

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
CONTRACT FOR SALE AND PURCHASE

THIS AGREEMENT is made this _____ day of _____, 2014, by and between the SELLER and the BUYER as follows:

SELLER: State of Florida, Florida Department of Agriculture and Consumer Services ("SELLER") ("FDACS").

ADDRESS: 407 South Calhoun Street, Room 509
Tallahassee, Florida 32399-0800

BUYER: BROWARD COUNTY, a political subdivision of the State of Florida
Name(s) (as it should appear on the deed)

59-6000531
Federal I.D. or Social Security Number

ADDRESS: 115 South Andrews Avenue, Room 326, Fort Lauderdale, FL 33301

TELEPHONE: 954-357-6815 Real Property Section 954-357-6826
Work Cell-work

1. AGREEMENT TO SELL: For and in consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the SELLER hereby agrees to sell and the BUYER hereby agrees to buy, in accordance with the terms of this Agreement, all that certain real property, together with all the improvements, easements and appurtenances, legally described as:

Property located in Broward County, as more particularly described in Exhibit "A" of this Agreement, which is attached hereto and incorporated herein ("Property").

2. PURCHASE PRICE: The BUYER hereby agrees to purchase the Property for Four Million Two Hundred Seventeen Thousand Five Hundred and NO/100 Dollars (\$4,217,500.00) ("Purchase Price"). The SELLER agrees to credit Five Hundred Four Thousand Six Hundred Twenty Eight and No/100 Dollars (\$504,628.00) ("Credit") towards the Purchase Price, representing the SELLER's advance payment to the BUYER for the SELLER's occupancy and use of the building that is the subject of the Lease, attached hereto as Exhibit "B," and incorporated herein ("Lease"). In return for this Credit, it is agreed that the SELLER shall not pay rent to the BUYER during the first three (3) years of the Lease. This Credit shall be solely applied to the SELLER's rental obligation and shall not be used or applied for any other purpose. The balance of the Purchase Price for the Property in the amount of Three Million Seven Hundred Twelve Thousand Eight Hundred Seventy-Two and NO/100 Dollars (\$3,712,872.00) shall be paid by Certified or Cashier's Check, made payable to the SELLER, or wire transfer, at the time of closing.

3. CLOSING, EXPENSES, AND POSSESSION: This Agreement shall be executed following approval by the SELLER and the BUYER, and the deed delivered after execution by the SELLER. The SELLER will deliver possession of the Property, subject to the Lease, to the BUYER at closing. The following are additional details of closing:

A. Time and Place: The closing will be at a time, date, and location of mutual agreement between the SELLER and the BUYER, within 90 days from the date of execution of this Agreement, and any extension beyond this date shall be upon the mutual written agreement of the parties;

B. Conveyance: At closing, the SELLER will deliver to the BUYER a fully executed quitclaim deed conveying the Property and any improvements, subject to a reservation in favor of the Florida Department of Agriculture and Consumer Services, without right-of-entry, of an undivided three-fourths interest in phosphate, minerals and metals and an undivided one-half interest in all petroleum pursuant to Section 270.11, Florida Statutes.

The form of the Quitclaim Deed shall substantially comply with the form attached hereto as Exhibit "C"; and

C. Expenses: The SELLER shall pay its own costs of closing, including, but not limited to, any appraisals and surveys it orders. The BUYER shall pay its own costs of closing, including, but not limited to, any appraisals and surveys it orders, and the costs of documentary stamp tax on the deed and recording fees. The SELLER may require that the closing be processed by and through a title insurance company officer, or other agent, designated by the BUYER, and in that event the BUYER shall pay any costs charged by such company or agent for this closing service. If the BUYER obtains a survey, nothing contained therein shall affect the Purchase Price or terms of this Agreement.

4. TITLE INSURANCE: It is understood and agreed that the SELLER is not obligated by the terms of this Agreement to provide the BUYER with any evidence of title. Nonetheless, the BUYER reserves the right to secure such evidence of title as is satisfactory to the BUYER and, at the expense of the BUYER, cause an examination of such evidence of title to be performed prior to closing. It is understood and agreed that should such evidence of title or its examination reveal defects or deficiencies in the title to the Property that would render title to the Property unmarketable or uninsurable by a responsible title company at regular rates, then in such event the BUYER shall notify the SELLER of such defects or deficiencies, and the SELLER shall have the option of curing same and closing of this transaction shall be postponed until such deficiencies or defects are cured, but in no event shall closing be postponed for more than sixty (60) days without the written consent of the BUYER. In the event the SELLER elects not to attempt to cure such title defects or deficiencies, then it shall notify the BUYER of such election within ten (10) business days of receipt of notice of such defect or deficiencies; in such event, the BUYER shall have the option of either accepting title as it then is and paying the Purchase Price therefore, or in the alternative, the BUYER shall have the option of declaring this Agreement canceled, in which case each party shall be relieved of any further obligations hereunder.

5. REAL ESTATE TAXES, EASEMENTS, RESTRICTIONS AND ENCUMBRANCES: The BUYER shall pay all outstanding real estate taxes, if applicable. The BUYER shall take title to the Property subject to any special liens or assessments, zoning and other governmental restrictions, plat restrictions and qualifications, public utility easements, restrictive covenants and all other easements, restrictions, reservations or matters of record.

6. WETLANDS: Any wetlands on this Property may be subject to the permitting requirements of the Department of Environmental Protection or the water management district or any other applicable permitting entity.

7. INSPECTIONS AND INVESTIGATIONS: Beginning on the date of execution and for thirty (30) days thereafter (the "Due Diligence Period"), the BUYER, at its sole expense, shall have the right to perform such inspections and investigations on or with respect to the Property, including without limitation, an environmental audit of the Property, as the BUYER shall deem to be reasonably necessary or desirable in order to determine the existence of any facts or conditions with respect to the Property that could adversely affect its suitability for the intended use of the Property, or impose any unintended liability on the BUYER as the owner thereof under any law, and utilities shall be made available by the SELLER during the Due Diligence Period. Such inspections and investigations may address, without limitation, the following matters: (i) the availability of utilities and of permits, licenses, variances, and other governmental approvals necessary for the development and use of the Property; (ii) the physical characteristics of the Property; and (iii) the compliance of the Property with environmental, zoning, subdivision, or other laws. If the BUYER shall reasonably determine, in its sole discretion, that any facts or conditions exist with respect to the Property that renders the Property unsuitable for its intended use or that could impose unintended liability on the BUYER as the owner thereof, then, on or before the expiration of the Due Diligence Period, the BUYER may deliver written notice to the SELLER either: (a) electing to terminate this Agreement with no further liability to either party; or (b) describing the conditions of the Property that renders the Property unsuitable for its intended use, or which can impose unintended liability on the BUYER, in which case, upon receipt of such notice, the SELLER may either (i) elect to terminate this Agreement with no further liability to either party; or (ii) within thirty (30) days of receipt of the BUYER's notice, cure such conditions to the BUYER's reasonable satisfaction.

8. MATTERS PRIOR TO CLOSING:

- a) Access to the Property. At times, as the SELLER and the BUYER may mutually agree prior to the closing, the SELLER shall provide to the BUYER or to its employees, agents, and contractors: (i) reasonable access to the Property and to the books, records, and personnel of the SELLER relating thereto for the purpose of making any surveys, inspections, or investigations; and (ii) such

information regarding the Property as the BUYER or its employees, agents, and contractors may reasonably request.

