Leasehold Mortgage that has not been satisfied of record in the public records of Broward County, Florida.

- (a) If Lessee mortgages its leasehold interest to an Approved Leasehold Mortgagee and if the Approved Leasehold Mortgagee forwards to County at the addresses stated for County in Article 25, a copy of the Approved Leasehold Mortgage certified as a true copy by the Office of Official Records of Broward County, Florida together with a written notice setting forth the name and address of the Approved Leasehold Mortgagee, then, until the time that the Approved Leasehold Mortgage shall be satisfied of record, the following provisions of this Section 18.9 will apply.
- (b) County shall provide each Approved Leasehold Mortgagee with a copy of any notice of default that is given to Lessee by providing the notice via certified mail, return receipt requested, or any other method of delivery which can be confirmed and verified, to that mortgagee at the address set forth in the Approved Leasehold Mortgage or as provided in the statement given under Section 18.9(a). Both Lessee and the Approved Leasehold Mortgagee shall ensure that County has the correct and current mailing address for both Lessee and Approved Leasehold Mortgagee.
- (c) If Lessee defaults under this Agreement in any way and County has notified Lessee of that default, Lessee shall promptly notify the Approved Leasehold Mortgagee of the default and shall state in the notice what action Lessee has taken, or will take, to cure the default. Lessee shall simultaneously provide the Aviation Department with a copy of the notice.

- (d) If Lessee defaults under this Agreement in any way, the Approved Leasehold Mortgagee shall have the right to cure that default within the time period established by this Agreement for any such cure, and County shall accept the performance on the part of the Approved Leasehold Mortgagee as though the same had been done or performed by Lessee.
- (e) If Lessee defaults under this Agreement in any way, County will not provide Lessee with a notice of termination of the Lease ("Notice of Termination"), before giving the Approved Leasehold Mortgagee the same Notice of Termination and the same amount of time as Lessee should have to cure the default. In no event will the Approved Leasehold Mortgagee have a greater period of time to cure a default of Lessee's than the cumulative period of time between the dates any Notice of Default and corresponding Notice of Termination are sent and until such time as the termination is approved by the Board.

Before the Board approves the Notice of Termination, the Approved Leasehold Mortgagee may: (1) obtain the rights to the leasehold Premises and cure that default if the default is susceptible to being cured when the Approved Leasehold Mortgagee has obtained the same leasehold rights as Lessee; or (2) institute foreclosure proceedings and complete such foreclosure or otherwise acquire Lessee's interest under this Lease with diligence and continuity and thereafter commence and diligently proceed to cure such default; provided, however, that the Approved Leasehold Mortgagee is not required to continue such possession or continue such foreclosure proceedings if the default is cured, and provided further, that nothing in this Section 18.9(e) precludes County from exercising any rights or remedies under this Lease for any other default by Lessee during any period of forbearance.

- (f) The Approved Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment of this Lease in lieu of foreclosure, whereupon the Approved Leasehold Mortgagee will immediately become and remain liable under this Lease as provided in Section 18.9(g) below. However, in no event may the Approved Leasehold Mortgagee sell, assign, transfer, convey or otherwise dispose of its interest in its leasehold to a third party without County's prior written consent under this Article 18.
- (g) If an Approved Leasehold Mortgagee becomes the owner or holder of Lessee's interest by foreclosure of its mortgage, by assignment of this Lease in lieu of foreclosure or otherwise, the term "Lessee," as used in this Lease, means only the owner or holder of Lessee's interest for the time being so that, in the event of a sale, assignment or other disposition of Lessee's interest in this Lease by the Approved Leasehold Mortgagee,

and provided County's prior written consent is obtained under Section 18.1 above, and the Approved Leasehold Mortgagee has no interest or claim in or to the leasehold or against County, the Approved Leasehold Mortgagee will be entirely freed and relieved of all Lessee's covenants and obligations under this Lease and it will be deemed and construed, without further agreement between County and the Approved Leasehold Mortgagee or between County, the Approved Leasehold Mortgagee and the Approved Leasehold Mortgagee's purchaser or assignee, that the purchaser or assignee of Lessee's interest has assumed and agreed to carry out any and all covenants and obligations of Lessee under this Lease, including all covenants and obligations that accrued before the sale, assignment or other disposition of this Lease by the Approved Leasehold Mortgagee.

- (h) Within thirty (30) days of a written request by Lessee or by Lessee's Approved Leasehold Mortgagee, or if County needs an estoppel statement upon any sale, assignment or mortgaging of Lessee's interest in this Lease by Lessee or Lessee's Approved Leasehold Mortgagee, County and Lessee shall deliver a certificate to any proposed Approved Leasehold Mortgagee certifying the following (if such be the case): (1) the amount of rent and additional rent due under the Lease if any, and the date to which rents have been paid; (2) whether the Lease is in full force and effect; and (3) that County and Lessee have no knowledge of any default under this Lease, or if any default is known to exist, specifying the nature of the default.
- (i) So long as Lessee's interest in this Lease is mortgaged to an Approved Leasehold Mortgagee, County will not sell, grant or convey to Lessee all or any portion of County's fee simple title to the Premises without the prior written consent of that Approved Leasehold Mortgagee. In the event of any such sale, grant or conveyance by County to Lessee, the sale, grant or conveyance will not create a merger of this Lease into a fee simple title to the Premises. This subparagraph does not prevent County from selling, granting or conveying its fee simple title to any person, firm or corporation other than Lessee, its successors, legal representatives and assigns.
- (j) Reference in this Lease to an Approved Leasehold Mortgagee refers, where circumstances require, to any assignee (subject to the provisions of this Article 18) of an Approved Leasehold Mortgagee; provided that such assignee is subject to County's prior written consent as provided in this Article 18, and the assignee forwards to County a duplicate original of the assignment of the Approved Leasehold Mortgage in a form proper for record or a copy of that assignment, certified as a true a copy by the Office of Official Records of Broward County, together with a written notice setting forth the name and address of the assignee.

- (k) Any leasehold mortgage is specifically subject and subordinate to County's rights under this Lease. Despite any provision which is or may appear to be to the contrary in this Lease, under no circumstances whatsoever will County's fee simple title interest in the Premises be subordinated to this Lease or to any leasehold mortgage, or to any other encumbrance. In the event of any conflict or ambiguity, this Lease controls.
- (l) County shall accept performance by the holder of any Approved Leasehold Mortgage, of any provision of this Lease required to be performed by Lessee, with the same force and effect as though performed by Lessee, if at the time of such performance, County is furnished with evidence satisfactory to County of the interest in the leased property claimed by the person, firm or corporation tendering such performance or payment, and provided the leasehold mortgage has been approved by County under this Article 18.
- (m) The Aviation Department shall, from time to time, upon reasonable written request, provide an Approved Leasehold Mortgagee with estoppel information as to the status of the Lease. Any assignment of Lessee's interest as Lessee to any leasehold mortgagee does not give Lessee or its assignee any lien or encumbrance upon the fee simple interest in the Premises which is vested in Broward County, State of Florida.

ARTICLE 19 DEFAULT, TERMINATION

19.1 Events of Default. The occurrence of any one or more of the following events is a default under this Agreement:

- (a) By or under authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer having jurisdiction, a receiver, trustee or liquidator takes possession or control of all or substantially all of Lessee's property, and that possession or control continues in effect for a period of thirty (30) days; or
- (b) Lessee voluntarily abandons, deserts or vacates the Premises or discontinue its operation at the Airport for a period of thirty (30) days; or
- (c) Any lien, claim or other encumbrance that is filed against the Premises is not removed, or if County is not adequately secured by bond or otherwise, within thirty (30) days after the Lessee has received notice thereof; or
- (d) Lessee fails to pay any rent within ten (10) days after the written notice from County that any payments are past due; or

- (e) Lessee fails to make any other payment required hereunder when due to County and continues in its failure to make any such other payments required hereunder for a period of ten (10) days after notice is given to make such payments; or
- (f) Lessee takes any action described by Article 18 hereof without the prior written consent of the County; or
- (g) Any business is conducted, or service is performed, or product is sold from the Premises that is not specifically authorized by this Agreement, and such activity does not cease within ten (10) days after receipt of notice to that effect; or
- (h) Lessee fails to keep, perform and observe any non-monetary promise, covenant and provision set forth in this Agreement on its part to be kept, performed or observed within thirty (30) days after receipt of notice of default (except where fulfillment of its obligation requires activity over a greater period of time and the Lessee has commenced to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice and continues such performance without interruption).

19.2 Result of Default. Upon the occurrence of any event set forth in Section 19.1 above, or at any time thereafter during the continuance thereof, County may, at its option, immediately terminate this Agreement and all rights of Lessee hereunder by giving written notice thereof, which termination will be effective upon the date specified in such notice and County may exercise any and all other remedies available to County hereunder or at law or in equity. Any such termination is without prejudice to any remedy for arrears of payments due hereunder or breach of covenant, or damages for the balance of the rent payable hereunder through the full Term of this Agreement, or any other damages or remedies whatsoever.

19.3 Habitual Default. Notwithstanding the foregoing, if Lessee has frequently, regularly or repetitively defaulted in the performance of, or breached any of, the terms and conditions of this Agreement, and regardless of whether Lessee has cured each individual condition of breach or default, the Aviation Department may determine that Lessee is a "habitual violator." At the time of the determination, the Aviation Department shall issue to Lessee a written notice advising of such determination and citing the circumstances. That notice must also advise Lessee that there are no further notice or grace periods to correct any subsequent breaches or defaults and that any subsequent breaches or defaults of whatever nature, taken with all previous breaches and defaults, will be considered cumulative, and collectively is a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any subsequent breach or default, County may terminate this Agreement upon the

giving of written notice of termination to Lessee. That termination is effective upon delivery of the notice to Lessee.

- 19.4 County's Acceptance of Payment Is Not a Waiver. County's acceptance of rent, fees, charges or other payments, in whole or in part, for any period or periods after a default of any of the terms and conditions hereof to be performed, kept or observed by Lessee does not waive County's right to terminate this Agreement, or to exercise any other available remedies.
- 19.5 County's Failure to Enforce Is Not a Waiver. County's failure to enforce any provision of this Agreement does not waive that provision or modify this Agreement in any way. A waiver of any breach of a provision of this Agreement is not a waiver of any subsequent breach and will not be construed to be a modification of the provisions of this Agreement. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material provision hereof.
- 19.6 No Limitation on Termination Rights. The rights of termination described above are in addition to any other rights provided in this Agreement and in addition to any rights and remedies that the parties would have at law or in equity consequent upon any breach of this Agreement and the exercise of any right of termination are without prejudice to any other such rights and remedies.
- 19.7 No Right to Payment. In the event of a termination under this Article 19, Lessee will have no right to payment of any amounts under Article 37 or Section 35.3.
- 19.8 Obligations Upon Termination; Survival. Upon the expiration or termination of this Agreement, Lessee shall immediately cease all operations on the Premises, vacate and surrender the Premises to County in accordance with the terms and conditions set forth in this Agreement, cause all occupants to vacate the Premises, and pay in full all fees and other amounts payable to County as set forth in this Agreement that are then due and owing. The expiration or termination of this Agreement does not release Lessee from any liabilities or obligations hereunder that have accrued on or before the Termination Date, and all such liabilities and obligations shall survive the expiration or any other termination of this Agreement.