- b) Maintenance of the Property; Risk of Loss. At all times prior to the closing, the SELLER shall maintain the Property in as good a condition as they are in on the date hereof. Risk of loss of the Property shall remain with the SELLER until delivery of the quit claim deed to the BUYER. If there shall be a material change in the physical condition of the Property between the date hereof and the time of the BUYER's accepting the deed, which is not the fault of the BUYER, the BUYER shall have the option to: (a) terminate this Agreement upon which all parties shall be relieved of liability hereunder, or (b) elect to proceed with this Agreement and pay the full consideration less any deductible amount under the SELLER's insurance policy for the Property, in which event the SELLER shall assign to the PURCHASER any insurance proceeds to which the SELLER may be entitled as a result of the change in condition. To exercise this option, the BUYER shall give written notice to the SELLER prior to the delivery of the quit claim deed or of possession, whichever occurs first. If the BUYER fails to give such written notice, the BUYER shall be conclusively deemed to have chosen option (b).

9. ENVIRONMENTAL CONTAMINATION: In the event that the environmental audit provided for in Article 7 hereof results in a finding that environmental contamination of the Property is present or suspected or a recommendation that a Phase 2 audit be conducted, or if there has been environmental contamination of the Property between the Effective Date (hereinafter defined) and the closing, the BUYER, at its sole option, may: (1) elect to terminate this Agreement without further liability; or, (2) obtain a cost estimate from a reputable licensed environmental consultant as to the cost of cleanup of any environmental contamination and notify the SELLER of the cost estimate in writing, in which event the SELLER shall have the option of:

- (1) reducing the Purchase Price of the Property by the amount of the cost estimate; or
- (2) terminating the Agreement with no further liability on the part of either party.

10. LEASE OF PROPERTY. At closing, the BUYER will lease back the western most portion of the Property to the SELLER for a term of three (3) years, consistent with the terms and conditions of the Lease attached hereto as Exhibit "B." Such Lease shall be effective upon the conveyance of the Property to the BUYER.

11. DEFAULT: If the SELLER refuses to carry out the terms and conditions of this Agreement, then this Agreement may be terminated at the BUYER's election, upon written notice, or the BUYER shall have the right to seek specific performance against the SELLER. In the event the BUYER refuses to carry out the terms and conditions of this Agreement, the SELLER shall have the right to terminate this Agreement or to seek specific performance against the BUYER.

12. SUCCESSORS: Upon execution of this Agreement by the BUYER, this Agreement shall be binding upon and inure to the benefit of the BUYER, its heirs, successors or assigns.

13. RECORDING: Neither this Agreement nor any notice of it may be recorded in any county by any person.

14. ASSIGNMENT: The BUYER shall not assign this Agreement without the prior written consent of the Director of the Division of Administration.

15. TIME OF ESSENCE: Time is of the essence in the performance of this Agreement. In computing time periods of less than six (6) days, Saturdays, Sundays, and state or national legal holidays shall be excluded. Any time periods provided for herein that end on a Saturday, Sunday, or a legal holiday shall extend to 5 p.m. of the next business day.

16. NOTICES: All notices will be in writing and may be delivered by mail, overnight courier, or personal delivery. The parties agree to send all notices to the addresses specified in the introductory clause:

As to SELLER: D. Alan Edwards, Director
Division of Administration
Department of Agriculture and Consumer Services

The Mayo Building
407 South Calhoun Street
Tallahassee, Florida 32399-0800

As to BUYER: Director
Business Administration Division, Port Everglades
Broward County Board of County Commissioners
1850 Eller Drive
Fort Lauderdale, Florida 33316

17. AMENDMENTS: This Agreement contains the entire agreement and all representations of the parties. No amendment will be effective except when reduced to writing and signed by all parties. Notwithstanding the foregoing, the parties acknowledge that the legal description of the Property is based upon historic chain of title information, without the benefit of a current survey. The parties agree that if, in the opinion of the SELLER, it becomes necessary to amend the legal description to correct errors, to more properly describe the Property, or to otherwise revise the legal description of the Property, the legal description to be used in the survey (if any) and in the closing instruments required by this Agreement for the Property shall be revised by or at the direction of the SELLER, and shall be subject to the final approval of the SELLER. Anything to the contrary hereinabove notwithstanding, such a revision of the legal description of the Property shall not require a written amendment to this Agreement. In such event, the SELLER's execution and delivery of the closing instruments containing the revised legal description and the BUYER'S acceptance of said instruments and of the final survey (if any) containing the revised legal description shall constitute a full and complete ratification and acceptance of the revised legal description of the Property by the parties.

18. CONTRACT EFFECTIVE: This Agreement shall not bind the SELLER or the State of Florida in any manner unless or until it is approved by the SELLER and legally executed. This Agreement or any modification, amendment, or alteration thereto, shall not be effective or binding upon any of the parties hereto until it is approved by the Board of County Commissioners of Broward County, Florida ("Board"), and executed by the Mayor or Vice-Mayor of the Board ("Effective Date").

19. ENERGY-EFFICIENT RATING INFORMATION: The BUYER acknowledges receipt of the information brochure required by Section 553.996, F.S.

20. 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 department.

21. BROKER'S COMMISSIONS: The BUYER and the SELLER hereby represent and warrant that each has not dealt with a real estate broker pursuant to the transaction herein, other than NONE, respectively; and the SELLER agrees to hold the BUYER harmless from any claim or demand for commissions made by or on behalf of any broker or agent of the SELLER in connection with this sale and purchase.

22. Third Party Beneficiaries: Neither the BUYER nor the SELLER intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

23. Materiality and Waiver of Breach: The BUYER and the SELLER agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement, and that each is, therefore, a material term hereof. The BUYER's or SELLER's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

24. Compliance with Laws: The parties shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

25. Severance: In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the BUYER or the SELLER elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

26. Jurisdiction; Venue; Waiver of Jury Trial: This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, THE BUYER AND THE SELLER HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

27. Further Assurances: Each party agrees that it will, without further consideration, execute and deliver such other documents and take such other action, whether prior or subsequent to closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement. Without limiting the generality of the foregoing, the SELLER shall, if requested by the BUYER, execute acknowledgments of receipt with respect to any materials delivered by the BUYER to the SELLER with respect to the Property.

28. Joint Preparation: Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

29. Prior Agreements: This document represents the final and complete understanding of the parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

30. Multiple Originals: Multiple copies of this Agreement may be executed by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

[THE REAMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates: 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 the STATE OF FLORIDA, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.

BUYER

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 _____, 20____

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By  6/13/14

Carlos Rodriguez-Cabarrocas (Date)
Assistant County Attorney

By  6/13/14

Noel M. Pfeffer (Date)
Deputy County Attorney

CRC:dmv
06/10/14
port everglades contract for sale and purchase (revised)
14-089.32

SELLER

STATE OF FLORIDA, FLORIDA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES

Witness as to SELLER

D. ALAN EDWARDS, Director
Division of Administration

Witness as to SELLER

Date Signed by SELLER

EXHIBIT A TO CONTRACT FOR SALE AND PURCHASE

LEGAL DESCRIPTION OF THE PROPERTY

A portion of the East $\frac{1}{2}$ of the SE $\frac{1}{4}$ of Section 23, Township 50 South, Range 42 East, more particularly described as follows: From the Northeast corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 23, Southwardly along the East line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, 297.45 feet to the point of beginning; thence continuing Southwardly along the East line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, 435.05 feet; thence Westwardly parallel with the North line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, 588.16 feet; thence Northwardly parallel with the West line of the East $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, 434.99 feet; thence Eastwardly parallel with the North line of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 23, 586.42 feet to the point of beginning (containing 5.87 acres, more or less).

The eastern portion of the property has been replatted and is also known as:

Parcel "A", of SOUTH EAST FLORIDA MARINE MAINTENANCE SHOP, According to the Plat thereof, recorded in Plat Book 105, Page 4 of the Public Records of Broward County, Florida.