ARTICLE 20 REMEDIES TO BE NON-EXCLUSIVE

No remedy herein conferred upon or reserved to County or Lessee is exclusive of any other remedy herein provided or otherwise available, and each and every remedy is cumulative and is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

ARTICLE 21 SURRENDER

- 21.1 Surrender to County. Upon the expiration of the Term or earlier termination as provided for in this Agreement, Lessee shall surrender possession of the Premises in the condition required under Article 11. Lessee shall complete all maintenance and repairs and remove the Aircraft Fuel Farm Facility on the Premises and all of its appurtenances before surrender. Lessee shall also remove all inventories, trade fixtures, and personal property before surrender. County will not accept surrender of the Premises unless Lessee has removed any Aircraft Fuel Farm Facility, its appurtenances and all other personal property of Lessee from the Premises. Lessee shall deliver to County all keys to the Premises upon surrender. Lessee shall, at its expense, take all actions that are required to remove all hazardous substances or other Materials from the Premises, whether stored in drums or found in vats, containers, distribution pipe lines, or the like or discharged into the ground. Lessee shall remove all those substances in a manner that complies with Article 32 and Applicable Laws. Lessee will be considered to be holding over and subject to charges under Section 35.2, hereof if Lessee fails to comply with the provisions of this Section 21.1, as to removal of the Aircraft Fuel Farm Facility and all other personal property and Lessee shall also be subject to all remedies of County, including double rent and all other remedies available to County under this Agreement and at law and equity.
- 21.2 Vacating Other Occupants. Lessee shall vacate all sublessees, holdovers or other occupants, legal or otherwise from the Premises upon any expiration or earlier termination of this Agreement. If any occupant has not vacated the Premises upon the termination or expiration of the Agreement, Lessee will be a holdover tenant under the provisions set forth in Section 35.2 below and shall also be subject to all remedies of County, including double rent and all other remedies available to County under this Agreement and at law and equity.
- 21.3 County Not Obligated to Accept Surrender. If Lessee fails to surrender the Premises in accordance with this Article 21 or has failed to satisfy any of the obligations of this Agreement, County is not obligated to accept Lessee's surrender of the Premises. If Lessee has satisfied the requirements of this Article 21, and all other provisions of this Agreement, County shall reduce its acceptance of surrender in writing as provided for in Article 22. During the period of time from the date of the termination or expiration of the Lease until County reduces its acceptance of surrender to writing as provided for in Article 22, Lessee will be a holdover tenant under the provisions set forth in Section 35.2 below and shall be subject to all remedies of County, including double rent and all other remedies available to County under this Agreement and at law and equity.

- 21.4 Final Walkthrough. Lessee and the Aviation Department shall conduct a final exit walkthrough inspection to determine compliance with this Article 21 and the Aviation Department's acceptance of the condition of the Premises. Following the final exit walkthrough, if the Aviation Department determines the Premises satisfy the provisions of this Article 21, the Lessee and the Airport Manager shall sign a memorandum that establishes the satisfactory condition of the Premises for purposes of Article 22, however, any such memorandum shall not be construed to release Lessee from any liabilities or obligations hereunder that have accrued on or before the Termination Date, and all such liabilities and obligations shall survive the expiration or any other termination of this Agreement. If Lessee fails to comply with the provisions of this Article 21, County reserves the right to perform all necessary work to bring the Premises to its original condition before Lessee's occupancy, normal wear and tear excepted, and Lessee shall reimburse County for all expenses incurred.

ARTICLE 22 ACCEPTANCE OF SURRENDER OF LEASE

No agreement of surrender or to accept a surrender of this Agreement is valid unless and until it has been reduced to writing and signed by County's and Lessee's duly authorized representatives. Except as expressly provided for in this Agreement, neither the doing of, or any omission to do, any act by any of the officers, agents or employees of County is an acceptance of a surrender of letting under this Agreement.

ARTICLE 23 REMOVAL OF PROPERTY

- 23.1 Right to Remove Inventory and Other Personalty. Lessee may, at any time during the letting, remove its inventories, trade fixtures and other personal property from the Premises, subject to any lien County may have for unpaid fees, charges, or other amounts. Lessee shall immediately repair any damage to the Premises caused by its removal of any personal property or trade fixtures and shall keep the Premises in the condition required under Article 11.
- (a) If Lessee fails to remove all inventories, trade fixtures, Aircraft Fuel Farm Facility and personal property by the termination or expiration of this Agreement, then, Lessee will be considered to be holding over and subject to charges under Section 35.2, hereof.
 - (b) Except for the Aircraft Fuel Farm Facility, any inventories, trade fixtures and personal property not removed by Lessee immediately upon the expiration or termination of this Agreement will become part of the Premises, and Lessee shall reimburse County for any cost incurred in removing any such property, as well as any cost incurred by County with respect to the Aircraft Fuel Farm Facility, if Lessee has not removed such

facility as required by Section 6.27. Furthermore, if the expenses of any removal, storage or sale of any such property exceeds the proceeds to County from any sale of same, Lessee shall reimburse such expenses to County upon demand.

- (c) After fourteen (14) days following the termination or expiration of this Agreement, at County's option the following shall occur with respect to any property left on the Premises:
- (i) Except for the Aircraft Fuel Farm Facility, title to all inventories, trade fixtures, and other personal property that remains at the Premises following the expiration or termination of this Agreement will vest in County, at no cost to County; or
 - (ii) County may remove any such property from the Premises to a public warehouse for deposit; or
 - (iii) County may retain same in its own possession and sell same at public auction, the proceeds of which County shall first apply to the expenses of removal, storage and sale, second, to any sums owed by Lessee to County, with any balance remaining to be paid to Lessee; or
 - (iv) County may dispose of any property in any manner permitted by law.

23.2 Removal/Demolition of Improvements On Termination. Upon termination of this Agreement, County, in its sole discretion, may determine that the fixed improvements should be removed from the Premises. In such event, then County in its sole discretion may either: (a) remove or demolish all improvements at the Premises (both above ground and below ground); or (b) require Lessee to remove or demolish all improvements at the Premises (both above ground and below ground). If County elects to arrange for the removal or demolition of all improvements, then the salvage value of such improvements will inure to County's benefit. If County elects to require Lessee to remove or demolish all improvements at the Premises, then the salvage value of such improvements will inure to Lessee's benefit; provided that Lessee shall remove or demolish all such improvements within sixty (60) days after notice from County that such is required. If Lessee fails to effect such demolition or removal within the aforesaid period of time, then County, at its sole option, may cause the removal or demolition of the improvements. In such event Lessee is liable to County for all costs thereof and Lessee will not have any salvage rights in the improvements.

23.3 Survival of this Article. The provisions of this Article 23 shall survive the expiration or any other termination of this Agreement.

ARTICLE 24
LIMITATION OF PRIVILEGES

Lessee will have no greater privilege to use the Airport or any part thereof, other than the privileges expressly and specifically granted in this Agreement.

ARTICLE 25
NOTICES

- 25.1 Form of Notice. Whenever either party desires to give notice to the other, that notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by overnight courier with receipt acknowledgment, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice will remain the same as set forth herein until changed in writing in the manner provided in this Article. For the present, the parties designate the following:

FOR BROWARD COUNTY:

County Administrator
Governmental Center
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

with a copy to:

Director of Aviation
Aviation Department-North Perry Airport
2200 SW 45 Street, Suite 101
Dania Beach, Florida 33312

FOR LESSEE:

President
North Perry Central, LLC
1620 SW 75 Avenue
Pembroke Pines, FL 33023

- 25.2 Writing Required. All notices, approvals and consents required hereunder must be in writing to be effective.

- 25.3 Approved Leasehold Mortgagee's Notice. Any notices sent to Lessee must also be sent to any Approved Leasehold Mortgagee at the address set forth in the Approved Leasehold Mortgage on file with the Aviation Department, which address may be changed in the manner provided below. Lessee and any Approved Leasehold Mortgagee shall ensure the addresses on file with the Aviation Department are current. Notices provided by the Aviation Department will be sent to the last address on file for both Lessee and any Approved Leasehold Mortgagee. The County will not be held liable, and does not waive any of its rights under this Agreement, for notices not received by Lessee or an Approved Leasehold Mortgagee so long as proof of attempted delivery is available, if requested.
- 25.4 Effective Date of Notices. All notices sent in accordance with this Article are deemed effective upon receipt or refusal of same.
- 25.5 Notification of Lessee's Change of Address. Lessee shall notify County, in writing, whenever Lessee changes the address where County should provide any notice required in Section 25.1 above. If Lessee fails to maintain a current address on record with County, County shall be deemed to have notified Lessee by using the last known address on record with the Aviation Department and County does not have to investigate the validity of the address that Lessee has provided. Lessee shall hold County harmless and defend County for any action or occurrence or non-occurrence as a result of Lessee not receiving notice due to Lessee's failure to update its address for notification.

ARTICLE 26 CONSTRUCTION AND APPLICATION OF TERMS

- 26.1 Headings. The article and paragraph headings in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision hereof.
- 26.2 Jurisdiction, Venue, Waiver of Jury Trial. This Agreement will be interpreted and construed in accordance with and governed by the laws of the state of Florida. Jurisdiction of any controversies or legal disputes arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, will be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement will be exclusively in such state courts, forsaking any other jurisdiction that either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, LESSEE AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF EITHER PARTY MAKES A MOTION OR REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT, THE**

PARTY AND THAT PARTY'S ATTORNEY MAKING THE MOTION OR REQUEST SHALL PAY THE OTHER PARTY IN EQUAL AMOUNTS A REASONABLE ATTORNEY'S FEE AND COURT COSTS FOR THE OTHER PARTY CONTESTING THE MOTION OR REQUEST FOR JURY TRIAL.

- 26.3 Severance. If this Agreement, or a portion of this Agreement, is found by a court of competent jurisdiction to be invalid, the remaining provisions will continue to be effective, unless County or Lessee elects to terminate this Agreement. County or Lessee may election to terminate this Agreement based upon this provision within seven (7) days after the finding by a court becomes final. In the event of a termination under these provisions, Lessee will have no right to payment of any amounts under Article 37 or Section 35.3.
- 26.4 Independent Contractor/Relationship of Parties. The relationship of County and Lessee hereunder is the relationship of lessor and lessee. Services provided by Lessee are subject to Lessee's supervision and are not provided by Lessee as an officer, employee, or agent of County. Nothing contained herein creates the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the parties hereto.
- 26.5 Third Party Beneficiaries. Neither Lessee nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, there are no third party beneficiaries to this Agreement and no third party is entitled to assert a claim against County or Lessee based on this Agreement.
- 26.6 Priority of Provisions. If a conflict or inconsistency arises between any term, statement, requirement, or provision of any exhibit attached hereto, any document or event referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 38 of this Agreement will prevail and be given effect.
- 26.7 Judicial Construction. This Agreement will not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other. The parties have each thoroughly read this Agreement, including all exhibits and attachments hereto, and have sought and received whatever competent advice and counsel as considered necessary for them to form a full and complete understanding of all rights and obligations herein.
- 26.8 Incorporation by Reference. Each "Whereas" clause set forth above is true and accurate and is incorporated into and made a part of this Agreement. The attached **Exhibits A, B, D, E and F** are incorporated into and made a part of this Agreement. **Exhibit C**, which is on file with the Aviation Department, is also incorporated into and made a part of this Agreement.

- 26.9 Incorporation of Required Provisions. The parties incorporate herein by this reference all provisions lawfully required to be contained herein by any governmental body or agency.
- 26.10 Amendments. No modification, amendment or alteration of any of the terms and conditions contained herein is effective unless contained in a written document and executed by the authorized representatives of the parties.
- 26.11 Prior Agreements; Prior Negotiations. This Agreement supersedes and terminates all prior agreements between the parties with respect to any portion of the Premises; provided however that Lessee is not released of any obligations or liabilities to the County that accrued before the Effective Date. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, no deviation from the provisions hereof will be predicated upon any prior representations or agreements, whether oral or written.
- 26.12 Use of Pronoun and Terms. Unless the context otherwise requires, all personal pronouns used in this Agreement include the other gender, and the singular includes the plural, and vice versa. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to an article of this Agreement, that reference is to the article as a whole, including all of the sections, subsections and provisions of that article, unless the reference is made to a particular section, subsection or provision of the article.