Property Appraiser Tax Folio Numbers are:

5042-23-00-0673 Western portion

5042-23-12-0010 Eastern portion

LEASE AGREEMENT
BETWEEN
BROWARD COUNTY
AND
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

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LEASE AGREEMENT

This Lease Agreement ("Agreement") made and entered into by and between:

BROWARD COUNTY,
a political subdivision of the state of Florida,
acting by and through its Board of County Commissioners
(hereinafter called the "LESSOR"),

and

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES,
an agency of the state of Florida,
(hereinafter called the "LESSEE"),

WITNESSETH:

WHEREAS, LESSOR owns and has jurisdiction over the development, operation and maintenance of Port Everglades in the County of Broward; and

WHEREAS, LESSOR and LESSEE desire to enter into this Agreement with respect to the Premises hereinafter described,

NOW, THEREFORE, in consideration of the mutual premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. PREMISES

A. DEFINED

LESSOR does hereby lease to LESSEE and LESSEE hereby agrees to take occupancy from LESSOR on the terms and conditions hereinafter set forth certain real property comprised of 9,791 square foot building with related improvements, located on a

155,509 square foot west parcel at Port Everglades, Broward County, Florida and more particularly described on Exhibit "A" attached hereto and made a part hereof, hereinafter referred to as the ("Premises").

B. CONDITION OF PREMISES

LESSOR makes no representations or warranties whatsoever as to: (i) the condition of the Premises; or (ii) whether the Premises are in compliance with applicable federal, state, and local laws, ordinances, rules, or regulations. The Premises are hereby demised in "**AS IS CONDITION**" and "**WITH ALL FAULTS.**" LESSEE represents, acknowledges and agrees that it has had sufficient opportunity to inspect the Premises and hereby accepts the Premises in "**AS IS CONDITION**" and "**WITH ALL FAULTS.**" LESSEE hereby releases LESSOR from any and all known claims and liabilities on account of the condition of the Premises and the improvements thereon, or any failure of any of the component parts to be in good or working order as of the Commencement Date

2. TERM AND COMMENCEMENT DATE

The term of this Agreement shall commence on the date of closing of the purchase and sale agreement between the parties for the 5.87 acres commonly known as the FDACS Petroleum Lab at Port Everglades, Florida, and continue for a period of three (3) years thereafter ("Lease Term"), unless sooner terminated as herein provided. It is agreed and understood that any occupancy by LESSEE after the expiration of this Agreement shall not renew and extend same, but shall operate and be construed as a tenancy from month to month. Following the Lease Term, LESSEE agrees to pay to LESSOR annual rental in the amount of Seventeen Dollars and Eighteen Cents (\$17.18 per square foot) for

the 9,791 square foot building, per calendar year. The above month to month tenancy shall not exceed twenty-four (24) months from the expiration of the Lease Term.

3. RENTAL, FEES AND CHARGES

The parties hereto acknowledge and agree that all of LESSEE's annual rental obligations for the three (3) year Lease Term totaling Five Hundred Four Thousand Six Hundred Twenty-eight Dollars (\$504,628.00), inclusive of all applicable sales taxes, for the Premises have been paid in full.

4. TAXES

A. Nothing herein shall prevent LESSEE from challenging any assessment or any tax to the same extent and in the same manner as may any other property owner or resident of Broward County.

Throughout the Lease Term hereunder, LESSEE agrees to pay all applicable taxes levied and assessed upon the Premises including all improvements thereon, together with all applicable special assessments of any kind levied and assessed against the Premises and improvements thereon. Further, LESSEE agrees to pay when due and before the same becomes delinquent, all personal property taxes, which may be levied and assessed against all tangible personal property situated on the Premises and subject to taxation, or against LESSEE's intangible personal property subject to taxation in Broward County, Florida. Notwithstanding any provision of this Agreement to the contrary, **NO** obligation, which accrued but has not been satisfied under any prior agreements between the parties, shall terminate or be considered canceled upon the execution of this Agreement. Rather,

such obligation shall continue as if it had accrued under this Agreement until the obligation is satisfied.

B. The parties hereto acknowledge and agree that there are no prior agreements between them for the use and occupancy of the Premises at Port Everglades, Florida.

C. The provisions of this Article shall survive the termination or expiration of this Lease.

5. USE; COMPLIANCE WITH LAWS; FAILURE TO COMPLY

A. USE

The Premises shall be used solely for the operation of the FDACS Petroleum Lab and related parking, and for no other use or purpose, without the prior written consent of the Port Everglades Department of Broward County by its duly authorized representative (the "Port Everglades Chief Executive").

Under no circumstances shall LESSEE allow or permit others to use any portion of the Premises in competition with any business conducted by LESSOR.

LESSEE shall conduct its operations in an orderly and commercially reasonable manner considering the nature of its operations. LESSEE shall not deviate from its current operations and shall not unreasonably annoy, disturb (whether via vibrations, noise or otherwise), endanger or be offensive to others at Port Everglades. LESSEE shall commit no waste or injury on or about the Premises and shall not do or permit to be done anything, which may result in the creation or commission or maintenance of such waste or injury on the Premises. LESSEE shall use and maintain the Premises in such manner so as to

avoid the creation of any nuisance from obnoxious odors, smoke, noxious gases, vapors, dust, noise or otherwise, and LESSEE shall not keep or store any explosives on the Premises.

It is understood that LESSEE will not conduct any welding or burning on the Premises until it has obtained all required permits from LESSOR, City of Hollywood, and the U.S. Coast Guard. LESSOR agrees that it will not unreasonably withhold issuance of any welding or burning permits required by LESSOR.

Should LESSEE fail to comply with the prohibitions or nuisance restrictions provided hereinabove, then LESSOR shall provide LESSEE with written notice of such non-compliance, and the opportunity to abate, correct and cure same within a reasonable time period, not exceeding thirty (30) calendar days of the date notice is sent. If the non-compliant matter is not cured within this time period, then LESSOR shall have the right to stop all LESSEE's operations on the Premises until the cause(s) or non-compliant matters are eliminated to LESSOR's satisfaction-

B. COMPLIANCE WITH LAWS

LESSEE, in its use, occupation, alteration and/or construction of the Premises and in the use of property or facilities and services at Port Everglades, shall, at its sole expense, comply with and be governed by all applicable laws, ordinances, rules, regulations and directives of the federal, state, county and municipal governmental units or agencies having jurisdiction over the Premises and the business being conducted thereon, including, compliance with Section 255.20 Florida Statutes by competitively awarding any construction work required hereunder, the Americans with Disabilities Act of 1990 ("ADA")

and LESSOR's published Tariff No. 12, amendments thereto and reissues thereof. Within fifteen (15) calendar days after receipt by either party of a notice of noncompliance, or of a regulatory investigation or enforcement action relating to such noncompliance, the receiving party shall advise the other party in writing and provide copies of same.

C. USE OR COMPLIANCE VIOLATION

Should LESSEE fail to comply with the provisions of Subsection B, hereinabove, then LESSOR shall provide LESSEE with written notice of such violation, and LESSEE shall correct and cure same within a reasonable time period not exceeding thirty (30) calendar days of the date notice is sent.

6. LESSEE'S OBLIGATIONS

LESSEE shall, at its expense:

A. Observe and obey, and require its employees, guests, invitees and those doing business with it, to observe and obey such reasonable rules and regulations of Broward County (including amendments and supplements thereto) governing the conduct and operations of LESSEE and others on the Premises as may from time to time be promulgated.

B. Pay all license and permit fees and charges for the conduct of any business on the Premises before such amounts become delinquent.

C. Not cause or permit any welding or burning on the Premises until all required permits have been obtained from LESSOR and the United States Coast Guard.

D. Provide LESSOR with immediate notice of any and all spills, leaks or discharges of any size whatsoever of Pollutants (as defined in Article 23.A. hereof) arising

from its operations on the Premises or in Port Everglades, and further provide LESSOR with not less than one (1) business day prior notice of all curative measures, remediation efforts and/or monitoring activities to be effected.

E. As required by law, provide the relevant regulatory authorities with notice of spills, leaks or discharges of Pollutants on the Premises or in Port Everglades, and have an updated contingency plan in effect for such discharges.