ARTICLE 27 NON-LIABILITY OF INDIVIDUALS

No commissioner, director, officer, agent or employee of County may be charged personally or held contractually liable under any provision of this Agreement, or any supplement, modification or amendment thereto, or because of any breach thereof, or because of its or their execution or attempted execution.

ARTICLE 28 UTILITIES

- 28.1 Lessee Pays for Utilities. Lessee shall pay for all electric, water, garbage and other utilities charges for the Premises. Lessee shall install the metering devices for such utilities at its cost. The metering devices will become the property of County upon installation. Extension of utility mains or services to meet Lessee's needs on the Premises will be at Lessee's sole expense, and will also become

County's property upon installation. Lessee will not commingle or share metered utilities at the Premises or beyond the Premises boundary. Each improvement will have a dedicated meter for the appropriate utility.

- 28.2 Failure, Delay, Interruption in Service. A failure, delay or interruption in supplying any services for any reason whatsoever (whether or not a separate charge is made for same) shall not be construed to be an eviction of Lessee, grounds for any diminution or abatement of rent, or grounds for any claim by Lessee under this Agreement for damages, including any consequential damages.

ARTICLE 29 ABATEMENT

If, at any time, Lessee becomes entitled to an abatement of rent by this Agreement or otherwise, County shall abate the rent on an equitable basis taking into consideration the amount and character of the space, the reasonable use of which is denied Lessee as compared with the entire Premises, and the period of time for which such reasonable use is denied to Lessee.

ARTICLE 30 AIRPORT SECURITY

- 30.1 Airport Security Program and Aviation Regulations. Lessee agrees to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Lessee, including without limitation, all regulations of the United States Department of Transportation, the FAA and the Transportation Security Administration, and the Lessee agrees to comply with the Airport Security Program and amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by the County, and to take such steps as may be necessary or directed by the County to insure that sublessees, employees, invitees and guests observe these requirements. If required by the Aviation Department, Lessee shall conduct background checks of its employees in accordance with applicable Federal Regulations. Lessee further agrees to be responsible for the care and maintenance of the Airport Security barriers and devices as a permanent improvement to the Premises. All costs associated with the construction and repair of the security fence, barriers, access control and monitoring system, including, but not limited to, gates, signs or locks (keying and re-keying), which are installed now or in the future at the Premises shall be borne by the Lessee. If as a result of the acts or omissions of Lessee, its sublessees, employees, invitees or guests, the County incurs any fines or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the FAA or the Transportation Security Administration, or any expense in enforcing any federal regulations, including without limitation, airport security regulations, or the rules or regulations of the County, or any expense in enforcing the County's Airport

Security Program, then Lessee agrees to pay and reimburse to County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorneys' fees and all costs incurred by County in enforcing this provision. Lessee further agrees to rectify any security deficiency or other deficiency as may be determined as such by the County or the United States Department of Transportation, FAA, the Transportation Security Administration, or any other federal agency with jurisdiction. In the event Lessee fails to remedy any such deficiency, the County may do so at sole cost and expense of Lessee. The County reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency. The Lessee acknowledges and accepts full responsibility for the security and protection of the Premises and any improvements thereon, its equipment and property on the Airport and to control access to the Air Operations Area (AOA) through the Premises by persons and vehicles. The Lessee fully understands and acknowledges that any costs incurred with regard to any and all security measures deemed necessary by the Lessee for the protection of said Premises shall be the sole responsibility of the Lessee and at no cost or expense to the County. All such security measures implemented by the Lessee shall be in accordance with the Airport Security Program and County rules and regulations.

- 30.2 Access to Sensitive Security Information. If any of Lessee's employees, or the employees of any of its affiliates, sublessees, or contractors are required in the course of the work to be performed under this Agreement to access or otherwise be in contact with Sensitive Security Information ("SSI") as defined and construed under federal law, that individual will execute a Sensitive Security Information Non-Disclosure Agreement promulgated by the Aviation Department.
- 30.3 Survival of Agreement. The provisions of this Article 30 shall survive the expiration or any other termination of this Agreement.

ARTICLE 31 NONDISCRIMINATION

- 31.1 Lessee will not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement.
- (a) Lessee shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by County, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Lessee shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

- (a) Lessee's decisions regarding the delivery of services under this Agreement must be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code, Chapter 16 1/2), national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully used as a basis for service delivery.
 - (c) Lessee will not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16 1/2) in performing any services under this Agreement.
- 31.2 Lessee shall abide by and comply with the nondiscrimination requirements set forth on **Exhibit B**, attached hereto and made a part hereof, to the extent same are applicable by law, rule or regulation, or federal grant requirements.

ARTICLE 32
ENVIRONMENTAL COMPLIANCE,
ENVIRONMENTAL CONTAINMENT AND REMOVAL

- 32.1 Certain Definitions. The following terms, when used in this Agreement, have the meanings set forth below:
- (a) "Environmental Assessment" means a document based on one or more environmental site assessments, examinations, inspections, tests, inquiries and surveys necessary to identify "Recognized Environmental Conditions" (as hereinafter defined), contamination, and the presence of hazardous substances or other Materials in, on, or under the surface of the Premises.
 - (b) "Lessee's Parties" means the sublessees, officers, agents, affiliates, concessionaires, employees, contractors, subcontractors and invitees of Lessee.
 - (c) "Lessee's operations" and "Lessee's actions" and words of similar import, shall include all actions and inaction: (i) by Lessee or by any of Lessee's Parties whether before or after the Effective Date of this Agreement, and (ii) by any trespasser on the Premises at any time Lessee or any of Lessee's Parties were in occupancy of the Premises, whether before or after the Effective Date of this Agreement.
 - (d) "Materials" means any pollutant, or hydrocarbon contamination, hazardous substances, or other contaminants or regulated materials.
 - (e) "Recognized Environmental Conditions" means as described in "ASTM E 1527 – Standard Practice Environmental Site Assessments: Phase 1 Environmental Site Assessment Process."

- 32.2 No Representations or Warranties. County makes no representations or warranties whatsoever as to whether any Materials exist on or under the Premises, or in the improvements in violation of any Applicable Laws. Lessee shall make sufficient inspection of the Premises and the improvements to satisfy itself as to the presence or absence of any such Materials.
- 32.3 Initial Environmental Assessment. County performed an Initial Environmental Assessment of the Premises ("Initial Environmental Assessment") before the Effective Date. The Initial Environmental Assessment and its conclusions are hereby accepted by Lessee. The Initial Environmental Assessment is referenced as **Exhibit C** to this Agreement. A complete copy of **Exhibit C** is on file with the Aviation Department, and a complete copy of **Exhibit C** has been provided to Lessee.
- 32.4 Environmental Responsibilities. Lessee shall at all times be responsible for any Recognized Environmental Condition and any discharge, disposal or release of any Material at the Premises or upon any other Airport property occupied, utilized or accessed by Lessee in any manner whatsoever, that was caused by Lessee or any of Lessee's Parties, or caused by any trespasser on the Premises at any time that Lessee was in possession of the Premises. Lessee shall, at Lessee's sole expense, and upon County's demand or demand of any County agencies or any local, state, or federal regulatory agency, immediately contain, remove and remediate any Recognized Environmental Conditions and Materials discharged, disposed or released on the Premises by Lessee, Lessee's Parties or Lessee's actions or upon any other Airport property occupied, utilized or accessed by Lessee or Lessee's Parties, in any manner whatsoever. If Lessee does not take action immediately to have such Recognized Environmental Conditions and Materials contained, removed and abated, County or any of its agencies may, upon reasonable notice to Lessee (which notice must be written unless an emergency condition exists, as determined by County, at its sole discretion), undertake the removal of the Recognized Environmental Conditions and Materials; however, any such action by County or any of its agencies will not release Lessee from its obligations under this or any other provision of this Agreement or as imposed by law. No action taken by either Lessee or County to contain or remove Recognized Environmental Conditions, or to abate a release, whether such action is taken voluntarily or not, is an admission of liability as to the source of, or the person who caused, the Recognized Environmental Conditions or its release. Lessee shall perform remediation of any impacted property as aforesaid, in accordance with timetables acceptable to County. County may pursue damages and any and all other available remedies from Lessee if Lessee does not comply with any of its obligations.
- 32.5 No Release from Other Liability. Any Environmental Assessment obtained by either County or Lessee does not in any way release any party from any liability

under any Applicable Laws or in any way limit the regulatory powers of the County or any of its agencies. Lessee shall allow the Aviation Department, other applicable County agencies, and the contractors and consultants retained to perform any Environmental Assessment of the Premises to enter the Premises at all times for such purpose and the right to perform such examinations, inspections, soil borings, other tests, inquiries, and surveys necessary or desirable in the performance of the Environmental Assessment.

- 32.6 Completion of Environmental Documents. Lessee shall complete the form attached hereto as **Exhibit D** with respect to matters pertaining to the Premises and shall deliver same to County contemporaneously with its execution of this Agreement. Lessee represents that the matters disclosed on such form are accurate and complete as of the date of execution of this Agreement by Lessee. At any time as may be requested by the Aviation Department, Lessee shall provide an accurate and complete update of the Premises as to the matters set forth on **Exhibit D**. Lessee shall provide the Aviation Department, if requested at any time, with a list of all hazardous, bio-hazardous, or other Materials stored, used, generated or disposed of on the Premises.
- 32.7 Compliance. Lessee shall comply with Applicable Laws and the requirements of any Development Order covering the Airport, issued to County under Chapter 380, Florida Statutes, including, without limitation, those addressing the following:
- (a) Proper protection, use, storage, treatment and disposal of Materials, including contracting with a licensed hazardous waste transporter or treatment and disposal facility to assure proper transport and disposal of hazardous waste and other regulated Materials.
 - (b) Proper protection, use, disposal and treatment of storm water runoff, including the construction and installation of adequate pre-treatment devices or mechanisms on the Premises, if applicable. Lessee shall have in place, and make available to the Aviation Department for review, all required environmental licenses and documents including, but not limited to site specific Storm water Pollution Prevention Plan, and a Spill Prevention and Countermeasures Plan.
 - (c) Adequate inspection, licensing, insurance, and registration of existing or future storage tanks, storage systems, and ancillary facilities to meet all County, local, state and federal standards, including the installation and operation of adequate monitoring devices and leak detection systems.
 - (d) Adequate facilities on the Premises for management and, as necessary, pretreatment of industrial waste, industrial wastewater, and regulated Materials and the proper disposal thereof.