F. Provide LESSOR the right to inspect all documents relating in any way to the Premises and all activities thereon, including, but not limited to, writings regarding environmental issues, remediation efforts, etc. (such as manifests evidencing proper transportation and disposal of Pollutants, site assessments, sampling and test results, etc.).

7. ASSIGNMENT; SUBLETTING; SUBORDINATION

LESSEE shall not (i) sublet the Premises or any part thereof; or (ii) permit any transfer, assignment, pledge or encumbrance of any sublease; or (iii) transfer, assign, pledge, or otherwise encumber or subordinate this Agreement, and/or obligations hereunder.

8. ALTERATIONS; FIXTURES; IMPROVEMENTS AND REQUIRED APPROVALS

A. GENERAL

The parties hereto as of the date this Agreement is executed by LESSOR do not contemplate the need or requirement for LESSEE to commence construction of improvements on the Premises. Consequently, LESSEE shall make no improvements to the Premises. In the event any such action is taken or made without said prior written

consent being given, then, upon notice in writing so to do, LESSEE shall remove same to Port Everglades Department's satisfaction.

B. TITLE TO IMPROVEMENTS AND FIXTURES; REMOVAL

All fixtures, structures, facilities, pavements and other permanent improvements, and any additions and alterations made to the Premises (including those that are nailed, bolted, stapled, or otherwise affixed to the Premises) by LESSEE, or at LESSEE's direction, shall be and remain LESSEE's property until the termination of this Agreement (whether by expiration or otherwise), at which time said improvements shall become LESSOR's property and shall be surrendered with and remain on the Premises.

C. LESSOR'S REPAIR OBLIGATIONS

None required.

9. MAINTENANCE AND REPAIR OF PREMISES

A. LESSEE'S RESPONSIBILITY

As provided in Article 1.B. hereof, LESSEE hereby accepts the Premises in its present condition subject to LESSOR's repair obligations and agrees to maintain the Premises in the same condition except for reasonable wear and tear. LESSEE shall throughout this Lease Term assume the entire responsibility and shall relieve LESSOR from responsibility for all repair and maintenance whatsoever on the Premises (which shall include, without limitation all improvements thereon), whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. LESSEE shall be required to keep the Premises in good, tenantable, useable condition throughout this Lease Term, and without limiting the generality thereof, shall:

1) Maintain the Premises in a safe and neat manner, free from garbage, debris or other unsightly or unsanitary waste matter (whether solid or liquid). Any of such garbage, debris or other waste matter as may be temporarily stored in the open shall be kept in suitable garbage and waste receptacles. LESSEE shall use extreme care when effecting removal of all such waste matter and shall comply with all applicable laws, ordinances, rules, regulations, and procedures of all applicable governmental authorities in so doing.

2) Maintain the Premises in a clean, orderly and safe condition so as to avoid injury to persons and property.

3) Repair any damage to the paving or other surface of the Premises caused by settlement, overloading, or by any oil, gasoline, grease, lubricants or other liquids or substances having a corrosive or detrimental effect thereon.

4) 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 applicable law, rule, order, ordinance, resolution or regulation of any applicable governmental authority.

5) Repair all damage to the Premises (including, but not limited to, any fencing, gates, lighting or pavement) within thirty (30) calendar days, which is the result of any act, omission, negligence or misconduct on the part of LESSEE, its employees, agents, contractors or invitees.

In the event LESSEE fails in any material respect (i) to commence so to maintain, clean, repair, replace, rebuild or paint within a period of thirty (30) calendar days after

notice from LESSOR to do so is given; or (ii) to continue to completion in a diligent manner the maintenance, repair, replacement, rebuilding or painting of the Premises required to be maintained, repaired, replaced, rebuilt or painted under the terms of this Agreement, then the Port Everglades Department may, at its option, maintain, repair, replace, rebuild or paint all or any part of the Premises included in the said notice and the cost thereof shall be payable by LESSEE within fifteen (15) calendar days after written demand therefor is sent.

B. LESSOR'S RESPONSIBILITY

LESSOR, at its sole expense, shall maintain and repair all underground utilities, which now or may be subsequently located at the Premises provided, however, that for repairs necessitated by any act, omission, negligence, or misconduct on the part of LESSEE, its employees, agents, contractors or invitees, LESSEE, at LESSOR's option, shall make all such repairs or reimburse LESSOR within fifteen (15) calendar days after written demand therefor is sent.

10. INGRESS AND EGRESS

LESSEE, its invitees, licensees, agents, guests, contractors, suppliers of material and furnishers of services, shall have the right of ingress and egress via appropriate public ways to be used in common with others having rights of passage within Port Everglades, provided that LESSOR may, from time to time, substitute other suitable means (considering LESSEE's business operations) of ingress and egress.

LESSOR may at any time temporarily or permanently close or consent to or request the closing of any such roadway and or other area at Port Everglades presently or

hereafter used as such, so long as an alternate adequate means of ingress and egress is made available to the Premises (considering LESSEE's business operations). LESSEE hereby releases and discharges LESSOR, its successors and assigns, of and from any and all claims, demands or causes of action, which 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 or other area used as such, whether within or outside Port Everglades, provided that LESSOR makes available to the Premises an adequate means of ingress and egress (considering LESSEE's business operations).

11. EASEMENT(S)

LESSOR reserves the right to maintain such easements on the Premises as may now or in the future be determined to be necessary to serve the needs of Port Everglades, and LESSEE agrees to take the Premises subject to said easement requirements. Such easements will be used for, among other things, ingress and egress for other Port users, the installation of water distribution, sewage collection, underground electrical and telephone conduits, above ground street lighting and power poles. However, it is understood and agreed that LESSOR will restore any improvements, which LESSEE has made, if such improvements are damaged by any installation made by LESSOR. Furthermore, LESSOR take reasonable steps to insure that any such installation be the least disruptive to LESSEE's operations.

12. SIGNAGE

A. PRIOR CONSENT

LESSEE will not place, suffer to be placed, or maintain on the Premises any new sign, awning, canopy, or advertising matter without prior written consent of the Port Everglades Chief Executive, which consent shall not be unreasonably withheld. If such consent is granted by the Port Everglades Chief Executive, LESSEE shall maintain such item(s) in good condition at all times.

B. REMOVAL OF SIGNS

Upon the expiration or termination of this Agreement, LESSEE shall remove, obliterate or paint out, as the Port Everglades Chief Executive may direct, any and all signs on the Premises and, in connection therewith, shall restore the portion of the Premises affected by such signs to the same condition as the same existed prior to the placing thereon of such signs. In the event of a failure on the part of LESSEE to so remove, obliterate or paint out each and every sign and to so restore the Premises, the Port Everglades Department may perform the necessary work and LESSEE shall pay the actual costs of the work to LESSOR within fifteen (15) calendar days after written demand therefor is sent.

13. PARKING

LESSEE's use of parking spaces(s) in Port Everglades shall be subject to and in accordance with LESSOR's traffic and parking regulations set forth in Section 23-29, et seq., Broward County Code, Port Tariff No. 12, amendments thereto or reissues thereof.

LESSEE shall be responsible for maintaining adequate parking facilities on the Premises to include, but not be limited to, its employees, operators and invitees.

14. UTILITIES

A. GENERALLY

LESSOR shall provide water distribution and sanitary sewer collection infrastructure to the Premises. LESSEE shall coordinate with Port Everglades Department of Broward County to obtain electric service respectively to facilities constructed or placed upon the Premises by LESSEE. No failure, delay or interruption in supplying electric services or other utilities shall be construed as an eviction of LESSEE, or a ground for any abatement of payments required to be made hereunder or claims by LESSEE against LESSOR for damages.

B. ELECTRICITY

LESSEE shall make arrangements directly with the utility company for electric services to the Premises within thirty (30) days following its occupancy of the Premises, and shall pay said company directly for all charges, including applicable Florida sales tax, associated with electricity provided to the Premises.