- (e) Compliance with reporting requirements of Title III of the Superfund Amendment and Chapter 27 of the Broward County Code, as applicable and as such laws may be amended from time to time.
- 32.8 Release of Materials. Lessee is responsible for the release of any Materials and the associated impacts to the environment from such a release of Materials, which release was directly or indirectly caused by: (a) Lessee or any of Lessee's Parties that occurs at the Premises or occurs upon any other Airport property whether before or after the Effective Date; or (b) any trespasser on the Premises at any time during the Term or at any time Lessee is in possession and control of the Premises, whether before or after the Effective Date, that is in an amount that violates any federal, state, County or local law, rule or regulation or violates an order or directive of any federal, state, or local court or governmental authority. At Lessee's sole expense, and upon demand of County or any of its agencies or any local, state, or federal regulatory agency, Lessee shall immediately contain, remove and remediate any Materials and associated impacts to the environment to meet the requirements of Applicable Laws to the Aviation Department's and County's satisfaction.
- 32.9 Environmental Assessment and Remediation. County may require Lessee to actively perform and complete an environmental assessment and remediation that may be required as the result of any release of Materials as referenced above. Such activities will be performed at Lessee's sole expense, despite the acceptance of any site into any government funded cleanup program that might not require immediate assessment or remediation based on a site ranking or scoring within that program. If County requires remediation of any such site, then upon County's demand and at Lessee' expense, Lessee shall immediately contain, remove and remediate the site to the Aviation Department's and County's satisfaction. Lessee shall assess and remediate any impacted property in accordance with timetables acceptable to County and so as to achieve a timely remediation of the site that does not impede any County development or other County plans.
- 32.10 Containment or Removal of Remaining Materials. If Lessee does not immediately contain, remove and abate any Materials and the associated impacts to the environment, as required by this Article 32, County or any of its agencies may, upon reasonable notice to Lessee (which notice will be written unless an emergency condition exists), undertake the removal of the Materials and all other appropriate actions. However, any such actions by County or any of its agencies shall not release Lessee from its obligations under this or any other provision of this Agreement or as imposed by law. Any action taken by either Lessee or County to contain or remove Materials, or to abate a release, whether such action is taken voluntarily or not, is not an admission of liability as to the source of, or the person who caused the pollution or its release. Lessee shall assess or remediate any impacted property in accordance with timetables

acceptable to County. County may pursue damages and any and all other available remedies from Lessee if Lessee does not comply with any of its obligations hereunder.

- 32.11 Notices of Releases. Lessee shall provide the Aviation Department with notice of releases of Materials occurring at any area used by Lessee or occasioned due to Lessee's operations at the Airport, which notices will be provided in accordance with the requirements of the Aviation Department's policies and procedures manual. Lessee shall maintain a log of all such notices and shall also maintain all records required by Applicable Laws and also such records as are reasonably necessary to adequately assess environmental compliance in accordance with Applicable Laws. Upon request by the Aviation Department, Lessee shall make all documentation required by this subsection available for the review of County's representatives.
- 32.12 Notice of Spills, Leaks, or Discharges. As required by Applicable Laws, Lessee shall provide the federal, state, County and local regulatory agencies with notice of spills, releases, leaks or discharges (collectively, "release") of Materials on the Premises or on Airport property that exceed an amount required to be reported to any local, County, state, or federal regulatory agency under Applicable Laws, which notice will be in accordance with Applicable Laws. Lessee shall further provide the Aviation Department and the County Department of Planning and Environmental Protection (or successor agency) with written notice within one (1) business day following commencement of same, of the curative measures, remediation efforts or monitoring activities to be effected on the Premises. Lessee shall have an updated contingency plan in effect relating to releases that provides minimum standards and procedures for storage of regulated Materials and other Materials, prevention and containment of spills and releases, and transfer and disposal of regulated Materials and other Materials. The contingency plan will describe design features, response actions and procedures to be followed in case of releases or other accidents involving hazardous Materials, bio-hazardous Materials or petroleum products or other Materials. Lessee shall permit entry at all reasonable times of inspectors of the County Department of Planning and Environmental Protection (or successor agency) and of other regulatory authorities with jurisdiction.
- 32.13 Right to Inspect Documents Relating to Environmental Conditions. The Aviation Department, upon written notice to Lessee, may inspect all documents relating to the environmental condition of the Premises, including without limitation, the release of any Materials or any Recognized Environmental Conditions on the Premises, or any curative, remediation, or monitoring efforts. The Aviation Department shall also have the right, upon written notice to Lessee, to inspect any documents Lessee must maintain under Applicable Laws or any development order issued to County pertaining to the Airport, including, but not limited to, manifests evidencing proper transportation and disposal of Materials,

environmental site assessments, and sampling and test results. If requested at any time by the Aviation Department, Lessee shall provide the Aviation Department with copies of any such documents. Lessee shall allow inspection of the Premises by appropriate federal, state, County, and local agency personnel in accordance with Applicable Laws and as required by any development order issued to County pertaining to the Airport.

- 32.14 County's Removal of Materials. If County arranges for the removal of any Materials or the associated impacts to the environment from a release of Materials which release was directly or indirectly: (a) caused by Lessee or any of Lessee's Parties or that occurs at the Premises or occurs at any other Airport property after the Effective Date; or (b) caused by any trespasser on the Premises at any time during the Term of this Lease or during any period that Lessee was in possession and control of the Premises before or after the Effective Date, Lessee shall pay all costs of the removal that are incurred by County and such payment must be made within ten (10) days of County's written demand, with interest at the rate of eighteen percent (18%) per annum thereafter accruing.
- 32.15 Duty to Cooperate. Nothing herein shall release Lessee of its general duty to cooperate with County in ascertaining the source and in containing, removing and abating any Materials. The Aviation Department shall cooperate with Lessee with respect to Lessee's obligations under these provisions, including making public records available to Lessee in accordance with Florida law. However, nothing herein releases Lessee of its obligations hereunder or creates any affirmative duty of County to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with Applicable Laws. The Aviation Department and its employees, contractors, and agents, upon reasonable written notice to Lessee, and the federal, state, local and other County agencies and their employees, contractors, and agents, at all times in accordance with Applicable Laws, have the right to enter the Premises for the foregoing activities and to conduct environmental site assessments, inspections, testing, sampling, examinations and audits as deemed appropriate.
- 32.16 Facility Inspections and Updated Initial Environmental Assessment. County may require Lessee to conduct facility inspections of the Premises and to provide an update to the Initial Environmental Assessment of the Premises, at Lessee's sole expense: (a) upon any assignment of this Lease; or (b) at any time during the Term of this Lease.
- 32.17 Rent Abatement for Removal of Materials. If County arranges for the removal of Materials on the Premises that are not Lessee's responsibility to correct, and if any such clean-up activities by County prevents Lessee from using the Premises for the purposes intended, the rent will be abated in accordance with Article 29,

hereof, from the date that the use of the Premises for its intended purposes is precluded and until the Premises again become available for Lessee's use. County shall use reasonable efforts to not disrupt Lessee's business. But, in no event is Lessee entitled to any amount on account of lost profits, lost rents, or other damages as a result of County's clean-up activities.

32.18 Exit Environmental Assessment. Two (2) years before the Termination Date of this Agreement, or if the Agreement is terminated earlier under the provisions of the Agreement, then within one hundred eighty (180) days after that termination, Lessee and County shall conduct an inspection of the Premises and Lessee shall cause to be performed an exit environmental assessment of the Premises ("Exit Environmental Assessment") at Lessee's sole expense which may include, but is not limited to, soil and water sampling and analysis. Lessee must develop the scope of the work for the Exit Environmental Assessment with the Aviation Department. If the Exit Environmental Assessment or inspections indicate that further actions should be conducted, then County may have such further actions conducted by Lessee at Lessee's sole expense to County's satisfaction. Nothing herein will limit County's right of entry onto the Premises under other provisions of this Article or of this Agreement, or under its regulatory powers. County shall have the right to split any soil or water samples obtained by Lessee and Lessee shall have the right to split any soil or water samples obtained by County.

- (a) If County performs the inspections or the Exit Environmental Assessment due to Lessee's denial or failure to perform as required in this provision, then Lessee will reimburse County for the cost of such Exit Environmental Assessment and inspections as are chargeable to Lessee pursuant hereto, plus any administrative costs, within fifteen (15) days following written demand for same, with interest at the rate of eighteen percent (18%) per annum thereafter accruing.
- (b) If an Exit Environmental Assessment discloses Recognized Environmental Conditions or Materials on the Premises caused by Lessee or Lessee's Parties beyond those levels established in the Initial Environmental Assessment's baseline and the Agreement naturally expires or is terminated, and Lessee has not completed the environmental remediation, then Lessee shall revert to a tenant at sufferance, as described in Section 35.2, and will be subject to double rent of the amount of the monthly installment of rent that was due and payable for the month immediately preceding the natural expiration or termination of the Agreement.

32.19 No Limitation of Rights. All rights and remedies contained in the sections and subparagraphs of this Article 32 are cumulative and are not in limitation of any other rights or remedies under this Article 32, or under any other provisions of this Agreement.

32.20 Survival. The provisions of this Article 32 shall survive the expiration or any other termination of this Agreement.

ARTICLE 33 SECURITY DEPOSIT

33.1 Posting of Security Deposit. Lessee shall post a security deposit with County equal to three (3) monthly installments of rent, together with the applicable sales tax amount ("Security Deposit"). The Security Deposit must be posted at least five (5) days before the Board's approval of this Agreement. The Security Deposit will serve as security for the payment of all monies due to County and will also secure the performance of all Lessee's obligations to County.

- (a) The Security Deposit shall be increased by Lessee to reflect any increases in the rent within fourteen (14) days following any rent adjustment, and such increased Security Deposit shall be provided by Lessee to the Aviation Department within fourteen (14) days following any such increase. In addition the Aviation Department, upon fourteen (14) days written notice to Lessee, may require an increase in the amount of the Security Deposit equal to five (5) additional months' rent installments because of increased obligations hereunder, or if upon a review of Lessee's payment or performance history at the Airport, the Aviation Department determines an increase is required.
- (b) The Security Deposit must be either in the form of cash or an Irrevocable Letter of Credit ("Letter of Credit"), in form and substance satisfactory to County. County will not pay interest on the Security Deposit.
- (c) If Lessee fails to pay when due any rent or charges, or fails to perform its obligations or other default under this Agreement, then in addition to any other rights and remedies available to County at law or in equity, County may draw down the full amount of the Security Deposit and apply same to all amounts owed by Lessee to County. Upon notice of any such draw, Lessee shall immediately replace the Security Deposit with a new Letter of Credit or cash in the full amount of the Security Deposit required hereunder.
- (d) The Security Deposit instrument must provide coverage from the Effective Date of this Agreement and must be kept in full force and effect throughout the Term of this Agreement and for a period of six (6) months thereafter. Any termination of the Security Deposit instrument without the consent of the Aviation Department before the end of the aforesaid six (6) month period following the Termination Date is a default of this Agreement. Not less than one hundred twenty (120) days before any expiration date of a Letter of Credit, Lessee shall submit evidence in form satisfactory to County that said security instrument has been renewed. A

failure to renew a Letter of Credit, or to increase the amount of the Security Deposit, if required pursuant hereto, shall: (i) entitle the County to draw down the full amount of such Security Deposit; and (ii) be a default of this Agreement entitling County to all available remedies.

- (e) The Security Deposit will not be returned to Lessee until all obligations under this Agreement are performed and satisfied.

33.2 Adequacy of Letter of Credit. Each letter of credit ("Letter of Credit") provided hereunder or under any other article or provision of this Agreement must be provided by a financial institution of recognized standing authorized to do business in the state of Florida. Throughout the term of the Letter of Credit, the financial institution that has issued the Letter of Credit must maintain a relationship with a financial institution having an office in Broward, Miami-Dade, or Palm Beach County, Florida at which the Letter of Credit may be presented for drawing down, and the financial institution that has issued the Letter of Credit must have been in business with a record of successful continuous operation for at least five (5) years. Each Letter of Credit will be in form and substance satisfactory to County.

ARTICLE 34 QUIET ENJOYMENT

Lessee, upon paying the rents herein reserved and performing and observing all the terms and conditions of this Agreement on Lessee's part to be performed and observed, shall peaceably and quietly, have, hold and enjoy the Premises during the Term of this Agreement, subject to all provisions of this Agreement. Lessee is leasing the Premises subject to the noises and sounds and impacts to persons and property that are customarily contained or emanate from an airport.

ARTICLE 35 MISCELLANEOUS

- 35.1 Wages. Lessee shall pay wages that are not less than the minimum wages required by federal and state statutes and County and local ordinances, to persons employed in operations conducted at the Premises. If any County-funded construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Lessee as a result of this Agreement, Broward County Ordinance No. 83-72, as may be amended from time to time, will apply to the entire construction project. In such event, Lessee shall comply with the requirements of such ordinance and shall satisfy, comply with, and complete the requirements set forth in **Exhibits E and F**.
- 35.2 Holdover. If Lessee holds over after the termination of this Agreement, that hold over will not renew and extend this Agreement, but rather will operate and be

construed as a tenancy at sufferance, under Section 83.04, Florida Statutes, as amended. County reserves the right to pursue all remedies available to it under Applicable Laws as a result of Lessee's holdover. Acceptance of rent or any other payments by County, if Lessee fails or refuses to surrender possession, will neither operate as County's consent to Lessee's continued possession nor constitute a waiver by County of its right to immediate possession of the Premises. At County's sole option, upon written notice to Lessee by the Aviation Department, Lessee must pay to County during any holdover period monthly rent equal to double the amount of the monthly installment of rent that was due and payable for the month immediately preceding the Termination Date of this Agreement. If County exercises this option, a tenancy at will lasting from month to month is created, and such tenancy is subject to all other provisions contained in this Agreement.

- 35.3 Condemnation. If the Premises or any part thereof is condemned and taken by authority of eminent domain, then the laws of the State of Florida will govern such proceedings and any award with respect thereto and Lessee will have no right to payment of any amounts under Article 37.
- 35.4 Agent for Service of Process. If Lessee is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of the State of Florida, or is a foreign corporation, then Lessee designates the Florida Secretary of State as its agent for service of process in any court action between Lessee and County arising out of or based upon this Agreement, and the service will be made as provided by the laws of the State of Florida for service upon a non-resident, who has designated the Florida Secretary of State as agent for service. If for any reason, service of such process is not possible, and as an alternative method of service of process, Lessee may be personally served with such process out of the State of Florida by certified mailing to Lessee at the address set forth herein. Any such service out of the State of Florida will constitute valid service upon Lessee as of the mailing date. Lessee consents and agrees to the process so served, submits to the jurisdiction of Florida, and waives any and all objections and protest with respect thereto.
- 35.5 Waiver of Claims. Lessee hereby waives any claim against Broward County and its officers, commissioners and employees for any consequential damages, including, without limitation, any loss of business or anticipated profits, caused by (a) any default of County hereunder, or (b) any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or (c) by any judgment or award in any suit or proceeding declaring this Agreement or any part thereof null, void or voidable, or delaying the same or any part thereof, from being carried out, or (d) any change in the operation or configuration of, or any change in procedures governing the use of, the Airport.

- 35.6 Successors and Assigns Bound. This Agreement is binding upon County's and Lessee's successors and assigns, but this provision does not waive Article 18, and is not an acceptance by County of any successor or assignee of Lessee, except pursuant to Article 18.
- 35.7 Right to Amend. If the United States government, or its departments or agencies, requires changes or additions to this Agreement, including without limitation, any nondiscrimination provisions, as a condition precedent to the granting of funds for the improvements of the Airport, or otherwise, Lessee consents to such amendments, modifications, revisions, supplements, or deletions of any of the provisions of this Agreement as may be reasonably required (collectively, an "amendment"). Notwithstanding the foregoing, if any such amendment would unreasonably interfere with the business operations of Lessee, then Lessee may refuse to consent to such amendment, provided that Lessee must give immediate written notice to County of any such refusal to consent and such notice must state with specificity the reasons for any such refusal. County may immediately terminate this Agreement if Lessee fails to consent to that amendment. In the event of a termination under these provisions, Lessee will have no right to payment of any amounts under Article 37 or Section 35.3.
- 35.8 Time of Essence. Time is expressed to be of the essence of this Agreement.
- 35.9 Written Approvals. All notices, approvals and consents required to be obtained hereunder must be in writing to be effective.
- 35.10 No Assignment. Lessee will not sell, convey, transfer, mortgage, pledge or assign this Agreement or any right created hereby or take any other action described by Article 18, hereof, without County's prior written consent.
- 35.11 Authority of Individuals. The individuals executing this Agreement on behalf of Lessee personally warrant that they have full authority to execute this Agreement on behalf of Lessee for whom they are acting herein.

ARTICLE 36
OTHER PROVISIONS

- 36.1 Federal Aviation Act, Section 308. Nothing herein contained grants Lessee any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act, as codified in Title 49 USC Section 40103, et. seq., for the conduct of any activity on the Airport, except that, subject to the terms and conditions hereof, Lessee shall have the right to possess the Premises under this Agreement. The rights granted under this Agreement are non-exclusive and County reserves the right to grant similar privileges to another lessee or other lessees on other parts of the Airport.

- 36.2 No Waiver. All rights and remedies of the parties hereunder or at law or in equity are cumulative, and the exercise of any right or remedy does not exclude or waive the right to the exercise of any other. A waiver by either party of any failure to perform any of the terms and conditions hereunder shall not operate as a waiver of any other prior or subsequent failure to perform any of the terms and conditions herein contained.
- 36.3 Specific Performance. In addition to all other remedies, the obligations contained herein are subject to the remedies of specific performance, injunctive relief, and writ of prohibition or mandamus to compel the other party to abide by the provisions of this Agreement. The parties hereby waive any and all requirements that the other party post any security or collateral which may be otherwise required or stipulated as a condition for such party to obtain specific performance, injunctive relief, or writ of prohibition or mandamus or other equitable relief.
- 36.4 Survival. Upon termination or expiration of this Lease, Lessee shall remain liable for all obligations and liabilities that have accrued before the date of termination or expiration. Notwithstanding any provision of this Lease to the contrary, NO obligation that accrued but has not been satisfied under any prior agreements between the parties, will terminate or be considered canceled upon execution of this Lease. Rather, that obligation will continue as if it had accrued under this Lease until the obligation is satisfied.
- 36.5 Public Entity Crimes Act. Lessee represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to County, may not submit a bid on a contract with County for the construction or repair of a public building or public work, may not submit bids on leases of real property to County, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with County, and may not transact any business with County in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two (2) purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this article will result in termination of this Agreement and recovery of all monies paid by County hereto, and may result in debarment from County's competitive procurement activities. In addition to the foregoing, Lessee further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Lessee has been placed on the convicted vendor list.

- 36.6 No Recordation of Lease; Memorandum of Lease. Neither Lessee nor any sublessee may record this Lease or any sublease of any of the Premises in the Public Records of Broward County, Florida. A violation of this Section 36.6 by Lessee will automatically void those provisions and portions of this Lease which run to the benefit of Lessee. Lessee may record a Memorandum of Lease in the Public Records of Broward County, Florida, which Memorandum will set forth, and will only set forth: (a) the names of the parties; (b) the Effective Date and Term of the Lease; and (c) the legal description of the Premises.
- 36.7 No Set Off. Lessee represents that, through the date hereof, has no claims against County concerning any of the matters covered by this Lease, and has no right of set off or counterclaims against any of the amounts payable by Lessee to County under this Lease.
- 36.8 Police/Regulatory Powers. County cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations governing the Premises, any improvements thereon, or any operations at the Premises. Nothing in this Lease creates an affirmative duty of County to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes, administrative codes, ordinances, rules and regulations, federal laws and regulations, state laws and regulations, and grant agreements. In addition, nothing herein will be considered zoning by contract.
- 36.9 Regulatory Approvals. County, from time to time, may be seeking regulatory approvals (collectively "Regulatory Approvals") in connection with Airport projects, which may include the following: (a) amendment of development agreements and orders; (b) agreements with the State of Florida and other agencies; (c) land use and zoning amendments; (d) preparation of environmental assessments and environmental impact statements; (e) such permitting as may be required by federal, state, County or local regulations; and (f) any other Regulatory Approvals as may be required by any governmental authority having jurisdiction over the issuance of permits for the approval and implementation of Airport projects. Lessee shall cooperate with County in connection with County's efforts to obtain the Regulatory Approvals. From and after the date of execution of this Agreement, Lessee shall support County's efforts to obtain the Regulatory Approvals and to execute any documents or instruments reasonably requested by County to assist County in obtaining the Regulatory Approvals, provided that Lessee shall not be required to bear any expense in connection therewith and Lessee shall not be deemed an agent of County.
- 36.10 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.

- 36.11 Visual Artist's Rights Act. With respect to construction or installation of any improvements at the Premises and regarding the requirements of the federal Visual Artists Rights Act of 1990, 17 USC Sections 106A and 113, as amended (the "Act"), Lessee will not (a) hire any artist or permit any sublessee to hire any artist to install or incorporate any work of art into or at the Premises, or (b) permit the installation or incorporation of any work of art into or at the Premises, without the prior written approval of County. Lessee shall provide such reasonable documentation as County may request in connection with any such approval; and County's approval may be conditioned upon the execution by the artist of a waiver of the Act, in form and substance acceptable to County.
- 36.12 Contingency Fee. Lessee warrants that it has not employed or retained any person, other than a bona fide employee working solely for Lessee, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, other than a bona fide employee working solely for Lessee, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, County shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- 36.13 Right to Develop the Airport. County reserves the rights to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Lessee and without interference or hindrance.
- 36.14 Damage to Airport Facilities. Lessee is responsible for any and all damage to the Airport caused by the negligence of Lessee, its agents, employees, contractors, subcontractors, or invitees including, but not limited to, damage to terminal areas, ramp and taxiway areas, engine run-up areas, runways, hangar facilities and any and all areas where any activities are performed by Lessee.
- 36.15 Multiple Copies. Multiple copies of this Agreement may be fully executed by all parties, each of which are deemed to be an original.

ARTICLE 37 EARLY TERMINATION AND COUNTY BUY-OUT

- 37.1 Early Termination. County shall have the right and option at any time after the Effective Date to buy out this Agreement and its encumbrance against the entire

Premises, or a portion of the Premises, as hereinafter provided, if the Premises or portion thereof are needed for "Airport Purposes." The term "Airport Purposes" means the development of taxiways, runways, airfield improvements, passenger terminals, drainage facilities, or other Airport facilities that are owned and operated by County. County's decision and election to buy out this Agreement for Airport Purposes will be conclusive and not subject to challenge by Lessee or any other person whatsoever.

- (a) Notwithstanding the foregoing, County shall only have the right and option to buy out a portion of the Premises (as opposed to the entire Premises) under the following conditions: (1) if the portion to be bought out by County contains any buildings or hangars, County must buy out the entire building or hangar, as applicable, and (2) if the portion to be bought out by County includes any parking areas, the remainder of the Premises not bought out by County must have sufficient parking areas to provide necessary parking in accordance with applicable governmental requirements for Lessee's business operations on the remainder of the Premises; and (3) the elimination of the bought out portion of the Premises from this Lease will not materially and adversely impact Lessee's business operations on the remainder of the Premises. If the Aviation Department does not agree with any assertions by Lessee as to whether any of the conditions of subparagraphs (1) through (3) preceding exist, the Broward County Board of County Commissioners shall make the final and binding determination as to the size of the parcel that will be subject to County's buy-out. In addition, if County exercises its right to buy out a portion of the Premises, the rent payable by Lessee under this Lease will be reduced effective on the Buy-Out Termination Date by an amount equal to the then annual per square foot rent applicable to the portion bought out multiplied by the total square footage contained within the portion bought out.
- (b) County may exercise its option to buy out the entire Premises or portion thereof, by giving Lessee at least three hundred sixty (360) days advance written notice to that effect ("Buy-Out Notice").
- (c) The date of termination of this Agreement, or the date of removal from this Lease of the portion subject to the buy-out, will occur on the later to occur of: (i) the 360th day following the giving of County's Buy-Out Notice; or (ii) the date specified in County's Buy-Out Notice; or (iii) the date the Approved Leasehold Mortgagee is tendered the "Buy-Out Amount" (as hereinafter defined), if the Lessee has provided the County with an "Debt Service Schedule" (as hereinafter defined) for each outstanding Approved Leasehold Mortgage that has been updated within one hundred eighty (180) days following the date of the Buy-Out Notice. If the Lessee has not timely provided the County with an updated Debt Service Schedule for each outstanding Approved Leasehold Mortgage, then the date of

termination of this Agreement, or the portion subject to the buy-out, will occur on the later to occur of: (i) the 360th day following the giving of County's Buy-Out Notice; or (ii) the date specified in County's Buy-Out Notice. The date of termination of the Lease, or the date of release of the portion subject to the buy-out, if the buy-out provisions of this Article 37 are exercised is hereinafter referred to as the "Buy-Out Termination Date."