C. WATER

LESSEE shall make arrangements directly with the utility company for water services to the Premises within thirty (30) days following its occupancy of the Premises, and shall pay said company directly for all charges, including applicable Florida sales tax, associated with water provided to the Premises.

15. SECURITY

LESSEE and LESSOR acknowledge that security measures at Port Everglades will be increased and that such efforts will likely impact LESSEE. In this regard, LESSEE agrees to cooperate with LESSOR's efforts to increase security and agrees to comply with all federal, state and local security rules and regulations (whether imposed by the United States Customs and Border Protection, the United States Coast Guard, U.S. Department of Homeland Security, state of Florida, or LESSOR). Furthermore, LESSEE, at its sole cost, shall be responsible for complying with all federal, state and local security-related measures that impact the Premises, LESSEE and/or its employees, representatives and guests, including, but not limited to, all requirements for the Federal Transportation Worker Identification Credential ("TWIC").

16. RIGHT TO ENTER TO INSPECT, REPAIR AND EXHIBIT

A. INSPECTION

LESSOR, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times to enter upon the Premises for the purpose of inspecting the same, for observing the performance by LESSEE of its obligations under this Agreement and for the doing of any act or thing which LESSOR may be obligated or have the right to do under this Agreement or otherwise.

B. REPAIR

Without limiting the generality of the foregoing, LESSOR, by its officers, employees, agents, representatives, contractors and furnishers of utilities and other services, shall have the right, at its own cost and expense, for its own benefit or for the benefit of others at

Port Everglades, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Premises at all reasonable times to make such repairs, replacements or alterations thereto as may, in the opinion of LESSOR, be deemed necessary or advisable and from time to time to construct or install over, in or under the Premises such systems or parts thereof and in connection with such maintenance to use the Premises for access to other parts of Port Everglades otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, repair, alteration or new construction LESSOR shall not unreasonably interfere with the actual use and occupancy of the Premises by LESSEE.

C. REMOVAL OF OBSTRUCTIONS

In the event that any personal property of LESSEE shall obstruct the access of LESSOR, its officers, employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, LESSEE shall move such property, as directed by LESSOR, in order that access may be had to the system or part thereof for its inspection, maintenance or repair, and if LESSEE shall fail to so remove such property after direction from LESSOR to do so, LESSOR may move it and LESSEE hereby agrees to pay LESSOR's costs of such moving upon demand.

D. NO EVICTION CONSTRUED

The exercise of any or all of the foregoing rights by LESSOR or others shall not be or be construed to be an eviction of LESSEE nor be made the grounds for any abatement of payments nor any claim or demand for damages, consequential or otherwise.

17. SURRENDER AND ACCEPTANCE; REMOVAL OF PROPERTY

A. SURRENDER

LESSEE covenants and agrees to promptly yield and deliver peaceably to LESSOR, at the conclusion of the Lease Term or as otherwise provided herein, the Premises or portion thereof as applicable in the same condition as received by LESSEE at the commencement date with reasonable wear and tear excepted.

B. ACCEPTANCE OF SURRENDER

No agreement of surrender or to accept a surrender of this Agreement shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representatives of LESSOR and of LESSEE in a document of equal dignity and formality herewith. Except as expressly provided in this Agreement, neither the doing of nor any omission to do any act or thing by any of the officers, agents or employees of LESSOR shall be deemed an acceptance of a surrender.

C. REMOVAL OF PROPERTY

LESSEE shall have the right at any time during the Lease Term to remove its inventories and other personal property from the Premises. If LESSEE fails to remove its personal property by the termination or expiration date of this Agreement or as otherwise required herein, then such personal property shall become property of the LESSOR.

The provisions of this Article shall survive the termination or expiration of this Agreement.

18. INDEMNITY

LESSEE and LESSOR are state agencies or political subdivisions of the state of

Florida as defined in Chapter 768.28, Florida Statutes, and each shall be fully responsible for the acts and omissions of its agents, contractors, or employees in the performance of its obligations under this Agreement, to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the state of Florida to be sued by third parties, in any matter, arising out of this Agreement or any other contract. LESSEE and LESSOR shall furnish to each other with written verification of liability protection in accordance with state law upon request. LESSEE shall require its subcontractors to name "Broward County" as an additional insured on any general liability policy coverage.

19. INSURANCE

The LESSEE is self-insured. LESSEE shall require its subcontractors to provide minimum limits of coverage as designated in Exhibit "B" and name "Broward County" as an additional insured on any general liability policy coverage. The minimum limits of insurance required by LESSEE's subcontractors shall be approved by LESSOR and may be adjusted if LESSOR determines that such adjustments are necessary to protect LESSOR's interest.

20. ENVIRONMENTAL IMPAIRMENT; CONTAINMENT AND REMOVAL

A. LESSEE acknowledges and agrees that LESSOR makes no representations or warranties whatsoever as to whether Pollutants (as hereinafter defined) exist on or in the Premises or the improvements in violation of any federal, state or local law, rule or regulation or in violation of any order or directive of any federal, state or local court or entity with jurisdiction of such matter. "Pollutants" refer to and include all derivatives or by-

products of any one or more of the following terms as defined by applicable local, state or federal laws or regulations: hazardous substances, hazardous materials, hazardous waste, toxic substances, toxic pollutants; or such other pollutants, contaminants, substances, materials and wastes as are or become regulated under applicable local, state or federal laws or regulations. LESSEE acknowledges, represents and warrants to LESSOR that it has made or will make sufficient inspection of the Premises and the improvements to satisfy itself as to the presence or absence of any such Pollutants. LESSOR shall have no liability for any pre-existing environmental impairments, liabilities or conditions or any other environmental impairments or liabilities or conditions, not caused by LESSOR, its agents, employees or invitees. LESSEE shall have no liability for any pre-existing environmental impairment, liabilities or conditions or any other environmental impairments or liabilities or conditions not caused by the LESSEE, its agents, employees or invitees. LESSEE shall not be liable for any migration of Pollutants and/or rise in the level of any Pollutants on the Premises as a result of any migration of Pollutants and/or rise in the level of the Pollutants on the Premises as a result of any migration on or under the Premises, which were not caused by the LESSEE, its agents, employees or invitees. The LESSEE shall only be liable for the release of Pollutants during the term of this Agreement, caused by LESSEE, its agents, employees or invitees.

B. The discharge of any Pollutants on the Premises or in Port Everglades in violation of any federal, state or local law, rule or regulation or in violation of an order or directive of any federal, state, or local court or entity is prohibited. Any such discharge by LESSEE, its sublessees, or any of their officers, employees, contractors, subcontractors,

invitees, or agents, whether committed prior to or subsequent to the date of execution of this Agreement, shall be, at LESSEE's expense, and upon LESSOR's demand, immediately contained, removed and abated to the satisfaction of LESSOR and any court or regulatory entity having jurisdiction of the discharge. If LESSEE does not take action immediately to have such Pollutants contained, removed and abated, LESSOR may undertake the removal of the discharge; however, any such action by LESSOR shall not relieve LESSEE of its obligations under this or any other provision of this Agreement or as imposed by law. No action taken by either LESSEE or LESSOR to contain or remove Pollutants, or to abate a discharge, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its discharge.

C. If LESSOR arranges for the removal of any Pollutants in Port Everglades that were caused by LESSEE, its sublessees, or any of their officers, employees, contractors, subcontractors, invitees, or agents, the costs of such removal incurred by LESSOR shall be paid by LESSEE to LESSOR immediately upon LESSOR's written demand, with interest as is provided for under LESSOR's rules, regulations and ordinances, including its published Tariff No. 12, amendments thereto and reissues thereof.