- (d) If County exercises its buy-out rights, the "Buy-Out Amount" will be equal to the greater of: (i) one hundred percent (100%) of the "Net Book Value" (as hereinafter defined) of Lessee's "Approved Fixed Improvements" (as hereinafter defined); or (ii) one hundred percent (100%) of the "Pay-Off Amount," which is an amount equal to the product of the "Pay-Off Percentage Factor" (as hereinafter defined) multiplied by the "Outstanding Amount" (as hereinafter defined).
 - (1) If County exercises its option to buy out this entire Lease or a portion of the Premises, and there exists no outstanding Approved Leasehold Mortgage, then County shall tender the entire Buy-Out Amount to Lessee within sixty (60) days following the later to occur, as applicable: receipt of the "Lessee Report," the "County Report" or the "Dispute Resolution Report" (all as hereinafter defined).
 - (2) If County exercises its option to buy out this entire Lease or a portion of the Premises, and there exists any outstanding Approved Leasehold Mortgage, then County shall tender to the Approved Leasehold Mortgagee(s) the entire Buy-Out Amount. If County tenders the Buy-Out Amount to the Approved Leasehold Mortgagee(s), then County shall have no further payment obligations to Lessee with respect to the Buy-Out Amount, and the Approved Leasehold Mortgagee(s) shall file in the public records of Broward County, Florida and other applicable public offices, a release and satisfaction of the Approved Leasehold Mortgage(s) (collectively, the "Satisfaction"). The Lessee shall be required to tender any amounts required by the Approved Leasehold Mortgage(s) to record the Satisfaction that are in excess of the Buy-Out Amount that is established pursuant to the provisions of this Article 37. The Lessee shall look solely to the Approved Leasehold Mortgage(s) for any payment Lessee should receive of any portion of the Buy-Out Amount that is over and above the Pay-Off Amount.
- (e) The "Outstanding Amount" is equal to: (i) the then outstanding principal amount of the loan(s) secured by the Approved Leasehold Mortgage(s) (together with all accrued and unpaid interest through the date of tender of the Pay-Off Amount and prepayment penalties and other lender charges), **less** (ii) any amounts attributable to charges incurred because Lessee failed to pay principal or interest payments as and when due, such as late

charges or additional interest, **less** (iii) any portion of the outstanding principal amount of the loan secured by the Approved Leasehold Mortgage(s) that is attributable to disbursements made to Lessee for use by Lessee in connection with properties encumbered by the Approved Leasehold Mortgage(s) that are not located at the Airport. If there is more than one Approved Leasehold Mortgage encumbering the property being bought out, County shall determine the Pay-Off Amount for each such mortgage and then add all such amounts together to arrive at the total Pay-Off Amount. County will not be liable for or be required to pay any amounts attributable to charges incurred because principal or interest amounts were not paid by Lessee as and when due.

- (f) The "Pay-Off Percentage Factor" is the percentage derived by dividing (i) the fair market value of the portion of the Premises to be released from the encumbrance of the Approved Leasehold Mortgage(s) (including all buildings and improvements located thereon, if any), by (ii) the fair market value of all of the real property located at the Airport then encumbered by the Approved Leasehold Mortgage(s) that encumbers the property to be released (including all buildings and improvements located thereon).
- (g) The term "Approved Fixed Improvements" shall only mean the Phase 1 Improvements and the Phase 2 Improvements that have been constructed by the Lessee on the Premises pursuant to Section 6.3 and Section 6.5, hereof and that have received the County's approval as provided in Article 6, and that are located on the portion of the Premises that are subject to the buy-out. The term "Net Book Value" shall mean Lessee's total Capital Expenditure (as defined in Article 1) for all Approved Fixed Improvements that are located on the portion of the Premises that are subject to the buy-out, less depreciation as hereinafter provided. Depreciation shall be computed on a straight line basis, with no salvage value, over the Amortization Period.
- (h) Lessee agrees to provide to County a special audit report prepared by a CPA firm retained by the Lessee. The special audit report shall be prepared in accordance with generally accepted accounting standards (the "Lessee Report"). The Lessee Report shall be provided by Lessee within thirty (30) days following the giving by County of the Buy-Out Notice.
- (i) The Lessee Report, any "County Report," (as hereinafter defined) and any "Dispute Resolution Report" (as hereinafter defined) shall: (i) identify the improvements that are included for buy-out as Approved Fixed Improvements; (ii) state the original cost of such improvements; (iii) include the CPA firm's determination of the Lessee's Capital Expenditure for such Approved Fixed Improvements (showing the basis of all computations); (iv) include the CPA firm's determination of the Net Book

Value (showing the basis of all computations) for such Approved Fixed Improvements (v) include the CPA firm's determination of the Pay-Off Amount (showing the basis of all computations); and (vi) include any other information reasonably requested by the County or Lessee to determine the Net Book Value, the Pay-Off Amount and the Buy-Out Amount. The Lessee Report, any County Report, and any Dispute Resolution Report shall be accompanied by appropriate back-up documentation supporting the manner in which the Capital Expenditure was derived, the Approved Fixed Improvements were identified, and the Net Book Value, Pay-Off Amount and Buy-Out Amount were determined. The documentation shall be in sufficient detail to enable verification of the determinations.

- (j) It shall be Lessee's responsibility to provide to the County and the CPA firms that prepare the Lessee Report, any County Report and any Dispute Resolution Report, with such documentation as may be necessary to make the determinations required in subparagraph (i), above. Lessee agrees to maintain its books and records in accordance with generally accepted accounting principles and agrees to retain such records pertaining to the construction of the Approved Fixed Improvements for a period of five (5) years following the termination of this Lease. Lessee agrees that the County, and all CPA firms retained pursuant to the provisions of this Article 37 shall at all reasonable times have the right to inspect and audit any and all books and records pertaining to the construction, the Approved Fixed Improvements, the Net Book Value, the Pay-Off Amount and the Buy-Out Amount. Furthermore, the County, at its option, may conduct an audit of such books and records.
- (k) In the event that the County or the Lessee cannot reach agreement as to the Buy-Out Amount for any reason whatsoever, then the County shall retain a second CPA firm who shall examine the books and records of the Lessee in order to prepare a report making the determinations required by subparagraph (i), above and that establishes the Net Book Value, the Pay-Off Amount and the Buy-Out Amount (the "County Report").
- (l) If the Buy-Out Amount established by the County Report and the Buy-Out Amount established by the Lessee Report are within a ten percent (10%) range of each other (without regard to the values of the individual components of the reports), then the average of the Buy-Out Amounts that are stated in the County Report and the Lessee Report will establish the Buy-Out Amount for purposes of the provisions of this Article 37. This determination shall be binding on Lessee and County, and the parties will have no right to dispute that established Buy-Out Amount. County and Lessee agree that they shall each be bound by the results of such determination.

- (m) If the Buy-Out Amount established by the County Report and the Buy-Out Amount established by the Lessee Report are not within a ten percent (10%) range of each other, then the CPA firm that prepared the Lessee Report and the CPA firm that prepared the County Report shall together agree upon and identify a CPA firm ("Dispute Resolution Firm"), which Dispute Resolution Firm shall examine the books and records of the Lessee in order to prepare a report making the determinations required by subparagraph (i), above and that establishes the Net Book Value, the Pay-Off Amount and the Buy-Out Amount (the "Dispute Resolution Report"). The expenses of the Dispute Resolution Firm shall be shared equally by Lessee and County. The parties agree that they shall be bound by the identification of the Dispute Resolution Firm made pursuant to this Article 37 and the determinations made by such Dispute Resolution Firm.
- (n) Lessee shall cause the Approved Leasehold Mortgagee to provide a Debt Service Schedule prepared in accordance with generally accepted accounting standards ("Debt Service Schedule") to County and the CPA firms retained pursuant to these provisions, which Debt Service Schedule that will: (i) state the original outstanding principal amount of the loan; (ii) show the schedule of amortization of such financing over the term of the loan, provided all principal and interest payments are paid in the amounts and on the dates required by the loan documents; (iii) state the payoff amount for the loan as of stated dates and the daily per diem, (iv) show any amounts that are attributable to charges incurred because principal or interest amounts were not paid as and when due, such as late charges or additional interest charges, (v) show any portion of the outstanding principal amount of the loan secured by the Approved Leasehold Mortgage that is attributable to disbursements made to Lessee for use by Lessee in connection with properties encumbered by the Approved Leasehold Mortgage that are not located at the Airport, and (vi) the Approved Leasehold Mortgagee shall also provide such documentation as may be requested by County or the CPA firms to verify the Debt Service Schedule. The Debt Service Schedule will be accompanied by appropriate back-up documentation supporting the manner in which the Debt Service Schedule was derived.
- (o) Lessee shall cause each Approved Leasehold Mortgagee to provide County with a Debt Service Schedule containing the information required by subparagraph (n) as a condition of County's consent to any leasehold mortgage. Lessee shall cause each Approved Leasehold Mortgagee to provide an updated Debt Service Schedule containing the information required by subparagraph (n) to County or any CPA firm retained pursuant to this Article 37, within thirty (30) days of any written request for same.

- (p) County, Lessee and all CPA firms retained pursuant to the provisions of this Article 37 will be entitled to rely on the Debt Service Schedules and documentation provided with respect thereto by the Approved Leasehold Mortgagee(s) in making determinations pursuant to this Article 37.
- (q) Lessee shall cause the Approved Leasehold Mortgagee(s) to (i) accept the Buy-Out Amount from County; and (ii) record a satisfaction of the Approved Leasehold Mortgage(s) as to the Premises if this Lease is terminated as a result of the buy-out, or to record a release of the portion or all of the Premises that is subject to the buy-out from the encumbrance of the Approved Leasehold Mortgage(s). Notwithstanding anything to the contrary herein, if the Buy-Out Amount paid to any Approved Leasehold Mortgagee with respect to any Approved Leasehold Mortgage is equal to or greater than the Outstanding Amount, then the Approved Leasehold Mortgagee shall record a satisfaction or release of the Approved Leasehold Mortgage as to all premises at the Airport that are encumbered by the Approved Leasehold Mortgage.
- (r) Any failure by Lessee or any Approved Leasehold Mortgagee to comply with the provisions of this Article 37 shall be a default of this Agreement, entitling the County to all remedies under this Agreement and at law and in equity.

37.2 Termination of Agreement. If this Agreement is terminated, or a portion of the Premises is bought-out under the provisions of this Article 37: (a) Lessee shall vacate the Premises or portion thereof and shall leave the Premises free and clear of all liens, claims and encumbrances whatsoever as may have been caused by Lessee, (b) this Agreement and all subleases will be terminated, or the portion of the Premises and subleases with respect thereto that are subject to the buy-out shall be terminated, on the date of termination established by Section 37.1 above and County may record a notice of termination or release in the public records of Broward County, and (c) except for liabilities that have accrued before the date of termination, the parties will be released of all further obligations to each other under this Agreement. The rights of termination pursuant to the provisions of this Article 37 are in addition to any other rights of termination available to County under other provisions of this Agreement.