D. LESSEE shall not be liable for the discharge of any Pollutants caused by the negligence or willful misconduct of the LESSOR. Nothing herein shall relieve LESSEE of its general duty to cooperate with LESSOR in ascertaining the source and, containing, removing and abating any Pollutants at the Premises. LESSOR, its employees, contractors, and agents, shall have the right at all times to enter the Premises for the

purposes of the foregoing activities and/or conducting such environmental inspections, audits, testing or sampling as it deems appropriate. In addition, LESSEE hereby agrees that at anytime during the term, LESSOR shall have the right to have a "Phase I" audit of the Premises conducted at LESSOR 's expense, and if such "Phase I" audit indicates that further testing and/or studies should be conducted, to include but not be limited to soil samples and water samples, then LESSOR shall have the right to have such further testing and studies conducted at LESSOR 's expense.

E. In the event LESSOR shall arrange for the removal of Pollutants on the Premises that are not LESSEE's responsibility to correct, and if LESSOR's remediation activities prevent LESSEE from using the Premises for its intended purposes, then from the date that the use of any portion of the Premises for its intended purposes is precluded and until said portion again becomes available for LESSEE's use, compensation shall be abated based on the rate applicable to that pro rata portion of the Premises so taken. In no event shall LESSEE be entitled to any amount on account of lost profits, lost rentals, or other damages as a result of LESSOR's remediation activities.

F. The provisions of this Article shall survive the expiration or termination of this Agreement.

21. DEFAULT; TERMINATION

A. TERMINATION AFTER NOTICE

If any one or more of the following Triggering Events defined in Section B. below shall occur, or at any time thereafter during the continuance of such event, same shall be an event of default under this Agreement and LESSOR may, at its option, terminate the

rights of LESSEE hereunder by giving thirty (30) calendar days written notice thereof, which termination shall be effective upon the date specified in such notice, and/or LESSOR may exercise any and all other remedies available to LESSOR hereunder or at law or in equity.

B. TRIGGERING EVENTS

Any one or more of the following events shall constitute a Triggering Event:

- 1) LESSEE shall voluntarily abandon, desert or vacate the Premises for a period of thirty (30) consecutive calendar days; or
- 2) Any lien, claim or other encumbrance, which is filed against the Premises, is not removed or if LESSOR is not adequately secured by bond or otherwise, within thirty (30) calendar days after LESSEE has received notice thereof; or
- 3) LESSEE shall fail to make a payment required hereunder when due to LESSOR and shall continue in its failure to make any such other payment required hereunder, for a period of fifteen (15) calendar days following the date written notice to cure non-payment is given; or
- 4) LESSEE shall fail to keep, perform and observe each and every promise, covenant and term set forth in this Agreement on its part to be kept, performed or observed within thirty (30) calendar days after notice to cure default is sent by LESSOR (except where fulfillment of its obligation requires activity over a greater period of time and LESSEE shall have commenced to perform whatever may be required for fulfillment within thirty (30) calendar days after notice is sent

and continues such performance without interruption); or

5) By or pursuant to, 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 shall take possession or control of all or substantially all of the property of LESSEE, and such possession or control shall continue in effect for a period of thirty (30) calendar days.

C. Then upon the occurrence of any event set forth in B., above, at any time during the Lease Term, LESSOR may seek specific performance against the LESSEE by giving written notice thereof. Upon the occurrence of any event set forth in B., above during LESSEE's month to month tenancy, LESSOR may, at its option, immediately terminate this Agreement or seek specific performance against the LESSEE, and all rights of LESSEE hereunder by giving written notice thereof, which termination shall be effective upon the date specified in such notice and/or LESSOR may exercise any and all other remedies available to LESSOR hereunder or at law or in equity.

In the event of any such termination, LESSEE and its sublessee(s) shall immediately quit and surrender the Premises to LESSOR and shall cease operations at Port Everglades. Any such termination shall be 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

D. NO WAIVER

No waiver by LESSOR of any default on the part of LESSEE in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by LESSEE

shall be or be construed to be a waiver by LESSOR of any other or subsequent default in performance of any of the said terms, covenants and conditions.

22. DAMAGE BY CASUALTY

If the Premises are damaged by casualty not caused by an act attributable to LESSEE or LESSOR, and thereby become untenable, LESSOR may elect to repair within ninety (90) calendar days. If LESSOR does not elect to repair, LESSEE shall make the required repairs and request the applicable insurance proceeds be released as required to make timely payments for such needed repairs. If the Premises are not repaired within ninety (90) calendar days and remain untenable, either party may cancel this Agreement and compensation shall be charged only to the date the Premises became untenable.

It is expressly agreed and understood that LESSOR shall not be liable for any damage or injury by water, which may be sustained by LESSEE or any other person or for any other damage or injury resulting from carelessness, negligence or improper conduct on the part of any other party in Port Everglades from breakage, leakage or obstruction of water, sewer or soil pipes or other leakage in or about the Premises.

23. NOTICES

Any notices required by this Agreement or by law shall be given in writing and shall be sent by registered or certified mail by depositing the same in the United States Mail in the continental United States, postage prepaid, or by hand delivery or by overnight courier. Any such notice mailed as provided hereunder, shall be deemed effective and served as of the date of the mailing. Any notice given by hand-delivery or overnight courier shall be

deemed effective and served as of the date of delivery. Either party shall have the right, by giving written notice to the other, to change the address as which its notice(s) are to be mailed or delivered. Until any such change is made, notice(s) shall be mailed or delivered to:

LESSOR: Broward County, Port Everglades Department
ATTN: Port Everglades Chief Executive
1850 Eller Drive
Fort Lauderdale, Florida 33316

With a copy to:
County Administrator
Governmental Center
115 S. Andrews Avenue
Fort Lauderdale, Florida 33301

LESSEE: Florida Department of Agriculture and Consumer Services
The Mayo Building
407 South Calhoun Street
Tallahassee, Florida 32399-0800
ATTN: D. Alan Edwards, Director of Administration

24. INSOLVENCY

If LESSEE becomes insolvent or bankruptcy proceedings are begun by or against LESSEE, and within thirty (30) days thereof LESSEE fails to secure a discharge thereof, or if LESSEE should make an assignment for the benefit of creditors before the end of the term of this Agreement, LESSOR is hereby irrevocably authorized, at its option, to forthwith cancel this Agreement as for a default. LESSOR may elect to accept rent and other required compensation from the receiver, trustee or other judicial officer during the term of their occupancy in their fiduciary capacity without affecting LESSOR's rights under this Agreement, but no receiver, trustee or other judicial officer shall have any right, title or interest in the Premises.

25. NON-LIABILITY OF INDIVIDUALS

No commissioner, director, officer, agent or employee of LESSOR shall be charged personally or held contractually liable by or to LESSEE under any term or provisions of this Agreement or of any supplement, modification or amendment to this Agreement or because of any breach thereof, or because of its or their execution or attempted execution.

26. COOPERATION AMONG PARTIES

A. LESSEE acknowledges that LESSOR will be seeking regulatory approvals (collectively, "Regulatory Approvals") consistent with its Airport Master Plan and subsequent updates (collectively, "Master Plan") and FAA Record of Decision and subsequent updates (collectively, "ROD"), and Part 150 Study, and subsequent updates (collectively, "Part 150 Study"), and the implementation thereof, which may include the following: (1) amendment of development agreements and orders; (2) agreements with the state of Florida and other agencies; (3) land use and zoning amendments; (4) preparation of environmental assessments and environmental impact statements; (5) such permitting as may be required by federal, state, county or local regulations; and (6) 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 the Master Plan, the ROD, and the Part 150 Study.

LESSEE agrees to cooperate with LESSOR in connection with LESSOR's efforts to obtain the Regulatory Approvals. From and after the date of execution of this Agreement, LESSEE covenants and agrees (i) to support the LESSOR's efforts to obtain the Regulatory Approvals; and (ii) to execute any documents(s) or instrument(s) reasonably

requested by LESSOR in order to assist LESSOR 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 the LESSOR.

B. LESSOR agrees to cooperate with LESSEE as may be reasonably required in order to assist LESSEE in its design and construction obligations as provided herein. LESSOR in providing such cooperation, shall not be required to bear any expenses.

27. MISCELLANEOUS

A. TIME OF ESSENCE

It is understood and agreed between the parties hereto, that time is of the essence with respect to this Agreement and shall apply to all terms and conditions contained herein.

B. INDEPENDENT CONTRACTOR/RELATIONSHIP OF PARTIES

LESSEE is an independent contractor under this Agreement. Services provided by LESSEE pursuant to this Agreement shall be subject to the supervision of LESSEE. In providing such services, neither LESSEE nor its agents shall act as officers, employees, or agents of the LESSOR. This Agreement shall not constitute or make the parties a partnership or joint venture.

C. LESSEE'S WAIVER OF CLAIMS

LESSEE hereby waives any claim against LESSOR, and its officers, or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable, or delaying the same or any part thereof, from being carried out.

D. AMENDMENTS

No modifications, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same formality and of equal dignity as this Agreement and executed by the LESSOR and LESSEE.

E. MATERIALITY AND WAIVER OF BREACH

LESSOR and LESSEE agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. LESSOR's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

F. EXECUTION AUTHORITY

The individuals executing this Agreement on behalf of LESSOR and LESSEE personally warrant that they have full authority to execute this Agreement on behalf of the party for whom they are acting herein.

G. CAPTIONS, HEADINGS, AND TERMS

The article, section 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. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence,

paragraph, section or article where they appear, unless the context otherwise requires. Whenever reference is made to an article of this Agreement, such reference is to the article as a whole, including all of the subsections and subparagraphs of such article, unless the reference is made to a particular subsection or subparagraph of such article. Caption, section and article headings used in this Agreement are for the convenience of reference of the parties and shall not be deemed to define, limit or in any way affect the meaning of any provisions of this Agreement.

H. GENDER

All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires.

I. INCORPORATION BY REFERENCE

The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. All attached exhibits are incorporated into and made a part of this Agreement.

J. SEVERABILITY

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless LESSOR or LESSEE elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

K. PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision or any exhibit attached hereto, any document or events 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 28 of this Agreement shall prevail and be given effect.

L. SUCCESSORS AND ASSIGNS BOUND

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto where permitted by this Agreement.

M. AGENT FOR SERVICE OF PROCESS

It is expressly understood and agreed that both Parties to this agreement shall be for the purpose of service of process in any court action arising out of or based upon this Agreement that service shall be made as provided by the laws of the state of Florida for service upon a Florida public government entity.

N. CUMULATIVE RIGHTS

All rights and remedies of LESSOR and LESSEE hereunder or at law or in equity are cumulative and shall be in addition to any other rights and remedies available. The exercise of any right or remedy shall not be taken to exclude or waive the right to the exercise of any other. Failure by LESSOR or LESSEE to promptly exercise any of their respective rights shall not operate to forfeit or be treated as a waiver of any such rights.

O. SPECIFIC PERFORMANCE

LESSOR and LESSEE agree that their respective obligations contained herein shall

be subject to the remedy of specific performance by appropriate action commenced in a court of proper jurisdiction.

P. JOINT PREPARATION

The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

Q. APPLICABLE LAW AND VENUE; WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the state of Florida. **TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION THAT MAY ARISE HEREUNDER, EACH PARTY HEREBY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY SUCH LITIGATION.**

R. UNCONTROLLABLE FORCES

Neither LESSOR nor LESSEE shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of

which, by the exercise of reasonable diligence, the non-performing party could not avoid. The term "Uncontrollable Forces" shall mean any event, which results in the prevention or delay of performance by a party of its obligations under this Agreement and, which is beyond the reasonable control of the non-performing party. It includes, but is not limited to, fire, earthquakes, hurricanes, tornadoes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental actions. Any delay caused by an Uncontrollable Force shall not be recognized unless LESSEE shall notify LESSOR in writing within ten (10) calendar days after the Uncontrollable Force event. Neither economic impracticability nor inability of LESSEE to perform in whole or in part for economic reasons shall constitute an Uncontrollable Forces event.

S. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AMERICANS WITH DISABILITIES ACT

1) LESSEE shall not unlawfully discriminate against any person in its operations, activities or expenditure of funds in fulfilling its obligations under this Agreement. LESSEE shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA, 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. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

2) LESSEE shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code, Chapter 16½) in performing any services pursuant to this Agreement.

3) In addition, LESSEE shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

4) By execution of this Agreement, LESSEE agrees that it has not been placed on the discriminatory vendor list (as provided in Section 287.134, Florida Statutes). LESSOR hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle LESSOR to terminate this Agreement in accordance with the Default; Termination provision herein.

T. PUBLIC ENTITY CRIMES

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 Broward County, may not submit a bid on a contract with Broward County for the construction or repair of a public building or public work, may not submit bids on Agreements of real property to Broward County, may not be awarded or perform work as a contractor, supplier, subcontractor, or

consultant under a contract with Broward County, and may not transact any business with Broward County in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this Article shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from Broward County's competitive procurement activities.

U. PRIOR AGREEMENTS

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless set forth in writing in accordance with Article 28 D. herein.

V. THIRD PARTY BENEFICIARIES

Neither LESSOR nor LESSEE intend to directly or indirectly benefit a third party by this Lease. Therefore, LESSOR and LESSEE agree that this Lease does not and is not intended to confer any rights or remedies upon any person or entity other than LESSOR and LESSEE.

W. RADON

Pursuant to Florida Statutes, LESSOR hereby advises LESSEE of the following: 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.

X. MULTIPLE ORIGINALS

This Agreement may be fully executed in four (4) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: 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 _____, 2014, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, signing by and through its _____, duly authorized to execute same.

LESSOR:

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
Port Everglades Department
1850 Eller Drive, Suite 502
Fort Lauderdale, Florida 33316
Telephone: (954) 523-3404
Telecopier: (954) 468-3690

By _____
Signature (Date)

By _____
Hollie N. Hawn (Date)
Assistant County Attorney

Print Name and Title above

By _____
Noel M. Pfeffer (Date)
Deputy County Attorney

HNH/dh/cr
FLDeptAg-Broward County Lease - FINAL
#3299.50
6/12/14

**LEASE AGREEMENT BETWEEN
BROWARD COUNTY AND FLORIDA DEPARTMENT OF
AGRICULTURE AND CONSUMER SERVICES**

LESSEE:

FLORIDA DEPARTMENT OF
AGRICULTURE AND CONSUMER
SERVICES, an agency of the state of
Florida

By: _____
D. Alan Edwards
Director of Administration

ATTEST:

Corporate Secretary

(Print Name of Secretary)

WITNESS:

(Signature)

(Signature)

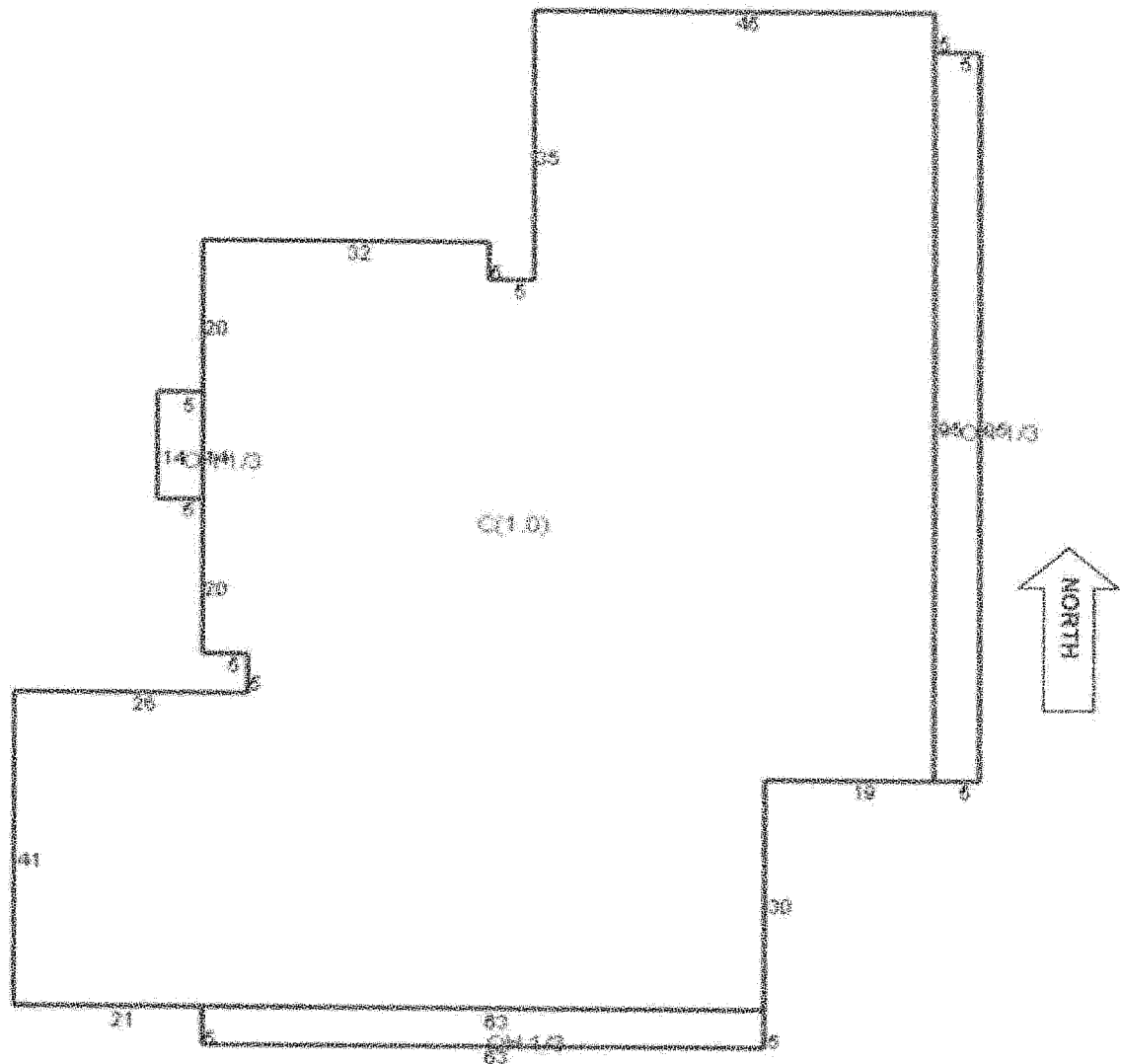
(Print Name)

_____ day of _____, 2014

EXHIBIT A

Building #3450 S.E. 18th Avenue

Address: 3450 S.E. 18th Avenue, Hollywood, FL 33316.
Building: 9,791 square feet of net rentable building area
Built: 1974.



Code	Description	Area	Perimeter	Adj. Area	Adj. Perim	Factor	Stories	Level
C(1.0)	First Floor	9,791.00	486.00	9,791.00	486.00	1.00	1.00	1.00
OH 1/3	Overhang 1/3	70.00	38.00	23.10	38.00	0.33	1.00	1.00
OH 1/3	Overhang 1/3	475.00	200.00	156.75	200.00	0.33	1.00	1.00
OH 1/3	Overhang 1/3	315.00	136.00	103.95	136.00	0.33	1.00	1.00

Exhibit B

TYPE OF INSURANCE	MINIMUM LIABILITY LIMITS		
		Each Occurrence	Aggregate
COMMERCIAL GENERAL LIABILITY Broad form or equivalent <i>With no exclusions or limitations for:</i> <input checked="" type="checkbox"/> Premises-Operations <input checked="" type="checkbox"/> Explosion, Collapse, Underground Hazards <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Other: Mobile Equipment	Bodily Injury Property Damage Combined single limit Bodily Injury & Property Damage Personal Injury	\$ 500 k \$ 500 k \$ 500 k	\$ 1 mil \$ 1 mil
BUSINESS AUTO LIABILITY COMPREHENSIVE FORM <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Scheduled <input checked="" type="checkbox"/> Any Auto	Bodily Injury (each person) Bodily Injury (each accident) Property Damage Combined single limit Bodily Injury & Property Damage	\$ 500 k \$ 500 k	
EXCESS/UMBRELLA LIABILITY <i>May be used to supplement minimum liability coverage requirements.</i>	Follow form basis or Additional endorsement is required		
<input checked="" type="checkbox"/> WORKERS' COMPENSATION <i>If exempt, State Exemption Certificate or letter on company letterhead is required.</i> <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY	Chapter 440 FS (each accident)	STATUTORY \$ 100 k	U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water
<input type="checkbox"/> POLLUTION LIABILITY OR ENVIRONMENTAL IMPAIRMENT LIABILITY WITH CLEAN-UP COSTS	(each accident) Extended coverage period		
<input type="checkbox"/> BUILDER'S RISK (PROPERTY) "ALL RISK" WITH WIND AND FLOOD Coverage must remain in force until written final acceptance by County.	Maximum Deductible: \$10 k DED for WIND or WIND & FLOOD not to exceed 5% of completed value CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		Completed Value form
<input type="checkbox"/> Installation RISK Coverage must for "All Risk", completed value. Coverage must remain in force until written final acceptance by County.	Maximum Deductible: CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE	\$10 k	Completed Value form
DESCRIPTION OF OPERATIONS/LOCATION/VEHICLES BROWARD COUNTY IS LISTED AS AN ADDITIONAL INSURED ON THE GENERAL LIABILITY POLICY			
REFERENCE:			
CERTIFICATE HOLDER: Broward County 115 South Andrews Avenue Fort Lauderdale, FL 33301			

Revised 2013

EXHIBIT C TO CONTRACT FOR SALE AND PURCHASE

**STATE OF FLORIDA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES**

[SITE NAME]
QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES is empowered to convey certain lands pursuant to Sections 570.07(25), Florida Statutes, under the terms and conditions set forth herein; and

WHEREAS, the FLORIDA DEPARTMENT AGRICULTURE AND CONSUMER SERVICES Own said land, may convey lands for said purposes; and

NOW, THEREFORE, the DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, as "Grantor" through the undersigned COMMISSIONER OF AGRICULTURE, under authority of Section 570.07(25), Florida Statutes, for and in consideration of the sum of Ten Dollars (10.00) and other good and valuable consideration, to it in hand paid by: _____, as "GRANTEE", whose address is: _____ has remised, released, and quitclaimed unto GRANTEE, _____ successors, heirs, and assigns, forever, all the right, title, interest claim, and demand which GRANTOR may have in and to the following described lands in Broward County, Florida, to-wit:

[LEGAL DESCRIPTION]

SAVING AND RESERVING unto GRANTOR and its successors, without right-of-entry, of an undivided three-fourths interest in phosphate, minerals and metals and an undivided one-half interest in all petroleum pursuant to Section 270.11, Florida Statutes.

TO HAVE AND TO HOLD the above-described premises subject to outstanding easements, reservations and other interest appearing of record.

IN TESTIMONY Whereof, the COMMISSIONER OF AGRICULTURE has hereto subscribed his name and has caused the official seal of said DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES to be hereunto affixed in the City of Tallahassee, Florida, on this _____ day of _____, A.D. 2014.

(DEPARTMENT SEAL)

ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE

Approved as to form and legality:

By _____

Date _____

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this _____ by ADAM H. PUTNAM, Commissioner of Agriculture, who is personally known to me or has produced a driver's license as identification and who did take an oath, and who acknowledged before me that he executed the foregoing instrument for the purposes therein expressed.

Notary Public: Signature

Name of acknowledged typed,
printed or stamped

My commission expires: _____

(NOTARIAL SEAL)

Instrument prepared by:
Florida Forest Service
3125 Conner Blvd.
Tallahassee, Florida 32399-1650