37.3 Compensation of Expenses. If the provisions of this Article 37 apply, then Lessee is not entitled to any compensation or other payments pursuant to Section 35.3, above. If County terminates this entire Agreement under this Article 37, Lessee shall be provided moving expenses, as determined by County in accordance with the provisions of Chapter 5, FAA Order 5100.37A, as it may be amended, but Lessee is not entitled to any severance damages, business damages or any other amounts or damages whatsoever, other than the aforementioned moving expenses. If County terminates only a portion of the Premises from this Agreement under this Article 37, Lessee is not entitled to

moving expenses or any severance damages, business damages or any other amounts or damages whatsoever.

- 37.4 Other Termination Rights Remain. The rights of termination under the provisions of this Article 37 are in addition to any other right of termination available to County under other provisions of this Agreement, and the provisions of this Article 37 as to payment of the Buy-Out Amount will not apply to any such other County rights of termination.
- 37.5 Satisfaction of Lessee's Obligations Before Buy Out. Notwithstanding anything to the contrary contained in this Agreement, County will have no obligation to pay Lessee any Buy-Out Amount if any obligations of Lessee to County under this Lease have not been satisfied, and County may set off any unpaid monetary obligations of Lessee to County against the Buy-Out Amount.
- 37.6 Survival. The provisions of this Article 37 shall survive the expiration or any other termination of this Agreement.

ARTICLE 38 ENTIRE AGREEMENT

This Agreement consists of Articles 1-38, together with **Exhibits A, B, D, E and F**, attached hereto, and **Exhibit C**, which is available from the Aviation Department upon request, and constitute the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by County's and Lessee's duly authorized representatives. No representations or warranties are binding upon County unless expressed in writing in this Agreement.

AGREEMENT OF LEASE BETWEEN BROWARD COUNTY AND NORTH PERRY
CENTRAL, LLC

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the _____ day of _____, 20____, and NORTH PERRY CENTRAL, LLC, signing by and through its representative, duly authorized to execute same.

COUNTY

ATTEST:

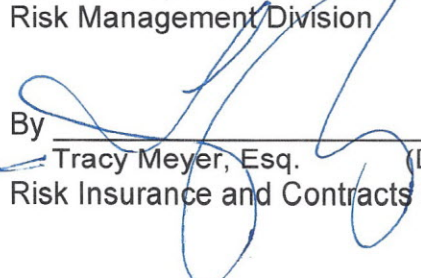
BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor
____ day of _____, 2014

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Aviation Office
2200 SW 45th Street, Suite 101
Dania Beach, Florida 33312
Telephone: (954) 359-6100
Telecopier: (954) 359-1292

By  6-6-14
Tracy Meyer, Esq. (Date)
Risk Insurance and Contracts Manager

By  6-6-14
Christine C. Lee (Date)
Senior Assistant County Attorney

CCL/lg
North Perry Central LLC Lease
05/30/2014
#14-071.68

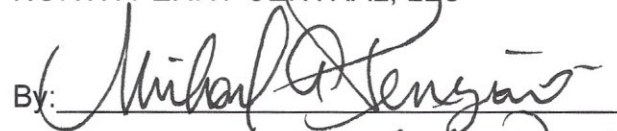
AGREEMENT OF LEASE BETWEEN BROWARD COUNTY AND NORTH PERRY
CENTRAL, LLC

LESSEE

ATTEST:

NORTH PERRY CENTRAL, LLC

By:



Print Name: MICHAEL A. PUNZIANO

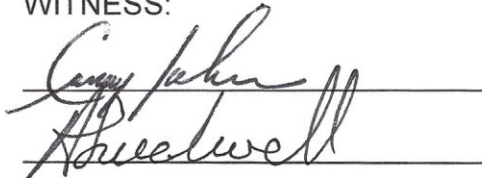
Title: PRESIDENT North Perry Central
LLC.

2 day of June, 2014

Secretary

(CORPORATE SEAL)

WITNESS:



4341 S.W. 62nd Avenue
Davie, Florida 33314**STONER & ASSOCIATES, INC.**

SURVEYORS - MAPPERS

Florida Licensed Survey
and Mapping Business No. 6633

Tel. (954) 585-0997

Fax (954) 585-3927

EXHIBIT "A"

**SKETCH OF DESCRIPTION OF:
NORTH PERRY CENTRAL AVIATION
NORTH PERRY AIRPORT
PEMBROKE PINES, FLORIDA**

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF TRACT "A",
NORTH PERRY AIRPORT, ACCORDING TO THE PLAT
THEREOF RECORDED IN PLAT BOOK 113, PAGE 30, OF
THE PUBLIC RECORDS OF BROWARD COUNTY,
FLORIDA, SAID PARCEL BEING MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE
NORTHEAST ONE-QUARTER (N.E. 1/4) OF SECTION 22,
TOWNSHIP 51 SOUTH, RANGE 41 EAST;

THENCE N.88°50'18"E., ALONG THE SOUTH LINE OF SAID
NORTHEAST ONE-QUARTER (N.E. 1/4), A DISTANCE OF
681.61 FEET;

THENCE N.00°11'13"W., A DISTANCE OF 428.56 FEET;

THENCE N.88°39'04"W., A DISTANCE OF 4.04 FEET;

THENCE N.00°16'23"W., A DISTANCE OF 13.43 FEET, TO
THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE N.89°58'32"W., A DISTANCE OF 304.16 FEET;

THENCE S.71°19'42"W., A DISTANCE OF 77.68 FEET;

THENCE N.89°58'32"W., A DISTANCE OF 121.68 FEET;

THENCE N.00°00'07"E., A DISTANCE OF 174.81 FEET;

THENCE N.89°59'53"W., A DISTANCE OF 85.98 FEET;

THENCE N.28°43'52"W., A DISTANCE OF 83.47 FEET;

THENCE N.00°00'07"E., A DISTANCE OF 214.45 FEET, TO
A POINT ON A LINE 359 FEET SOUTH OF AND PARALLEL
WITH THE CENTERLINE OF RUNWAY 10 RIGHT - 28 LEFT;

THENCE S.89°59'53"E., ALONG SAID PARALLEL LINE, A
DISTANCE OF 200.00 FEET;

THENCE N.00°00'07"E., ALONG A LINE PERPENDICULAR
TO THE LAST DESCRIBED LINE, A DISTANCE OF 3.00
FEET, TO A POINT ON A LINE 346 FEET SOUTH OF AND
PARALLEL WITH THE CENTERLINE OF SAID RUNWAY 10
RIGHT - 28 LEFT;

THENCE S.89°59'53"E., ALONG SAID PARALLEL LINE, A
DISTANCE OF 630.00 FEET;

THENCE S.23°35'56"E., A DISTANCE OF 43.77 FEET;

THENCE S.15°00'42"E., A DISTANCE OF 78.05 FEET;

THENCE S.00°01'28"W., A DISTANCE OF 108.34 FEET;

THENCE N.89°58'32"W., A DISTANCE OF 166.84 FEET;

THENCE S.03°10'55"E., A DISTANCE OF 140.35 FEET;

THENCE S.53°02'03"W., A DISTANCE OF 104.19 FEET;

THENCE S.00°16'23"E., A DISTANCE OF 24.17 FEET, TO
THE POINT OF BEGINNING:

SAID LAND SITUATE WITHIN NORTH PERRY AIRPORT,
CITY OF PEMBROKE PINES, BROWARD COUNTY,
FLORIDA, CONTAINING 7.55 ACRES (328,835 SQUARE
FEET), MORE OR LESS.

NOTES:

1. THE PROPERTY SHOWN HEREON WAS NOT ABSTRACTED FOR OWNERSHIP, RIGHTS-OF-WAY, EASEMENTS OR OTHER MATTERS OF RECORD. THERE COULD BE OTHER MATTERS OF RECORD THAT ARE NOT SHOWN HEREON, FOR MORE INFORMATION CONSULT THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
2. THIS SKETCH DOES NOT REPRESENT A FIELD SURVEY. (THIS IS NOT A SURVEY).
3. THIS SKETCH OF DESCRIPTION WAS PREPARED BY THIS FIRM WITHOUT THE BENEFIT OF A TITLE SEARCH.
4. THE BEARINGS SHOWN HEREON ARE BASED ON N.88°50'17"E. ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF SECTION 22, TOWNSHIP 51 SOUTH, RANGE 41 EAST.
5. SEE SHEET 2 OF 2 FOR A GRAPHIC DEPICTION (SKETCH) OF THE PROPERTY DESCRIBED HEREON.

CERTIFICATE:

THIS IS TO CERTIFY THAT THE SKETCH AND LEGAL DESCRIPTION SHOWN HEREON IS ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I FURTHER CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.07, FLORIDA STATUTES.

REVISIONS	DATE	BY

THE MATERIAL SHOWN HEREON IS THE PROPERTY OF STONER &
ASSOCIATES, INC. AND SHALL NOT BE REPRODUCED IN WHOLE OR IN
PART WITHOUT PERMISSION OF STONER & ASSOCIATES, INC.
COPYRIGHT©2014

RICHARD G. CRAWFORD Jr.

PROFESSIONAL SURVEYOR AND MAPPER NO. 5371 - STATE OF FLORIDA

DATE OF SKETCH:	DRAWN BY	CHECKED BY	FIELD BOOK
05/30/14	DRL	RGC	N/A

SEAL

NOT VALID UNLESS
SEALED HERE WITH
AN EMBOSSED
SURVEYOR'S SEAL

SHEET 1 OF 2

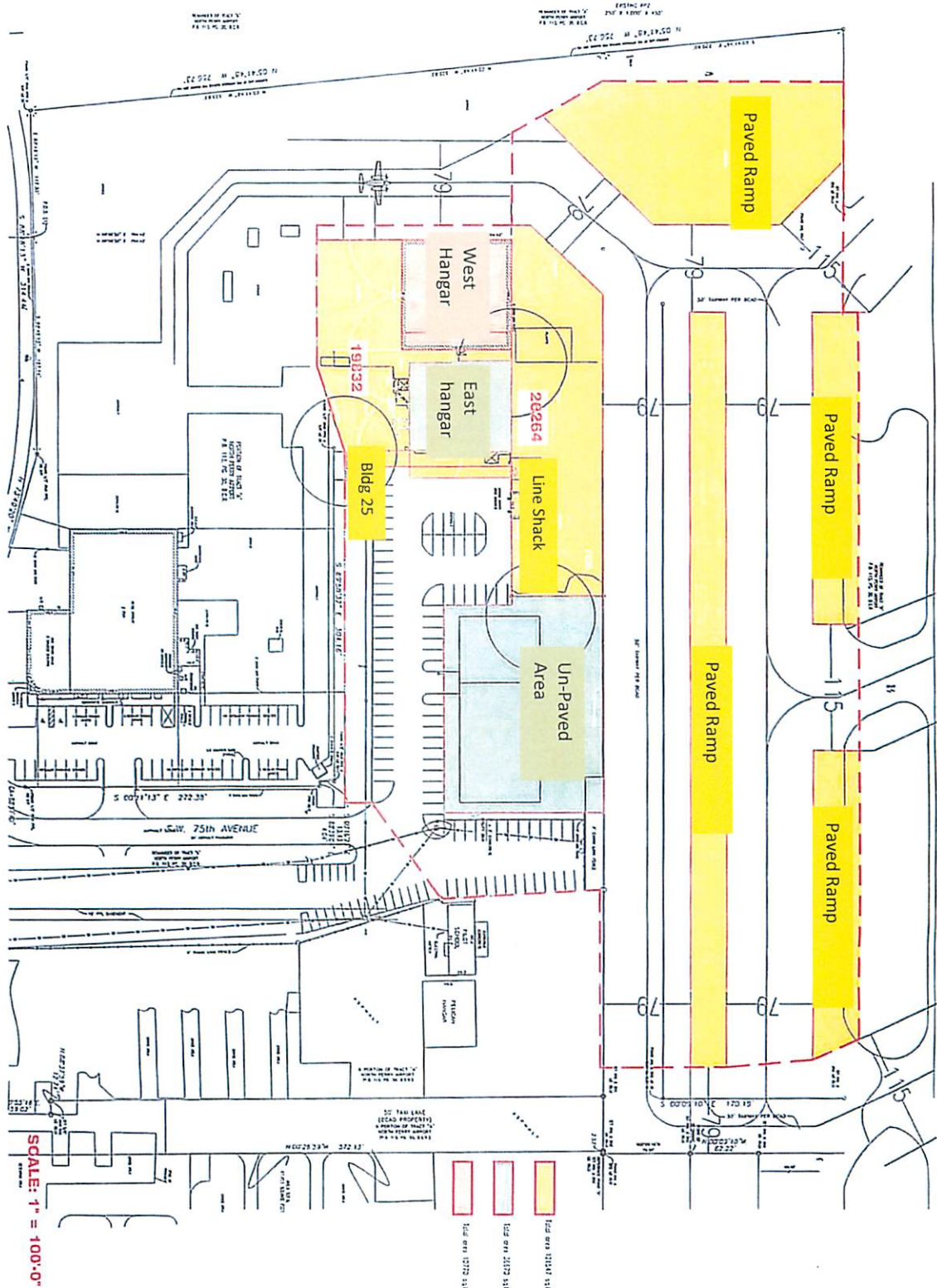
SKETCH NO.
14-8075 NPACA

Tel. (954) 585-0997
Fax (954) 585-3927

**REMAINDER OF TRACT "A"
NORTH PERRY AIRPORT,
P.B. 113, PG. 30, B.C.R.**

NOTE:
SEE SHEET 1 OF 2 FOR THE LEGAL
DESCRIPTION OF THE PROPERTY
SHOWN GRAPHICALLY HEREON.

SKETCH NO.
14-8075 NPCA



REVISIONS		BY

ARCHITECT AR 0013230	GENERAL CONTRACTOR CG CA10929	ROOFING CG CA56762
J.F. SMITH DESIGN & BUILD INC.		
JFSMITH DESIGN & BUILD, INC. 2145 Davis Blvd. Suite 204 Fort Lauderdale, FL 33312 (954) 316-9919		
PROJ. NAME & ADDRESS: NORTH FERRY CENTRAL AVATION		
DRAWN	CHECKED	DATE
JOB NO.	SHEET	OF SHEETS

EXHIBIT B

NONDISCRIMINATION REQUIREMENTS

- I. During the performance of this contract, the Consultant/Contractor/Tenant/Concessionaire/Lessee/Permittee/Licensee for itself, its personal representatives, assigns and successors in interest (hereinafter referred to collectively as the "Contractor") agrees as follows:
- (a) Compliance With Regulations. The Contractor shall comply with the Regulations relative to nondiscrimination in Federally Assisted Programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
 - (b) Nondiscrimination. The Contractor shall not discriminate on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
 - (c) Solicitation for Subcontracts, Including Procurement of Materials and Equipment. In all solicitation either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligation under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation.
 - (d) Information and Reports. The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County or FAA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the County or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (e) Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the County shall impose such contract sanctions as it or the FAA may determine to be appropriate, including, but not limited to: (1) withholding of payments under the contract until

there is compliance, or (2) cancellation, termination, or suspension of the contract, in whole or in part. In the event of cancellation or termination of the contract (if such contract is a lease), the COUNTY shall have the right to re-enter the Premises as if said lease had never been made or issued. These provisions shall not be effective until the procedures of Title 49 CFR Part 21 are followed and completed, including exercise or expiration of appeal rights.

- (f) Incorporation of Provisions. The Contractor shall include the provisions of paragraphs (a) through (e), above, in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the County or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the County to enter into such litigation to protect the interests of the County and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
 - (g) The Contractor, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this contract, for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the Contractor shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulation may be amended.
 - (h) The Contractor, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under the premises and the furnishing of services thereon, no person on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that the Contractor shall use the premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.
- II. During the performance of this contract, the Contractor, for itself, its assignees and successors in interest agrees as follows:

The Contractor agrees to undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participation in any employment, contracting, or leasing activities covered in 14 CFR Part 152, Subpart E. The Contractor agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this Subpart. The Contractor agrees that it will require its covered suborganizations to provide assurances to the Contractor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E, to the same effect.

The Contractor agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 CFR Part 152, Subpart E, as part of the affirmative action program, and by any federal, state, County or local agency or court, including those resulting from a conciliation agreement, a consent decree, court order or similar mechanism. The Contractor agrees that state or County affirmative action plans will be used in lieu of any affirmative action plan or steps required by 14 CFR Part 152, Subpart E, only when they fully meet the standards set forth in 14 CFR 152.409. The Contractor agrees to obtain a similar assurance from its covered organizations, and to cause them to require a similar assurance of their covered suborganizations, as required by 14 CFR Part 152, Subpart E.

If required by 14 CFR Part 152, Contractor shall prepare and keep on file for review by the FAA Office of Civil Rights an affirmative action plan developed in accordance with the standards in Part 152. The Contractor shall similarly require each of its covered suborganizations (if required under Part 152) to prepare and to keep on file for review by the FAA Office of Civil Rights, an affirmative action plan developed in accordance with the standards in Part 152.

If Contractor is not subject to an affirmative action plan, regulatory goals and timetables, or other mechanism providing for short and long-range goals for equal employment opportunity under Part 152, then Contractor shall nevertheless make good faith efforts to recruit and hire minorities and women for its aviation workforce as vacancies occur, by taking any affirmative action steps required by Part 152. Contractor shall similarly require such affirmative action steps of any of its covered suborganizations, as required under Part 152.

Contractor shall keep on file, for the period set forth in Part 152, reports (other than those submitted to the FAA), records, and affirmative action plans, if applicable, that will enable the FAA Office of Civil Rights to ascertain if there has been and is compliance with this subpart, and Contractor shall require its covered suborganizations to keep similar records as applicable.

Contractor shall, if required by Part 152, annually submit to the County the reports required by Section 152.415 and Contractor shall cause each of its covered suborganizations that are covered by Part 152 to annually submit the reports required by Section 152.415 to the Contractor who shall, in turn, submit same to the County for transmittal to the FAA.

- III. The Contractor, for itself, its assignees and successors in interest agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the Contractor or its transferee, for the period during which Federal assistance is extended to the airport program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases, this provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of contractors, this provision binds the contractors from the bid solicitation period through the completion of the contract.
- IV. Contractor shall not discriminate on the basis of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation in the performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate.

EXHIBIT C

**INITIAL ENVIRONMENTAL ASSESSMENT
(ON FILE AT THE OFFICES OF THE AVIATION DEPARTMENT)**

EXHIBIT D
ENVIRONMENTAL DOCUMENTS

Company Name:

Mailing Address:

Street or Post Office Box

City: _____ State: _____ Zip Code: _____

Type of Agreement:

Please describe the activities performed and services provided on leasehold:

Will there be fueling: Yes ___ No ___

Will there be maintenance: Yes ___ No ___

Will there be plane washing: Yes ___ No ___

The Lessee has the following documents, if applicable, which may be requested by the County for review: If not applicable, denote "NA."

1. Best Management Plan, dated _____.
2. Storm water Pollution Prevention Plan, dated _____.
3. Spill Prevention Control and Countermeasures Plan, dated _____.
4. Hazardous Materials Plan, dated _____.
5. Other applicable environmental plans:

Is the Lessee required to file the SARA Title III Reporting? Yes ___ No ___
If Yes, was last filed on (date) _____.

Is the Lessee a generator of hazardous waste pursuant to 40 CFR 261?
Yes ___ No ___.

If Yes, the status is _____ conditionally exempt; _____ small; _____ large quantity
Generator.

If required, reports were filed on (date) _____.

The following environmental licenses and permits (County, State, Federal) are issued to
the Lessee: (These licenses/permits include, but are not limited to, storage tanks,
hazardous material, air, solid waste, hazardous waste, industrial wastewater
pretreatment, and storm water.)

Permit Name/Type	License No.	Date Expires
1. _____		
2. _____		
3. _____		
4. _____		
5. _____		
6. _____		

EXHIBIT E

Prevailing Wage Rates: On November 17, 1983, the Broward County Board of County Commissioners enacted Ordinance No. 83-72 providing that, in all non-federally funded County construction procurement activity of Two Hundred Fifty Thousand Dollars (\$250,000) or more, the rate of wages and fringe benefit payments for all laborers, mechanics, and apprentices shall not be less than those payments for similar skills in classifications of work in like industries as determined by the Secretary of Labor and as published in the Federal Register (latest revision).

Prevailing Wage Rate Ordinance. If the project is not federally funded and if County is funding any portion of the construction project, then if the construction cost is in excess of Two Hundred Fifty Thousand Dollars (\$250,000), the following shall apply:

1. The rate of wages and fringe benefit payments for all laborers, mechanics, and apprentices shall not be less than those payments for similar skills in classifications of work in a like construction industry as determined by the Secretary of Labor and as published in the Federal Register (latest revision).
2. All mechanics, laborers, and apprentices, employed or working directly upon the site of the work shall be paid in accordance with the above-referenced wage rates. Lessee shall post notice of these provisions at the site of the work in a prominent place where it can be easily seen by the workers.
3. If the parties cannot agree on the proper classification of a particular class of laborers or mechanics or apprentices to be used, the Aviation Department shall submit the question, together with its recommendation, to the County Administrator for final determination.
4. In the event it is found by the County that any laborer or mechanic or apprentice employed by Lessee, or any subcontractor directly on the site of the work has been or is being paid at a rate of wages less than the rate of wages required by the ordinance, the County may: (a) by written notice to Lessee terminate its right to proceed with the work or such part of work for which there has been a failure to pay said required wages; and (b) prosecute the work or portion thereof to completion by contract or otherwise. Whereupon, Lessee and its sureties shall be liable to County for any excess costs occasioned to County thereby.
5. Subparagraphs (1) through (4) above shall apply to prime contracts and subcontracts under such prime contracts.
6. Lessee shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve such for a period of three (3) years thereafter for all laborers, mechanics and apprentices working at the site of the work. Such records

shall contain the name and address of each such employee; its current classification; rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefits); daily and weekly number of hours worked; deductions made; and actual wages paid.

7. If County is funding any portion of the work, Lessee shall submit, with each requisition to County for payment, a signed and sworn "Statement of Compliance" attesting to compliance with Broward County Ordinance No. 83-72. The Statement shall be in the form attached as **Exhibit F**.

8. The County may withhold or cause to be withheld from Lessee so much of the payments requisitioned as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, watch persons, and guards employed by Lessee or any subcontractor on the work, the full amount of wages required by this Agreement.

9. If Lessee or any subcontractor fails to pay any laborer, mechanic, or apprentice employed or working on the site of the work all or part of the wages required by this Agreement, the County may, after written notice to Lessee, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

EXHIBIT F

STATEMENT OF COMPLIANCE
(PREVAILING WAGE RATE ORDINANCE NO. 83-72)

No. _____

Contract No. _____

Project Title _____

The undersigned Lessee hereby swears under penalty of perjury that, during the period covered by the application for payment to which this statement is attached, all mechanics, laborers, and apprentices, employed or working on the site of the Project, have been paid at wage rates, and that the wage rates of payments, contributions, or costs for fringe benefits have not been less than those required by Broward County Ordinance No. 83-72 and the applicable conditions of this Agreement.

Dated _____, 20____, _____

Lessee

By _____
(Signature)

By _____
(Name and Title)

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____ who is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal, this ____ day of _____, 20__.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment)
typed, printed or stamped

(Title or rank)

(Serial number, if any)

My commission expires: