

TERMINAL BUILDING LEASE AGREEMENT

BETWEEN

BROWARD COUNTY

AND

VIRGIN AMERICA, INC.

**TERMINAL BUILDING LEASE AGREEMENT
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TERMINAL BUILDING LEASE AGREEMENT

THIS TERMINAL BUILDING LEASE AGREEMENT (hereafter "TBLA" or "Agreement") is entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida ("County"), and VIRGIN AMERICA, INC., organized and existing under the laws of the State of Delaware and legally authorized to do business in the State of Florida ("Lessee").

W I T N E S S E T H:

WHEREAS, County is the owner of the Fort Lauderdale-Hollywood International Airport, located in Broward County, state of Florida ("Airport"); and

WHEREAS, County has the right to lease and license the use of property on the Airport and has full power and authority to enter into this TBLA in respect thereof; and

WHEREAS, Lessee, as duly authorized by governmental authority, is engaged in the airline service business with respect to persons, property and mail at the Airport and elsewhere; and

WHEREAS, Lessee requires the use of certain specific premises, facilities, rights and privileges in connection with its use of the Airport and County is willing to assign, license and grant the same to Lessee upon the terms and conditions hereinafter stated;

NOW, THEREFORE, in consideration of the agreements set forth herein, County and Lessee agree as follows:

ARTICLE I DEFINITIONS

The following words, terms and phrases wherever used in this TBLA shall, for the purpose of this Agreement, have the following meanings:

- 1.1 **Affiliated Airline** shall mean an airline (i) that is directly or indirectly controlled by or under common control with Lessee; or (ii) that owns directly or indirectly ten percent (10%) or more of equity securities of Lessee; or (iii) of which Lessee directly or indirectly owns ten percent (10%) or more; or (iv) is a Named Affiliate. The foregoing ownership interests and relationships must be established by Lessee to the reasonable satisfaction of the Aviation Department.
- 1.2 **Agreement or TBLA** shall mean Articles I through XVII, inclusive, of this Terminal Building Lease Agreement together with the exhibits and schedules which are attached to this Agreement and made a part hereof and the other documents that are expressly incorporated herein by reference.
- 1.3 **Aircraft Parking Apron** shall mean that part of the Ramp Area immediately adjacent

to the Terminal that is used for the parking of aircraft and support vehicles and the loading and unloading of passengers and cargo.

- 1.4 **Airline Service Company** shall mean a commercial company that performs ground handling services to airlines using the Airport Terminals.
- 1.5 **Airport** shall mean the Fort Lauderdale-Hollywood International Airport, which is owned and operated by the County.
- 1.6 **Applicable Laws** shall mean all "Environmental Laws," as defined below in Section 1.17, and 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, and the Minimum Standards.
- 1.7 **Aviation Department** shall mean the County's Aviation Department or such other named County organization that from time to time may exercise functions equivalent or similar to those now exercised by the Aviation Department.
- 1.8 **Board or Commission** shall mean the Board of County Commissioners of Broward County, Florida, which is the governing body of the Broward County government created by the Broward County Charter.
- 1.9 **Common Use Area** shall mean that portion of the Commuter Terminal Building designated for the non-exclusive use in common by the public, Lessee, other commuter Lessees and other duly authorized users of the Airport.
- 1.10 **Commuter Air Carriers** shall mean those air taxi operators who perform, pursuant to a published schedule, at least five (5) round trips per week between two or more points, or who carry mail pursuant to a contract with the United States Postal Service and whose aircraft carries less than thirty (30) passenger seats. Commuter aircraft shall not be of a turbo-jet aircraft or larger.
- 1.11 **County** shall mean Broward County, a political subdivision of the State of Florida.
- 1.12 **Director of Aviation or Director** shall mean the Director or Acting Director of the Aviation Department and from time to time shall include such person or persons as may from time to time be authorized in writing by the Broward County Board of County Commissioners, the Broward County Administrator or by the Director of Aviation to act for the Director with respect to any or all matters pertaining to this Agreement.
- 1.13 **Effective Date** shall mean the date specified in Article IV.
- 1.14 **Environmental Laws** shall mean any and all applicable federal, state, County and local

statutes, ordinances, regulations, codes, rules, laws, permits, orders, advisory circulars, resolutions, development orders, grant agreements, and directives of any federal, state, or local court, governmental or quasi-governmental entity with jurisdiction of such matter, that have been, or may hereinafter be adopted, and as may be amended from time to time, relating to the generation, use, storage, transportation, or disposal of hazardous materials, 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.

- 1.15 **Environmental Site Assessment** or "**ESA**" shall mean a document based on one or more environmental site assessments, examinations, inspections, tests, inquiries and surveys necessary to identify recognized environmental conditions, contamination, and the presence of any Hazardous Materials in, on, or under the surface of the Leased Premises.
- 1.16 **Federal Aviation Administration** or **FAA** shall mean that agency of the United States Government created and established under the Federal Aviation Act of 1958, as codified in the United States Code, Title 49, or its successor.
- 1.17 **Fiscal Year** shall mean the then current annual accounting period of the County for its general accounting purposes which period, at the time of entering into this Agreement, is the period of twelve (12) consecutive calendar months ending with the last day of September of any year.
- 1.18 **Gate** shall mean an aircraft passenger loading position, together with the adjacent aircraft parking position on the Ramp Area, loading bridge and holdroom, and any other facilities as the Aviation Department may designate.
- 1.19 **Hazardous Material** shall mean any material or substance identified, listed, or defined as a "Hazardous Waste," "Hazardous Substance," "Pollutant" or "Contaminant" under applicable Environmental Laws, which term shall include asbestos and asbestos-containing materials; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.
- 1.20 **Leased Premises** and **Premises** shall mean the Terminal space leased to, or to be leased to Lessee, as shown on **Exhibit A** attached hereto and made a part hereof.
- 1.21 **Lessee** shall mean Virgin America, Inc., and its permitted successors pursuant to Article X.
- 1.22 **Lessee's Operations** and **Lessee's Actions** and words of similar import, shall include all operations, actions and inaction: (i) by Lessee or (ii) by any of Lessee's Parties whether before or after the Effective Date of this Agreement.

- 1.23 **Lessee's Parties** shall mean the officers, agents, employees, partners, contractors, subcontractors, sublessees, guests and invitees of Lessee.
- 1.24 **Named Affiliate** shall mean an airline that operates scheduled flights using the name Virgin America in conjunction with one or more terms denoting commuter or connecting service, whether Virgin America is part of such airline's legal name or a properly established fictitious name. Lessee must obtain the prior written approval of the Aviation Department before another airline shall be recognized as a Named Affiliate hereunder, which approval may be withdrawn by the Aviation Department upon forty-five (45) calendar days written notice to Lessee. The Aviation Department may withdraw its approval of a Named Affiliate if such Named Affiliate no longer meets the criteria set forth herein, or does not customarily use the full facilities of a gate, i.e. the holdroom, jet bridge and full aircraft ramp area, and the Aviation Department has determined, considering the needs of all aeronautical users of the Airport, that such use is inefficient and can be more efficiently or safely accommodated at a different location. If the Aviation Department withdraws its approval of a Named Affiliate and, therefore, such use is relocated, the Aviation Department will attempt to locate the former Named Affiliate to an area close to Lessee's operations.
- 1.25 **Ramp Area** shall mean the aircraft parking and maneuvering areas adjacent to a Terminal building.
- 1.26 **Release** shall mean any spilling, leaking or discharging into the environment.
- 1.27 **Terminal Building** and **Terminal** shall mean the airline terminal buildings and the commuter terminal building located at the Airport (as applicable), including any expansion thereof or any improvements thereto.

ARTICLE II LEASE OF PREMISES AND USE OF AIRPORT

- 2.1 **Premises.** Subject to the terms and conditions hereof, County does hereby lease and demise to Lessee, the Leased Premises described and depicted on **Exhibit A** attached hereto and made a part hereof.
- 2.1.1 In the event any holdrooms, ticket counters, or apron space are covered by this Agreement, then such areas are leased to Lessee on a preferential basis only (said areas being collectively referred to hereunder as the "Preferential Areas"). Lessee shall have first right of use of the Preferential Areas. During such periods as the Preferential Areas are not being used by the Lessee, the County shall have the right to assign the use of the Preferential Areas to other airlines.
- 2.1.2 For **Ticket Counter Space**: "Preferential Basis" shall mean that, during those periods that Lessee and its Affiliated Airlines are not using the ticket counter space for check-in or providing ticket sales to its own passengers, County shall have the right to assign the use of the ticket counter to other airlines and shall

have the further right to be paid all fees and charges associated with such use of the ticket counter space, as authorized by the Broward County Administrative Code. Lessee shall be considered to be *using* a ticket counter position when it is staffed by Lessee's employees or agents.

- 2.1.3 For Holdroom Space: "Preferential Basis" shall mean that, during those periods that Lessee and its Affiliated Airlines are not using the holdroom space to accommodate enplaning and deplaning passengers for an arriving or departing flight of Lessee or its Affiliated Airlines, County shall have the right to assign the use of the holdroom to other airlines. County shall have the further right to be paid all fees and charges associated with any use by such other airlines, as authorized and established by the Broward County Administrative Code.
- 2.1.4 For Apron Space: "Preferential Basis" shall mean that, during those periods that Lessee and its Affiliated Airline are not using its apron for an arriving or departing flight, County shall have the right to assign the use of the apron to other airlines. County shall have the further right to be paid all fees and charges associated with any use by other airlines, provided, however, that Lessee may not allow an aircraft to remain on its preferential apron area overnight without the authorization of the Aviation Department.
- 2.1.5 Specific Rights at Terminals. Lessee shall have the right, in addition to all rights elsewhere granted in this Agreement, to use the Leased Premises solely for the purpose of an air transportation business for the carriage of persons, property, cargo and mail, including all activities reasonably necessary to such operation.
- 2.2 Relocation, Change of Locations. In the event the Aviation Department desires that Lessee operate at different location(s) than that reflected on **Exhibit A**, or at additional locations, or in reduced space, from that shown on **Exhibit A**, then upon written notice from the Aviation Department, Lessee shall be required to move into or out of such areas and Lessee shall occupy such areas without expense to the County, except as set forth below. In the event of any change as provided hereunder, then an **Exhibit** reflecting such areas, the effective date and the applicable square footage(s) shall be attached to this Agreement through an amendment and the rentals payable hereunder shall be adjusted as necessary according to the square footage of the resulting space. The Director of Aviation is authorized to execute any amendment(s) pursuant to the provisions of this Section 2.2. Relocated space may not be similar in size or configuration to the Premises leased herein.

Subject to the terms, provisions and limitations hereof, the County may make a reimbursement to the Lessee of up to fifty per cent (50%) of Lessee's expenses of relocating if such relocation is required by the Aviation Department, not to exceed Seventy Five Thousand and 00/100 Dollars (\$75,000.00) for any relocation. The total amount to be reimbursed by County to Lessee pursuant to the provisions hereof is referred to as the "Reimbursable Amount." Only documented reasonable and

necessary actual out-of-pocket costs incurred by Lessee in relocating shall be included in the Reimbursable Amount.

- 2.2.1 Notwithstanding anything to the contrary contained in this provision, the amount paid by the County to Lessee for any relocation pursuant hereto shall in no event exceed Seventy-Five Thousand and 00/100 Dollars (\$75,000.00).
- 2.2.2 The Reimbursable Amount to be paid by County to Lessee following the relocation shall not be paid to Lessee until the County receives "paid" invoices and such other documentation as the Aviation Department shall reasonably request from the Lessee to establish the Lessee's eligible costs. Lessee shall provide all documentation requested by the Aviation Department to verify the actual, reasonable and necessary out-of-pocket costs of Lessee.
- 2.2.3 The County shall reimburse Lessee for the Reimbursable Amount through a dollar for dollar credit against rent and any other monies due from Lessee to County. Such rental credit shall be applied pursuant to credit memo(s) issued by the Aviation Department and shall be in monthly credits in an amount determined by the Aviation Department.
- 2.3 In the event any tenant or user of the Airport is ever moved, relocated or required to reduce its space to accommodate a request of Lessee for additional or different space, Lessee hereby agrees to reimburse to the party that incurred costs related to such action the reasonable and appropriate costs of such relocation and other related costs, subject to negotiation of the parties at that time. However, nothing set forth in this provision shall obligate the County to take any action to accommodate any such request of Lessee or to move or relocate any tenant or user of the Airport.
- 2.4 Partial Termination for Underutilized Leased Premises. In addition to any other rights of termination contained in this Agreement, the County shall have the right to terminate this Agreement as to any aircraft apron areas or holdrooms depicted on **Exhibit A**, upon thirty (30) calendar day's written notice to Lessee, if such areas or facilities are not fully utilized by Lessee. Any such termination is referred to herein as a "Partial Termination." Holdrooms and apron space shall be considered to be *not fully utilized* if Lessee does not use, or does not require the use of, such facilities for an average of seven (7) flights (arrival and departure) per day, per gate, for a period of ninety (90) calendar days. For the purpose of determining pursuant to this provision whether Lessee's holdrooms and apron areas are underutilized: (i) operations by Affiliated Airlines of Lessee at Lessee's gates shall be considered to be Lessee's operations; and (ii) four (4) commuter flights using aircraft with maximum seating capacity of twenty (20) passenger seats shall be considered equal to one (1) flight.
- 2.4.1 In the event the Aviation Department terminates this Agreement as to certain holdrooms or apron space because of Lessee's reduced operations, County may also terminate this Agreement as to operations, ticket counter and airline ticket office areas of the Leased Premises to adjust for such reduced flight operations.

- 2.4.2 In the event all or a portion of Lessee's holdroom or apron area is not fully utilized, as defined herein, and County intends to invoke this provision, the Director of Aviation shall give Lessee thirty (30) calendar days written notice of such intent ("Notice Period"), which notice shall describe the areas to which the Partial Termination shall apply and the date of the Partial Termination ("Partial Termination Date"). This Agreement shall terminate as to the specified areas on the Partial Termination Date and Lessee shall be required to move out of such areas without expense to the County, unless (i) Lessee increases its operations to the level required by the provisions hereof during said notice period; or (ii) Lessee responds in writing during said notice period that the reduction of operations is due to temporary circumstances affecting Lessee's operations at the Airport, which circumstances are beyond the reasonable control of Lessee, and such circumstances must be specifically described in the Lessee's response, including anticipated duration of circumstances.
- 2.4.3 In the event of any Partial Termination hereunder, this Agreement shall continue in full force and effect as to all demised Premises not affected by the Partial Termination.

ARTICLE III IMPROVEMENTS BY LESSEE

- 3.1 Ownership of Lessee Installed Improvements and Property. Lessee will retain ownership of moveable trade fixtures, equipment and other personal property installed and paid for by Lessee, except as may be otherwise provided in this TBLA or other agreements.
- 3.2 Improvements and Construction by Lessee. All of Lessee's improvements, construction, additions, alterations, modifications, and renovations ("Improvements"), to its Leased Premises or other Terminal areas, are subject to prior written approval of the Aviation Department and must conform to any tenant improvement project process and tenant improvement standard requirements, policies, or procedures of the Aviation Department, as may be revised from time to time and which are applicable to tenants of the Airport Terminals, including any that are specific to a particular Terminal. All Improvements hereafter made by Lessee shall be in conformity and consistent with all Applicable Laws including but not limited to the Americans with Disabilities Act of 1990, as same may be amended from time to time. Any Improvement that is affixed to the Premises (excluding trade fixtures, such as signage or items unique to the Lessee) is a leasehold improvement, and title thereto shall vest with the County upon the termination of this TBLA, whether by expiration of the term or otherwise. All installations at the Premises or any Airport property, including without limitation cable, electric and telecommunications, shall be deemed Improvements and ownership thereof shall be vested in the County upon installation. All such installations as shall be installed by Lessee shall be free of all liens, claims and encumbrances, including any claims of any utilities provider. No reduction or abatement of rentals, fees, and

charges shall be allowed for any interference with Lessee's operations by such construction.

- 3.3 **Improvements to Additional Space.** Lessee shall be responsible for the design and construction of Improvements to additional space as requested by Lessee and approved in writing by County. All Improvements will be subject to Aviation Department written approval as specified in Section 3.2 above and other applicable provisions and exhibits.

ARTICLE IV TERM

- 4.1 Upon execution of this Agreement by or on behalf of the Board of Commissioners, this Agreement shall become effective (the "Effective Date") on November 12, 2017. The Agreement shall terminate on the fifth (5th) annual anniversary of the Effective Date, unless otherwise terminated earlier as provided herein.
- 4.2 This Agreement may be terminated at any time by the Board, the Director of Aviation, or the Lessee, with or without cause, upon thirty (30) calendar days' prior written notice to the other party. In the event the Director of Aviation determines that termination is necessary to protect the public health, safety, or welfare, this Agreement may be terminated by the Director of Aviation upon such notice as the Director of Aviation deems appropriate under the circumstances, which shall be followed-up by a written "Notice of Termination" to the Lessee.
- 4.3 Termination of this Agreement shall not relieve Lessee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective termination date. Upon the expiration or termination of this Agreement, Lessee shall cease forthwith all operations upon all Premises, shall immediately vacate all Premises, and shall pay in full all fees and other amounts payable to County as set forth in this Agreement then due and owing.
- 4.4 In the event that Lessee ceases to operate at the Airport and fails to provide notice to the Aviation Department and fails to respond to written notice from the Aviation Department requesting Lessee's intent to continue operating at the Airport, then, in that event, the Director of Aviation shall have the right to immediately terminate this Agreement by a written "Notice of Termination" to said Lessee.

ARTICLE V MAINTENANCE OF LEASED PREMISES

- 5.1 Lessee will at all times maintain its Leased Premises in a neat, orderly, sanitary, and presentable condition. Lessee shall furnish its own janitor service in its Leased Premises, and curbside check-in space and shall cause to be removed, at Lessee's own expense, from such spaces all waste, garbage and rubbish and agrees not to deposit the same on any part of the Airport, except that Lessee may deposit same temporarily in its Leased Premises or in space designated by County in connection with

collection for removal. The Lessee shall make arrangements for trash removal directly with a company that is authorized by the County to provide such services at the Airport. Upon failure of Lessee to carry out the terms of this Section 5.1, after reasonable notice to the Lessee, County may have the work performed and the applicable charges shall be paid by Lessee. Notwithstanding the foregoing, interior maintenance on County-owned property and janitorial service in holdrooms and ticket counter areas will be provided by County and charged back to Lessee. Lessee shall be responsible for all utilities charges in connection with its use of the Leased Premises.

- 5.2 The responsibility for maintenance, cleaning and operations of the facilities in the Terminals, including the Leased Premises, shall be as set forth on **Exhibit F**, attached hereto and incorporated herein by reference. The parties agree that any responsibility for maintenance, cleaning and operations of the facilities in the Terminals which is not set forth on **Exhibit F** shall be the responsibility of the County, unless otherwise agreed to in writing by the parties.

ARTICLE VI RENTALS, FEES AND CHARGES

- 6.1 Commencing on the Effective Date, the annual rental shall be due in such amounts, as are established pursuant to the provisions set forth below, for the use of the Leased Premises. Rent shall be paid by the Lessee in twelve (12) equal monthly installments, together with all applicable sales taxes thereon, in advance and without demand, set off or deduction. The first monthly installment of the annual rent shall be paid on the Effective Date, if the Effective Date occurs on the first day of a calendar month. In the event, the Effective Date does not occur on the first day of a calendar month, then a partial payment of the first monthly installment of the annual rent shall be paid on the Effective Date; which partial payment shall be an amount equal to the first monthly rental payment due prorated based on the number of calendar days occurring between the Effective Date and the first calendar day of the following month, together with all applicable sales taxes thereon. Thereafter, each and every monthly installment of annual rent shall be payable in advance on the first day of each and every calendar month.
- 6.2 The rental amounts for the areas described in **Exhibit A**, shall be based on the rates promulgated from time to time by the County pursuant to resolutions adopted by the Board. Lessee agrees that it shall pay monthly rentals to County on the first day of each month, in advance, for the areas described on **Exhibit A**, based on the rates established from time to time by the Board-adopted resolutions.
- 6.3 The Lessee acknowledges that the County has or will establish, from time to time, various fees and charges for the use of various facilities, equipment and services provided by the County and not leased to or specifically provided to the Lessee hereunder (which may include but are not limited to landing fees), and the procedures relating to payment of same. The Lessee shall pay for its use of such facilities, equipment and services at the rates and in the manner prescribed by the County. In addition to the foregoing, Lessee shall be obligated to collect from its customers and

tenants, as applicable, and remit to the County, any user fees or other fees or charges that may in the future be established by the County regarding general aviation uses of the Airport (which may include but are not limited to landing fees), pursuant to a resolution adopted by the Board. In addition to rentals for the Leased Premises assigned to Lessee hereunder, Lessee agrees to pay all rentals, rates, fees and charges payable by Lessee for use of any Airport facilities or under any agreement between Lessee and the County pertaining to Lessee's operations at the Airport, including without limitation landing fees, applicable utilities charges, all rates, fees and charges under any terminal services permit or field usage agreement, and all other rentals, rates, fees, and charges, including all sales taxes, interest, costs, damages and penalties, and the same may be added to any rent payment thereafter due hereunder, and each and every part of the same shall be and become additional rent recoverable by the County in the same manner and with like remedies as if it were originally a part of the rent as established by this Article VI. All such sums of money shall be paid by Lessee within ten (10) calendar days after written demand therefore.

- 6.4 The rentals, fees and charges payable under this Agreement will be reviewed and adjusted, as necessary, at any time a rate is adjusted by the Board pursuant to a resolution.
- 6.5 As security for the payment of all monies payable hereunder and for the performance of all obligations hereunder, the Lessee shall post a security deposit with the County equal to three (3) monthly installments of the amounts payable hereunder, together with applicable sales taxes ("Security Deposit"). The Security Deposit shall be submitted to the County simultaneously with submission to County of this Agreement as executed by Lessee. Notwithstanding anything to the contrary herein contained, the minimum amount of the Security Deposit shall be One Thousand and 00/100 Dollars (\$1,000.00). The Security Deposit shall be either in the form of cash, an Irrevocable Letter of Credit ("Letter of Credit"), in form and substance satisfactory to the County, or a Payment and Performance Bond ("Bond"), in form and substance satisfactory to County. No interest shall be paid on the Security Deposit. The Aviation Department, upon fourteen (14) calendar days notice to the Lessee, may require an increase in the amount of the Security Deposit to reflect any increases in the rentals and other amounts payable hereunder. In addition, the Aviation Department, upon fourteen (14) calendar days notice to the Lessee, may require an increase in the amount of the Security Deposit equal to up to five (5) additional months rental payments 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 should be required. In the event of any failure by Lessee to pay when due any amounts payable hereunder or upon any other default hereunder, then in addition to any other rights and remedies available to County at law or in equity, County shall be entitled to draw down the full amount of the Security Deposit and apply same to all amounts owed. Upon notice of any such draw, Lessee shall immediately replace the Security Deposit with cash, a new Letter of Credit or Bond, as applicable, in the full amount of the Security Deposit required hereunder. If a Letter of Credit is posted, then the term and all renewal terms of the Letter of Credit shall be for a period of not less than one year, and the Letter of Credit shall be kept in full force and effect throughout the term of this Agreement and

for a period of six (6) months following the termination date of this Agreement. If a Bond is posted, then the Bond shall provide coverage from the Effective Date of this Agreement and be kept in full force and effect throughout the term of this Agreement and for a period of six (6) months following the termination date of this Agreement. Any cancellation of the Bond or the Letter of Credit without the consent of the Aviation Department and the County Risk Management Division, prior to the end of the aforesaid six (6) month period following the termination of this Agreement shall be a default of this Agreement. If Lessee posts a cash deposit, then such cash deposit shall be retained by County throughout the term of this Agreement and for a period of six (6) months following the termination date of this Agreement. Not less than one hundred twenty (120) calendar days prior to any expiration date of the Letter of Credit or Bond, the Lessee shall submit evidence in form satisfactory to County that said security instrument has been renewed. A failure to renew the Letter of Credit or Bond, as applicable, or to increase the amount of same if required by the County, 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. Each Letter of Credit provided hereunder shall be provided by a financial institution of recognized standing authorized to do business in the State of Florida. Each Bond provided hereunder shall be executed by a surety company of recognized standing authorized to do business in the State of Florida and having a resident agent in Broward County and having been in business with a record of successful continuous operation for at least five (5) years. Furthermore, such surety company must have at least an "A" rating in the latest revision of Best's Insurance Report. Each Letter of Credit and Bond shall be in form and substance satisfactory to the County.

- 6.6 Payments received by County more than ten (10) calendar days after the due date shall be subject to interest at the rate of eighteen percent (18%) per annum on the unpaid amount. The acceptance by County of any Lessee payment shall not be construed as a waiver of the interest charges.
- 6.7 In the event the Lessee delivers a dishonored check or draft to the County in payment of any obligation arising under this Agreement, the Lessee shall incur and pay a service charge in the amount established by the County from time to time. In such event (and in addition to any other remedies available to the County hereunder or at law or in equity), the County may require that future payments be made by cashier's check or other means acceptable to the County.
- 6.8 The Lessee acknowledges that, through the date hereof, it has no claims against County with respect to any of the matters covered by this Agreement. Lessee shall have no right of set-off or right to assert any counterclaim against any of the amounts payable by Lessee to County under this Agreement.
- 6.9 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 Improvements) or the estate hereby granted, or upon Lessee, or upon the business conducted on the Leased Premises, or upon any of Lessee's property used in connection therewith, or upon any

rentals or other sums payable hereunder, including, but not limited to any ad valorem taxes (based upon the Lessee's pro rata share according to the area of the Leased Premises), and sales or excise taxes on rentals, and personal property taxes against 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.

6.10 Passenger Facility Charge.

6.10.1 County expressly reserves the right to impose a Passenger Facility Charge ("PFC") on an airline passenger for the use of the Airport in accordance with 49 USC. § 40117 and applicable implementing regulations adopted by the FAA, 14 CFR Part 158, as they may be amended from time to time (the "PFC Regulations").

6.10.2 Lessee shall hold in trust for the County the Net Principal Amount of all PFCs that are collected by Lessee or its agents on behalf of County. For the purposes of this Section 6.7, "Net Principal Amount" shall mean the total principal amount of all PFCs that are collected by Lessee or its agents on behalf of the County, reduced by any amount that the Lessee is permitted to retain pursuant to 49 USC. § 40117 and the PFC Regulations. Monthly PFCs collected by Lessee shall be remitted to County no later than the last day of the following calendar month or if that date falls on a weekend or holiday, the first business day thereafter. In addition, PFCs collected by Lessee shall be remitted to County as specified in subsection 6.7.3.

6.10.3 Should Lessee fail to remit the Net Principal Amount of all PFCs to County within five (5) calendar days following the remittance date specified above, Lessee shall be deemed to be in default pursuant to Article VII of this Agreement.

6.10.4 Competitive Access to PFC Funded Facilities. Should the Lessee not fully utilize any portion of its PFC funded exclusively leased premises, Lessee agrees to make such Premises available for use by any scheduled carrier. In accordance with 14 CFR Part 158, failure to make such exclusively leased premises available shall be grounds for termination of this TBLA pursuant to Article VII.

6.10.5 Nothing contained herein shall be construed to supersede the rights and obligations provided in 14 CFR Part 158 regarding PFCs. In the event that a conflict exists between such federal regulation and this Agreement, the federal regulation shall govern.

6.11 As to all County Fees the following provisions are also applicable: (i) Lessee shall at a minimum keep and maintain such records as would ordinarily and necessarily be required by the County, if the County were collecting such County Fees; (ii) Lessee shall provide the public with access to such public records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (iii) Lessee shall ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law;

and (iv) Lessee shall meet all requirements for retaining public records and transfer to the County, at no cost, all public records that are in the possession of the Lessee upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt, and all records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County. The failure of Lessee to comply with the provisions hereof shall be a default of this Agreement.

ARTICLE VII DEFAULT BY LESSEE

7.1 Event of Default by Lessee. Each of the following shall constitute an "Event of Default by Lessee":

- 7.1.1 Lessee shall fail to pay any rentals, fees, deposits, or charges when due, or
- 7.1.2 Lessee shall fail after the receipt of written notice from County to keep, perform or observe any other term, covenant or condition of this Agreement to be kept, performed or observed by Lessee, or
- 7.1.3 Lessee shall make an assignment of all or substantially all of Lessee's assets for the benefit of Lessee's creditors.

7.2 County's Remedies.

- 7.2.1 Upon the occurrence of an Event of Default by Lessee, County, in addition to any other rights or remedies it may have at law or in equity, shall have the immediate right of re-entry and may remove all persons and property from the Leased Premises and Lessee's property may be stored in a public warehouse or elsewhere at the cost of, and for the account of Lessee. Should County elect to re-enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided by law, it may either terminate this Agreement or re-let the Leased Premises and any improvements thereon or any part thereof for such term or terms (which may be for a term extending beyond the term of this Agreement) and at such fees and charges and upon such terms and conditions as County in its sole discretion may deem advisable, with the right to make alterations and repairs to improvements on said Leased Premises. No re-entry of the Leased Premises by County shall be construed as an election on County's part to terminate this Agreement unless a written notice of such intention is given to Lessee.
- 7.2.2 Unless County elects to terminate this Agreement, Lessee shall remain liable for fees, charges and rentals due hereunder if County re-enters and re-lets the Leased Premises.

7.2.3 Upon the occurrence of an Event of Default by Lessee, County may, at any time thereafter, elect to terminate this Agreement by written notice to Lessee (which termination shall be in addition to any other remedy it may have), and in such event, County may recover from Lessee all damages to which it may be entitled by reason of such Event of Default by Lessee, including the cost of recovering the Leased Premises, damages for the balance of the amounts due hereunder for the full term of this Agreement. In the event of such termination, Lessee shall have no further rights under this Agreement and shall cease forthwith all operations upon the Airport premises and Lessee shall be liable for all damages incurred by County in connection with Lessee's default or the termination of this Agreement upon such a default, including without limitation, all direct, indirect, consequential, and all other damages whatsoever.

7.3 Remedies Under Federal Bankruptcy Laws. Neither this Agreement nor any rights or privileges hereunder shall be an asset of Lessee in any bankruptcy, insolvency or reorganization proceeding. If County shall not be permitted to terminate this Agreement because of the provisions of any Applicable Laws, including but not limited to the United States Bankruptcy Code, Lessee or any trustee for it shall, within fifteen (15) days upon request by County to the applicable court of administrative body, assume or reject this Agreement, provided however, that Lessee may not assume this Agreement unless all defaults hereunder shall have been cured, County shall have been compensated for any monetary loss resulting from such default and County shall be provided with adequate assurance of full and timely performance of all provisions, terms and conditions of this Agreement on the part of Lessee to be performed.

Notwithstanding the foregoing, upon the filing by or against Lessee of any proceeding under federal bankruptcy laws, if Lessee has defaulted in the performance of any provision of this Agreement within the six (6) months preceding such filing, the County shall have the right to terminate this Agreement, in addition to other remedies provided under provisions of any Applicable Laws, including but not limited to the United States Bankruptcy Code, as such may be subsequently amended, supplemented, or replaced. Such termination shall be by written notice to Lessee within sixty (60) days from the date of Lessee's initial filing in bankruptcy court.

7.4 Curative Provisions; Payment Under Protest.

7.4.1 A termination of this Agreement for a default under Section 7.1.1 or 7.1.3 shall be effective immediately upon giving ten (10) calendar days written notice of same to the Lessee. No termination of this Agreement for a default under Section 7.1.2 shall be effective unless and until thirty (30) calendar days, unless otherwise specified in this Agreement, have elapsed after Lessee has received written notice specifying the Event of Default. No such termination shall be effective if the Event of Default has been cured or removed during such period, or if by its nature such Event of Default cannot be cured within such period, such termination shall not be effective if Lessee commences to cure or remove such Event of Default within said period and cures or removes same as promptly as possible.

- 7.4.2 Notwithstanding anything to the contrary in this Agreement, if a dispute arises between County and Lessee with respect to any obligation or alleged obligation of Lessee to pay money, the payment under protest by Lessee of the amount claimed by County to be due shall not waive any of Lessee's rights, and if any court or other body having jurisdiction determines that all or any part of the protested payment was not due, then County shall as promptly as reasonably practicable reimburse Lessee any amount determined as not due, provided the County shall not be required to pay any interest on any such reimbursed sums.
- 7.5 Holdover. It is agreed and understood that any holding over of Lessee after the termination of this Agreement shall not renew and extend same, but shall operate and be construed as a tenancy at sufferance, pursuant to Section 83.04, Florida Statutes, as amended. County reserves the right to pursue all remedies available to it under applicable law as a result of Lessee's holdover. It is expressly agreed that acceptance of rent or any other payments by the County in the event that Lessee fails or refuses to surrender possession shall not operate as County's consent to Lessee's continued possession nor shall it constitute a waiver by the County of its right to immediate possession of the Premises. At the sole option of County, upon written notice to the Lessee by the Aviation Department, the Lessee shall be required to pay to the County during any holdover period monthly rent which shall be 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 the County exercises this option, a tenancy at will lasting from month to month shall be created, and such tenancy shall be subject to all other provisions contained in this Agreement.
- 7.6 Habitual Default. Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly or repetitively defaulted in the performance of or breached any of the terms, covenants and conditions required herein to be kept and performed by the Lessee, and regardless of whether the Lessee has cured each individual condition of breach or default, the Lessee may be determined by the Aviation Department to be an "Habitual Violator." At the time that such determination is made, the Aviation Department shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefore. Such notice shall also advise Lessee that there shall be 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, shall be considered cumulative and collectively, shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the County may terminate this Agreement upon the giving of written notice of termination to the Lessee, such termination to be effective upon delivery of the notice to the Lessee.
- 7.7 Terminal Services Permit, Field Usage Agreement. A default by Lessee under any Terminal Services Permit or Field Usage Agreement entered into between Lessee and County shall also be a default under this Agreement, and shall entitle the County to any

and all remedies available under this Agreement, including without limitation, termination as provided herein.

**ARTICLE VIII
WAIVER OF RIGHTS; NO REMEDY EXCLUSIVE**

- 8.1 Waiver. Failure by County 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. County 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.
- 8.2 No Remedy Exclusive. No remedy herein conferred upon or reserved to the County or Lessee is intended to be exclusive of any other remedy herein provided or otherwise available, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

**ARTICLE IX
SURRENDER AND ACCEPTANCE OF SURRENDER OF LEASED PREMISES**

- 9.1 Upon the expiration of the Term of this Agreement or earlier termination as provided for herein, Lessee agrees to surrender possession of the Leased Premises in the same condition as it was received on the first day of occupancy, less reasonable wear and tear in the ordinary course of business permitted under this Agreement. Said condition at the time of surrender shall include but not be limited to the following: (i) all flooring must be cleaned as reasonably required by the Aviation Department; and (ii) all doors and walls patched and painted with Aviation Department approved color; and (iii) all ceiling tiles shall be in place, clean and matching; and (iv) all Lessee installed conduit and wiring shall be removed if requested by the Aviation Department, and (v) all personal property and Improvements (except Improvements that are owned by the County and any Improvements that are provided by the Aviation Department that are to remain installed) shall be removed. A final exit walkthrough inspection shall be conducted by the Lessee and the Aviation Department to determine compliance with this provision and the Aviation Department's acceptance of the condition of the Premises. In the event Lessee fails to comply with the terms of this Section 9.1, County reserves the right to perform all necessary work to bring the Premises to the required condition and Lessee shall reimburse the County for all reasonable expenses incurred.
- 9.2 Lessee shall have the right at any time during the term of this Agreement to remove any furnishings, trade fixtures or equipment it has installed in, on or about the Leased Premises, subject to any lien the County may have thereon for unpaid fees, charges, or other amounts payable under this Agreement, and provided that Lessee shall restore any damage to the Leased Premises and the Leased Premises shall be returned to the County in the same condition as defined in Section 9.1, above. Any such property not removed by Lessee immediately thereon after expiration or termination of this

Agreement shall become part of the Premises or may be removed, stored or sold by the County.

- 9.3 In the event Lessee fails to surrender the Leased Premises in the above required condition or has failed to complete any of the obligations due under this Agreement or any future amendments thereto, Lessee from the date of the termination or expiration of the Agreement until the acceptance of surrender as set forth in Section 9.4, shall be considered a holdover tenant under the terms set forth in Section 7.6.
- 9.4 Acceptance of Surrender. No agreement of surrender or to accept a surrender of this Agreement shall be valid unless and until same shall have been reduced to writing and signed by the duly authorized representatives of the County and of the Lessee, provided that such signatures shall not be unreasonably withheld. 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 the County shall be deemed an acceptance of a surrender of letting under this Agreement.

ARTICLE X ASSIGNMENT, SUBLETTING AND GROUND HANDLING

- 10.1 Lessee shall not sublet the Leased Premises or any part thereof or transfer, assign, pledge, or otherwise encumber this Agreement or any rights or obligations hereunder, or allow same to be assigned by operation of law or otherwise without the prior written consent of the County (any such action being called an "Assignment"). Any such action shall be null and void and of no force or effect.
- 10.2 The Lessee must obtain the prior written consent of the County to keep this Agreement in effect upon any transfer or merger of ownership between the Lessee and any other corporation or company or upon any sale or transfer of a majority of the ownership interest in Lessee (whether accomplished by one transaction or a series of transactions). Notwithstanding the foregoing, the provisions of this Article X shall not apply to any public trades of registered stock that occurs on a national stock exchange.
- 10.3 Lessee agrees that it shall not utilize, hire or otherwise employ any ground handling company that has not executed a terminal service permit from the County, which terminal service permit is active and in good standing.

ARTICLE XI DAMAGE OR DESTRUCTION

- 11.1 Lessee Responsibilities. County shall not be liable to Lessee for damage to Lessee's property, improvements and facilities from any cause whatsoever, including, without limitation, any act of negligence of any tenants, occupants or other users of the Airport or any other person, unless, and only to the extent, caused by the negligence of County, its agents, servants or employees. Lessee shall have the right, however to claim and recover its damages from any third party other than County who may be liable therefore.

- 11.2 **Abatement of Rentals.** In the event of damage or destruction to all or any portion of the Leased Premises and renders the same untenable, there shall be an appropriate abatement or reduction of the rentals, fees, and charges payable hereunder, at the sole discretion of and as determined by County, commencing at the time of such damage or destruction, but only to the extent that County is able to mitigate its damages through insurance proceeds and continuing until such time as County's engineers certify that said Leased Premises are again ready for use and occupancy by Lessee. In the alternative, the County may, in its sole and exclusive discretion, relocate the Lessee to other suitable premises, pursuant to Article II, hereof and in such event there shall be no abatement or reduction of rentals, fees, and charges payable hereunder, but rentals shall be adjusted in accordance with the square footage of the resulting space occupied by the Lessee.

ARTICLE XII INDEMNIFICATION AND INSURANCE

- 12.1 **Indemnification.** Lessee shall at all times hereafter indemnify, hold harmless and defend County and all of County's current and former officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless or negligent act or omission of Lessee, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, Lessee shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Aviation Department and the County Attorney, any sums due Lessee under this Agreement may be retained by County until all of County's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.
- 12.2 **Insurance.** Lessee shall, at a minimum, provide, pay for, and maintain in force at all times during the Term of this Agreement, unless otherwise provided, the insurance coverages as are provided for in this Article. Each insurance policy shall clearly identify the foregoing indemnification as insured. Such required insurance coverage's may be modified from time to time as agreed to by the parties.
- 12.2.1 Lessee shall furnish to the Aviation Department, Certificates of Insurance evidencing the insurance coverages required hereunder. The required Certificate of Insurance shall name the types, terms and limits of liability provided hereunder.

- 12.2.2 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) calendar days prior written notice of expiration, cancellation and/or restriction. If any of the insurance coverages will terminate or expire prior to the termination of this Agreement, copies of renewal policies shall be furnished at least thirty (30) calendar days prior to the date of 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 Liability and Commercial Liability Insurance shall be written on an "occurrence" basis and shall not be written on a "claims made" basis.
- 12.2.3 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 insurance pursuant to this Article XII Lessee's insurance. Lessee shall obtain from its insurers, if possible, a waiver of any subrogation the insurer may have against County in connection with any loss or damage covered by Lessee's insurance.
- 12.2.4 Compliance with the County's insurance requirements shall not relieve the Lessee of its liability and obligations under this Article or under any other provision of this Agreement.
- 12.2.5 The amounts and types of insurance shall conform to the following minimum requirements with policies, forms and endorsements that are comparable to Insurance Service Office ("ISO") requirements. Notwithstanding the foregoing, at a minimum, the wording of all policies, forms and endorsements must be reasonably acceptable to County.
- (1) Airport Liability or Commercial General Liability Insurance. Airport Liability or Commercial General Liability Insurance shall be provided to protect against bodily injury liability and property damage in an aggregate amount of not less than One Hundred Million Dollars/Five Million Dollars (\$100,000,000.00/5,000,000.00) per occurrence, combined single limit. 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: Premise and/or Operations, Independent Contractors, Broad Form Property Damage and Broad Form Contractual Coverage covering all liability arising out of the terms of this Agreement. The policy shall include County as an additional insured/loss payee.
 - (2) Property Insurance. Property Insurance shall be provided on an "All Risk" basis for tenants' contents and building including improvements. The policy shall be written on a "Completed Value" form or equivalent property

form for one hundred percent (100%) of replacement value. For "All Other Perils," the deductible may not exceed Ten Thousand Dollars (\$10,000.00) per occurrence except Wind and Flood. For Wind and Flood, the deductible shall be not more than five percent (5%) of property value, or percentage allowed by the insurance market, whichever is less. The policy shall include County as an additional insured/loss payee.

- (3) Workers Compensation and Employer's Liability Insurance shall be maintained in force by Lessee during the Term of this Agreement for all employees engaged in the operations under this Agreement. The limits of coverage shall not be less than:

Workers' Compensation	Florida Statutory
Employer's Liability	\$1,000,000 Limit Each Accident
	\$1,000,000 Limit Disease Aggregate
	\$1,000,000 Limit Disease Each Employee

- (4) Liquor Liability Coverage shall be maintained for any facility of Lessee serving alcoholic beverages on the airport in an amount not less than One Million and 00/100 Dollars (\$1,000,000) per occurrence, if applicable.

- (5) Business Automobile Liability Insurance shall be maintained by Lessee during the Term of this Agreement as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles. The limits of coverage shall not be less than:

Bodily & Personal Injury	\$5,000,000 Combined Single Limit
& Property Damage Liability	Each Occurrence & Aggregate

- (6) The aforesaid minimum limits of liability shall be reviewed from time to time by County and may be adjusted by County if County reasonably determines such adjustments are necessary to protect County's interest. When such policies or certificates have been delivered by the Lessee to the County as aforesaid and at any time or times thereafter, the County may, but is not obligated to notify the Lessee in writing that the insurance represented thereby does not conform to the provisions of this Article XII either because of the amount or because of the insurance company or for any other reason, and the Lessee shall have two (2) calendar days from the date of notice in which to cure any such defect. Compliance with the requirements of this Article XII as to the carrying of insurance shall not relieve the Lessee of its liability under any other provision of this Agreement

12.2.6 Right to Revise or Reject. The County, through its Risk Management Division, reserves the right, but not the obligation, to review and revise any insurance requirements at the time of contract renewal and any amendments, including

without limitation, deductibles, limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope or specifications of this Agreement affecting the applicability of coverage.

12.2.7 Lessee shall be responsible to the extent of the requirements of all Applicable Laws relative to Lessee or to the County to prevent any unauthorized entry onto any part of the airport operations area of the Airport through Lessee's Leased Premises.

12.2.8 Additional Insured. Lessee agrees to endorse County as additional insured, to its Liability, Umbrella or Excess Liability to the extent required under this Article XII. The additional insured shall read "Broward County".

ARTICLE XIII NOTICES

13.1 Whenever either party desires to give notice to the other, such 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 shall remain the same as set forth herein until changed in writing in the manner provided herein. 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:

CEO/Director of Aviation
Broward County Aviation Department
2200 SW 45th Street, Suite 101
Dania Beach, FL 33312

FOR LESSEE:
Virgin America, Inc.
Airline Properties and Facilities
555 Airport Boulevard
Burlingame, CA 94010

13.2 All notices, approvals and consents required hereunder must be in writing to be effective. In the event electronic mail is used, then any such electronic mail shall be only considered a courtesy notice, and shall not be deemed notice under this

Agreement for purposes of establishing the commencement of any time period, or proper notice for any action under this Agreement by either party.

- 13.3 All notices sent in accordance with this Article are deemed effective upon receipt or refusal of same.
- 13.4 Lessee shall notify County, in writing, whenever Lessee changes the address where County should provide any notice required in Section 13.1 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 XIV OPERATIONS OF LESSEE

- 14.1 Lessee shall comply with all Applicable Laws in performing its duties, responsibilities, and obligations related to this Agreement.
- 14.2 Lessee agrees to observe and obey all rules and regulations of the County and the Aviation Department governing the safe conduct on and operation, maintenance and use of the Airport.
- 14.3 The Lessee shall, at its own expense, provide and maintain in full force and effect, any and all licenses and permits required for the legal operation of all aspects of the Lessee's business conducted at the Leased Premises and the Airport. Lessee shall pay all license and permit fees and charges for the conduct of any business on the Premises before such amounts become delinquent.

ARTICLE XV HEADINGS

- 15.1 All articles, paragraphs and section headings 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 of this Agreement.

ARTICLE XVI CONSTRUCTION

- 16.1 Law, 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. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or

United States Bankruptcy Court for the Southern District of Florida. **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 A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION**

- 16.2 Severance. In the event this Agreement or 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 County or Lessee elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) calendar days after the finding by the court becomes final.
- 16.3 Independent Contractor/Relationship of Parties. The relationship of County and Lessee hereunder is the relationship of lessor and Lessee. Services provided by Lessee shall be subject to the supervision of Lessee and such services shall not be provided by Lessee, or its agents, as officers, employees, or agents of the County. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, partners, joint ventures, or any other similar relationship between the parties hereto.
- 16.4 Third Party Beneficiaries. Neither Lessee nor County 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 claim against either of them based upon this Agreement.
- 16.5 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of 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 Article I through Article XVII of this Agreement shall prevail and be given effect.
- 16.6 Joint Preparation. This Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other. The parties hereto acknowledge that they have thoroughly read this Agreement, including all **Exhibits** and attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations herein.

- 16.7 **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.
- 16.8 **Amendments.** No modification, amendment or alteration of any of the terms, provisions, and conditions contained herein is effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the authorized representatives of the parties.
- 16.9 **Prior Agreements; Prior Negotiations.** This Agreement supersedes and terminates all prior agreements between the parties with respect to any portion of the Leased 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.
- 16.10 **Interpretation.** 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. 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 a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections, subparagraphs and subprovisions of such section, unless the reference is made to a particular subsection or subparagraph of such section.

ARTICLE XVII OTHER PROVISIONS

- 17.1 Lessee shall obtain the written permission of the Aviation Department prior to the installation of signs, billboards or advertising on the Premises, which permission shall not be unreasonably withheld.
- 17.2 **Federal Aviation Act, Section 308.** Nothing herein contained shall be deemed to grant the 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. It is expressly understood and agreed that the rights granted under this Agreement are non-exclusive and the County reserves the right to grant similar privileges to another Lessee or other users of the Airport facilities.
- 17.3 **Subordination of Agreement.** This Agreement, and all provisions hereof, is subject and subordinate to the terms and conditions of the instruments and documents under which the County acquired the Airport from the United States of America and shall be given

only such effect as will not conflict or be inconsistent with the terms and conditions contained in such instruments and documents and any existing or subsequent amendments thereto. This Agreement and all provisions hereof, is subject and subordinate to any ordinances, rules or regulations which have been, or may hereafter be adopted by the County pertaining to the Airport. This Agreement, and all provisions hereof, is subject and subordinate to the provisions of any agreement heretofore or hereafter made between the County and the United States Government relative to the operations or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to the County for Airport purposes, or the expenditure of federal funds for the improvements or development of the Airport under the provisions of the Federal Aviation Act of 1958, as codified in the United States Code, Title 49, as it has been amended from time to time. In addition, this Agreement is subordinate and subject to the provisions of all resolutions heretofore and hereafter adopted by the County in connection with any revenue bonds issued by the County with respect to the operations of the Airport, or any improvements to the Airport or any of its facilities, and to the provisions of 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 such bonds.

- 17.4 Agent for Service of Process. It is expressly understood and agreed that if the Lessee is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, then in any such event the Lessee does designate the Secretary of State, State of Florida, its agent for the purpose of service of process in any court action between it and the County arising out of or based upon this Agreement, and the service shall be made as provided by the laws of the State of Florida for service upon a non-resident, who has designated the Secretary of State as agent for service. It is further expressly agreed, covenanted and stipulated that, 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 this State by certified mailing to the Lessee at the address set forth herein. Any such service out of this State shall constitute valid service upon the Lessee as of the date of mailing. It is further expressly agreed that the Lessee is amenable to and hereby agrees to the process so served, submits to the jurisdiction, and waives any and all objections and protest thereto.
- 17.5 Waiver of Claims. The parties each hereby waives any claim against the other's officers, directors, commissioners and employees, for any consequential damages, including, without limitation, any loss of business or anticipated profits, caused by (i) any default of County hereunder, or (ii) any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or (iii) 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 (iv) any change in the operation or configuration of, or any change in procedures governing the use of, the Airport.
- 17.6 Development and Expansion of Airport. It is mutually agreed that County shall have the right to develop, maintain, and operate the Airport as it deems advisable and

desirable, in accordance with such appropriate governmental authority and regulation as may be applicable, and that County shall have the right to make such agreements as may be necessary or advisable in connection with federal and state funding of Airport improvements, alterations, or modifications. Lessee acknowledges that County is seeking federal, state and local approvals for the expansion of the Airport. Lessee agrees to cooperate with County in connection with County's efforts to obtain such approvals. From and after the date of execution of this Agreement, Lessee agrees (i) to support the County's efforts to obtain such approvals; and (ii) to execute any documents or instruments reasonably requested by County in order to assist County in obtaining such approvals, provided that Lessee shall not be required to bear any expense in connection therewith and the Lessee shall not be deemed an agent of the County.

- 17.7 Condemnation. In the event the Premises or any part thereof shall be condemned and taken by authority of eminent domain, with or without litigation, or transferred in lieu of or under threat of such action (collectively, a "Condemnation"), any award shall be paid to the County, it being understood that title to all Improvements thereon remains fully vested in the County (except for Lessee's trade fixtures), free and clear of any liens and encumbrances and there shall be no apportionment. The Lessee shall not be entitled to any award for the value of the unexpired portion of the term of this Agreement, or any business damages, or any other damages whatsoever. In the event a Condemnation results in a partial taking of the Premises, rental for that portion of the Premises condemned shall be abated from the date the Lessee is dispossessed. If the remainder of the Premises does not in Lessee's reasonable judgment, constitute an economically viable property sufficient for the Lessee's operations as conducted prior to such taking, this Agreement may be terminated by the Lessee upon written notice to the County, in which event this Agreement shall be terminated on the date the Premises are completely vacated by the Lessee.
- 17.8 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.
- 17.9 Right to Amend. In the event that the United States Government, or any of its departments or agencies require modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, the Lessee agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required (collectively, an "amendment"). Notwithstanding the foregoing, in the event 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 notice to the County of any such refusal to consent and such notice must state with specificity the reasons for any such refusal. The County shall have the right to immediately terminate this Agreement upon the failure of Lessee to consent to any such amendment.

- 17.10 **Non-liability of Government Representatives.** No commissioner, director, officer, agent or employee of County shall be charged personally or held contractually liable 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.
- 17.11 **Nondiscrimination.** Lessee shall 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. 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.
- 17.11.1 Lessee's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation (Broward County Code of Ordinances, 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.
- 17.11.2 Lessee shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code of Ordinances, Chapter 16 1/2) in performing any services pursuant to this Agreement.
- 17.12 **Nondiscrimination for Airports.** The Lessee agrees to abide by and comply with the non-discrimination 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.
- 17.13 **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 Federal Aviation Administration and the Transportation Security Administration, and the Lessee agrees to comply with the County's Airport Security Program (including without limitation the Air Operations Area ("AOA") Vehicle Access Program), and any 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. If as a result of the acts or omissions of Lessee, its sublessees, employees, invitees or guests, the County incurs any fines and/or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the Federal Aviation Administration 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, and/or any expense in enforcing the County's Airport Security Program, then Lessee agrees to pay and/or 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, Federal Aviation Administration, 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 the sole cost and expense of Lessee, and Lessee shall remit such amounts to County within thirty (30) days of the date of invoice received from the Aviation Department. The County reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.

17.13.1 Access to Security Identification Display Areas and Identification Badges.

The Lessee shall be responsible for requesting the Aviation Department to issue identification badges ("SIDA Badges") to all employees who are authorized access to Security Identification Display Areas ("SIDA") on the Airport, as designated in the Airport Security Program. In addition, Lessee shall be responsible for the immediate reporting of all lost or stolen SIDA Badges and the immediate return of the SIDA Badges of Lessee's personnel transferred from the Airport, or terminated from the employ of the Lessee, or upon termination of this Agreement. Before a SIDA Badge is issued to an employee, Lessee shall comply with the requirements of applicable federal regulations with regard to fingerprinting for criminal history record checks and security threat assessments, and shall require that each employee complete SIDA or security awareness training programs conducted by the Aviation Department. The Lessee shall pay or cause to be paid to the Aviation Department such charges as may be established from time to time for lost or stolen SIDA Badges and those not returned to the Aviation Department in accordance with these provisions. The Aviation Department shall have the right to require the Lessee to conduct background investigations and to furnish certain data on such employees before the issuance of SIDA Badges, which data may include the fingerprinting of employee applicants for such badges.

17.13.2 Operation of Vehicles on the AOA.

Before the Lessee shall permit any employee of Lessee or of any sublessees or of any subconsultant/subcontractor to operate a motor vehicle of any kind or type on the AOA (and unless escorted by an Aviation Department approved escort), the Lessee shall ensure that all such vehicle operators possess current, valid and appropriate Florida driver's licenses. In addition, any motor vehicles and equipment of Lessee or of any sublessees or of any subconsultant/subcontractor operating on the AOA must have an appropriate vehicle identification permit issued by the Aviation Department, which identification must be displayed as required by the Aviation Department.

- 17.13.3 Consent to Search/Inspection. The Lessee agrees that its vehicles, cargo, goods and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. The Lessee further agrees on behalf of itself and its sublessees, that it shall not authorize any employee or other person to enter the AOA unless and until such employee or other person has executed a written consent-to-search/inspection form acceptable to the Aviation Department. Lessee acknowledges and understands that the foregoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason, Lessee agrees that persons not executing such consent-to-search/inspection form shall not be employed by the Lessee or of any sublessees or of any subconsultant/subcontractor at the Airport in any position requiring access to the AOA or allowed entry to the AOA by the Lessee or any sublessees.
- 17.13.4 Lessee understands and agrees that if any of its employees, or the employees of any of its subcontractors, 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 be required to execute a Sensitive Security Information Non-Disclosure Agreement promulgated by the Aviation Department.
- 17.13.5 The provisions hereof shall survive the expiration or any other termination of this Agreement.
- 17.14 Public Entity Crimes Act. Lessee represents that the award of this concession 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 purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this Section shall result in termination of the lease and recovery of any monies paid by County hereto, and may result in debarment from County's competitive procurement activities.
- 17.15 Scrutinized Companies List. The Agreement may also be terminated for cause if the Lessee is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, as amended or if the Concessionaire

provides a false certification submitted pursuant to Section 287.135, Florida Statutes, as amended.

- 17.16 Right of Flight. The County reserves unto 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 said airspace such noise and other intrusions as may be inherent in the operations of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for aircraft landing on, taking off from, or operating at the Airport.
- 17.17 Compliance with FAR Part 77. Lessee, its successors and assigns, agrees to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such height as to comply with all applicable Federal Aviation Regulations, including but not limited to 14 CFR Part 77.
- 17.18 The Lessee agrees to operate the Premises for the use and benefit of the public; to make available all Airport facilities and services to the public, without unjust discrimination; and to refrain from imposing or levying excessive, discriminatory or otherwise unreasonable charges or fees for any Airport service.
- 17.19 Airport Hazard. Lessee expressly agrees, for itself, its successors and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute a hazard.
- 17.20 Contingency Fee. Lessee warrants that it has not employed or retained any company or 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, company, corporation, individual or firm, 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.
- 17.21 Specific Performance. The parties agree that in addition to all other remedies, the obligations contained herein shall be subject to the remedy of specific performance, injunctive relief, and writ of prohibition or mandamus to compel the other party to abide by the terms 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.
- 17.22 Survival. Upon termination or expiration of this Agreement, the Lessee shall remain liable for all obligations and liabilities that have accrued prior to the date of termination or expiration. 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 execution of this

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

17.23 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 Agreement shall be deemed to create 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 shall be considered zoning by contract.

17.24 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.

17.25 Visual Artists' 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 it may be amended from time to time (the "Act"), Lessee agrees that it shall not (i) hire any artist or permit any sublessee to hire any artist for the purpose of installing or incorporating any work of art into or at the Premises, or (ii) permit the installation or incorporation of any work of art into or at the Premises, without the prior written approval of the Aviation Department. Lessee shall provide such reasonable documentation as the Aviation Department may request in connection with any such approval and the approval of the Aviation Department may be conditioned upon the execution by the artist of a waiver of the provisions of the Act, in form and substance acceptable to the Aviation Department.

17.26 ENVIRONMENTAL COMPLIANCE, CONTAINMENT AND REMOVAL

17.26.1 Lessee shall provide the Aviation Department upon request, a list of all Hazardous Materials stored, used, generated or disposed of on Airport property by Lessee. Lessee shall also complete the form attached hereto as **Exhibit E** and shall deliver same to the County contemporaneously with its execution of this Agreement. Lessee represents that, to the best of its knowledge the matters disclosed on such form will be accurate and complete as of the date of execution of this Agreement. At the request of the Aviation Department (not more than once a year) the Lessee shall provide an accurate and complete update as to the matters set forth on **Exhibit E**.

17.26.2 Lessee agrees to comply with all Applicable Laws, including but not limited to Environmental Laws and any Development Order covering the Airport, issued pursuant to Chapter 380, Florida Statutes, including without limitation those addressing the following, if applicable to the Lessee:

- (1) Proper use, storage, treatment and disposal of Hazardous Materials, including contracting with a licensed Hazardous Waste transporter and/or treatment and disposal facility to assure proper transport and disposal of Hazardous Materials.
 - (2) Proper use, disposal and treatment of stormwater runoff, including the construction and installation of adequate pre-treatment devices or mechanisms, if required by any Applicable Laws. The 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, if applicable, a site specific Stormwater Pollution Prevention Plan, and a Spill Prevention and Countermeasures Plan.
 - (3) Adequate inspection, licensing, insurance, and registration of existing and future storage tanks, storage systems, and ancillary facilities to meet all requirements of all Applicable Laws, including the installation and operation of adequate monitoring devices and leak detection systems.
 - (4) Adequate facilities for management and, as necessary, pretreatment of Hazardous Materials and the proper disposal thereof.
 - (5) Compliance with reporting requirements of Title III of the Superfund Amendment and Chapter 27 of the Broward County Code of Ordinances, as applicable and as such laws may be amended from time to time.
- 17.26.3 The Release of any Hazardous Materials by Lessee or Lessee's Parties at the Premises occupied by Lessee, or at any other Airport property, whether caused by the officers, employees, contractors, subcontractors or agents of Lessee or Lessee's Parties, that is in an amount that is in violation of any Applicable Laws, whether committed prior to or subsequent to the date of execution of this Agreement, shall be, at the Lessee's expense, and upon demand of County or any of its agencies or any local, state, or federal regulatory agency, immediately contained or removed to meet the requirements of all Applicable Laws. If Lessee does not take action immediately to have such Hazardous Materials contained, removed and abated, the County or any of its agencies may undertake the removal of the Hazardous Materials; however, any such action by the County or any of its agencies shall not relieve the Lessee of its obligations under this or any other provision of this Agreement or as imposed by law. No action taken by either the Lessee or the County to contain or remove Hazardous Materials, or to abate a release, 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 release. Notwithstanding the foregoing, Lessee shall not be liable for the presence of any Hazardous Materials at the Premises or the Airport caused by the County or other persons or entities, or one of Lessee Parties.

- 17.26.4 Lessee shall provide the Aviation Department with notice of Releases of Hazardous Materials occurring at any area used by Lessee or Lessee's Parties due to Lessee's or Lessee's Parties operations at the Airport, which Release was caused by Lessee or Lessee's Parties, which notices shall 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 federal, state, County, and local laws, rules and regulations and also such records as are reasonably necessary to adequately assess environmental compliance in accordance with all Applicable Laws. Upon request by the Aviation Department, Lessee shall make all documentation required by this subparagraph available for the review of County representatives.
- 17.26.5 As required by all Applicable Law, Lessee shall provide the required federal, state, County and local regulatory agencies with notice any Release of Hazardous Materials on the Premises occupied by Lessee on the Airport property, which Release was caused by Lessee or any sublessees, officers, employees, contractors, subcontractors, invitees, or agents of Lessee. Lessee shall further provide the Aviation Department and the Department of Environmental Protection and Growth Management (or successor agency) with written notice within three (3) business days following commencement of same, of the measures to remediate and or monitor any Release in full compliance with all Applicable Laws. Lessee shall have an updated contingency plan (or comparable document) in effect which provide minimum standards and procedures for storage of regulated Hazardous Materials and other Hazardous Materials, prevention and containment of spills and Releases, and transfer and disposal of regulated Hazardous Materials and other Hazardous Materials. The contingency plan shall describe design features, response actions and procedures to be followed in case of releases or other accidents involving Hazardous Materials.
- 17.26.6 The Aviation Department, upon reasonable written notice to Lessee, shall have the right to inspect all documents relating in any way to the Release of any Hazardous Materials at the Airport, the environmental condition of the Premises occupied by Lessee, any curative, remediation, or monitoring efforts on any Airport property by Lessee or Lessee's Parties, and any documents required to be maintained under all Applicable Laws including but not limited to any development order issued to the County pertaining to the Airport, pursuant to Chapter 380, Florida Statutes, including, but not limited to, manifests evidencing proper transportation and disposal of Hazardous Materials, environmental site assessments, and sampling and test results. Lessee agrees to allow inspection of the Premises occupied by Lessee by appropriate federal, state, County and local agency personnel in accordance with all Applicable Laws, and as required by any development order issued to the County pertaining to the Airport, pursuant to Chapter 380, Florida Statutes.

- 17.26.7 If the County, pursuant to this subsection 17.26, arranges for the removal of any Hazardous Materials on the Premises or other Airport Property used or occupied by Lessee or Lessee's Parties, that were caused by Lessee or Lessee's Parties, all costs of such removal incurred by the County shall be paid by Lessee to the County within sixty (60) calendar days of County's written demand, with interest at the rate of eighteen percent (18%) per annum thereafter accruing.
- 17.26.8 Nothing herein shall relieve Lessee of its general duty to cooperate with the County in ascertaining the source and, containing, removing and abating any Hazardous Materials and Releases. 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, in accordance with all Applicable Laws, shall have the right to enter the Premises occupied by Lessee for the purposes of the foregoing activities and conducting such environmental assessments (testing or sampling), inspections and audits as it deems appropriate. Any such entering of the Premises occupied by Lessee, by County, shall be, if possible, without unreasonable interference with Lessee's operations on the Premises and at reasonable times.
- 17.26.9 If any assessment or inspection undertaken by County, state or federal agencies, indicates that further actions should be conducted, then the County shall have the right to have such further actions conducted at the Lessee's expense. Lessee shall reimburse to the County the cost of such assessments and inspections within sixty (60) calendar days following written demand for payment, with interest at the rate of eighteen percent (18%) per annum thereafter accruing. Lessee shall have the right to split any soil or water samples obtained by the County.
- 17.26.10 In the event County shall arrange for the removal of Hazardous Materials on the Premises occupied by Lessee that are not the responsibility of the Lessee to correct, County shall use reasonable efforts to not disrupt Lessee's business, however, in no event shall Lessee be entitled to any abatement of rent or any amount on account of lost profits, lost rentals, or other damages as a result of County's clean-up activities.
- 17.26.11 All flammable liquids that are kept or stored at the Premises must at all times be handled, stored, used and dispensed in accordance with all Applicable Laws and other requirements, as same may be amended, including without limitation any rules, regulations or minimum standards that are established by the Aviation Department for operations of Airport tenants.
- 17.26.12 The provisions of this section shall survive the expiration or other termination of this Agreement.

- 17.27 Damage to Airport Facilities. Lessee shall be responsible for any and all damage to the Airport caused by the negligence of Lessee and Lessee's Parties, 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 and Lessee's Parties.
- 17.28 Prevailing Wage Requirement. 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, shall be deemed to apply to the entire construction project; and further Lessee shall fully comply with the requirements of such ordinance and shall satisfy, comply with, and complete the requirements set forth in **Exhibits C and D.**
- 17.29 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached **Exhibits A, B, C, D, E, F, and G** are incorporated into and made a part of this Agreement.
- 17.30 Boarding Assistance for Individuals with Disabilities. Pursuant to 40 CFR Part 27 and 14 CFR Part 382, which requires that airports and airlines provide boarding assistance to individuals with disabilities, Lessee shall abide by the terms and conditions of the Addendum attached hereto as **Exhibit G**, and made a part hereof relating to the Lessee's use of the County's "Lift Device," which sets forth the duties and obligations of the respective parties with regard to the use of said Lift Device.
- 17.31 Multiple Originals. This Agreement may be fully executed in up to five (5) counterparts by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

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IN WITNESS WHEREOF, the parties hereto have made and executed this TERMINAL BUILDING LEASE AGREEMENT by and through their respective representatives: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board of Commissioners action on the ____ day of _____, 20__ and by Virgin America, Inc., signing by and through its duly authorized representatives.

COUNTY

ATTEST:

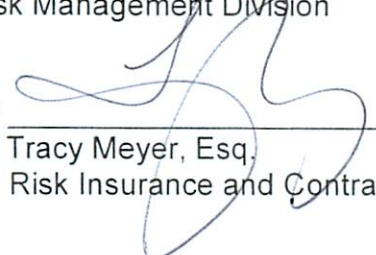
BROWARD COUNTY, by and through its Board of County Commissioners

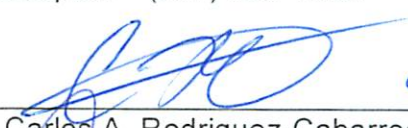
Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

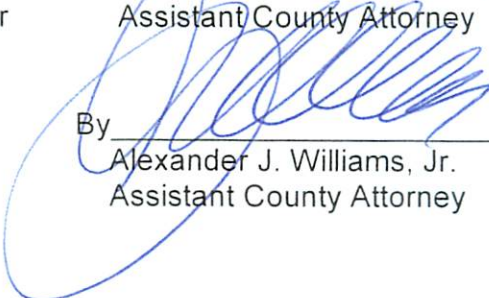
By _____ Mayor
____ day of _____, 20__

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  _____ 8-10-17
Tracy Meyer, Esq. (Date)
Risk Insurance and Contracts Manager

By  _____ 8/21/17
Carlos A. Rodriguez-Cabarrocas (Date)
Assistant County Attorney

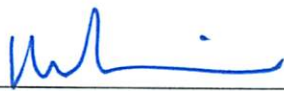
By  _____ 8/21/17
Alexander J. Williams, Jr. (Date)
Assistant County Attorney

CRC/ch
Non-Sig TBLA – Virgin America
2/02/17
17-071.04

TERMINAL BUILDING LEASE AGREEMENT BETWEEN BROWARD COUNTY AND VIRGIN AMERICA, INC.

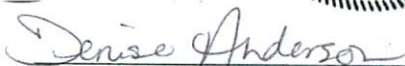
LESSEE

ATTEST:


Secretary
Kyle B. Levine

(CORPORATE

WITNESS:







By: _____

Print Name: Karen Gruen
Vice President
Real Estate

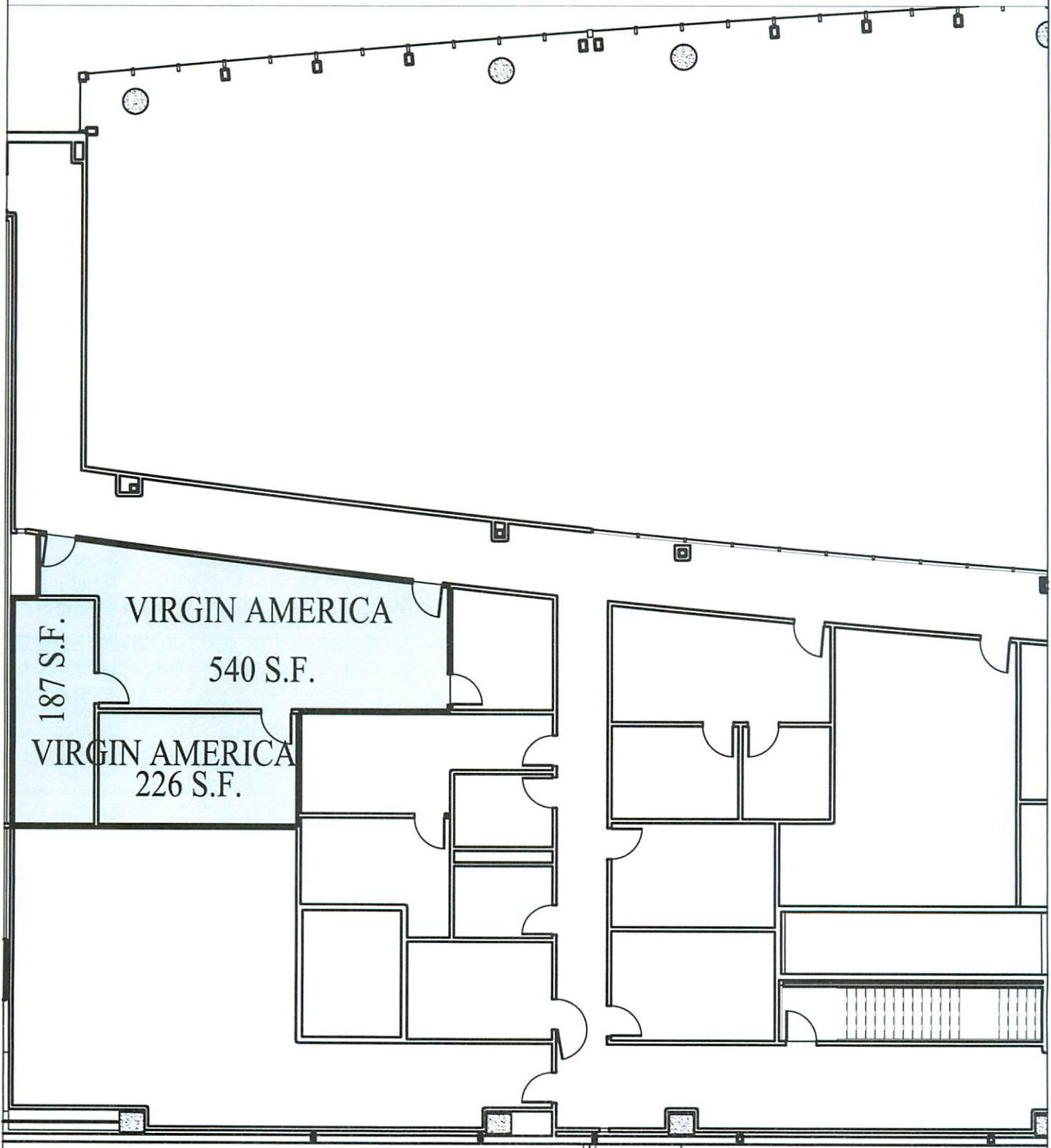
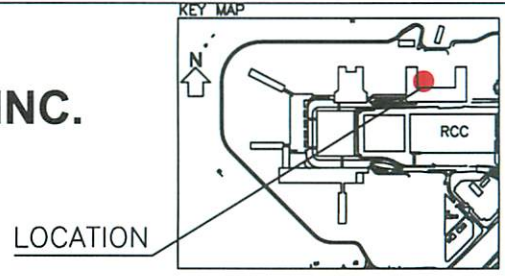
Title: _____

26 day of July, 2017

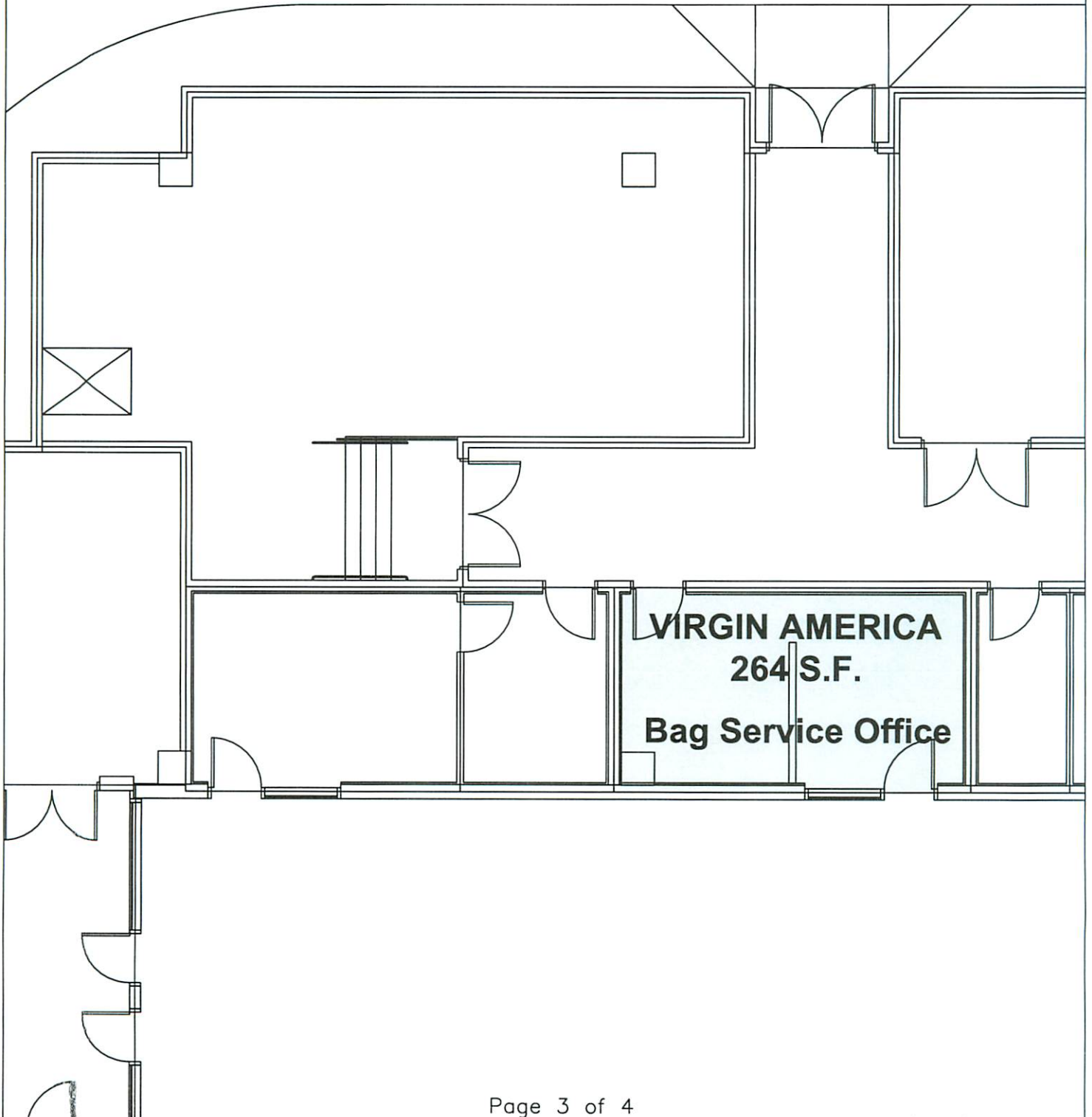
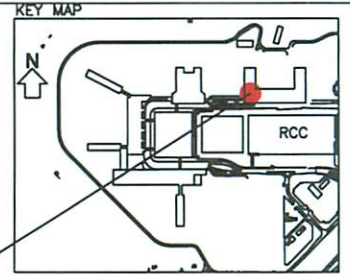
**EXHIBIT A
LEASED PREMISES**

- 953 square feet of Airline Ticket Office (Type 1 space) in Terminal One, Level 4.
- 264 square feet of Baggage Service Office (Type 2 space) in Terminal One, Arrival Level.
- 156 square feet of Operations Space (Type 2 space) in Terminal 1, Concourse C, Ramp Level.

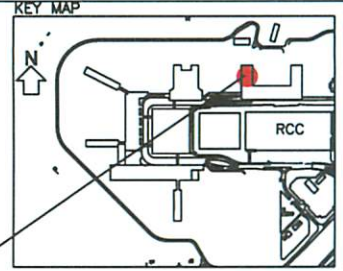
EXHIBIT A
LEASED PREMISES - VIRGIN AMERICA, INC.
TERMINAL 1 LEVEL 4
ATO SPACE 953 S.F.



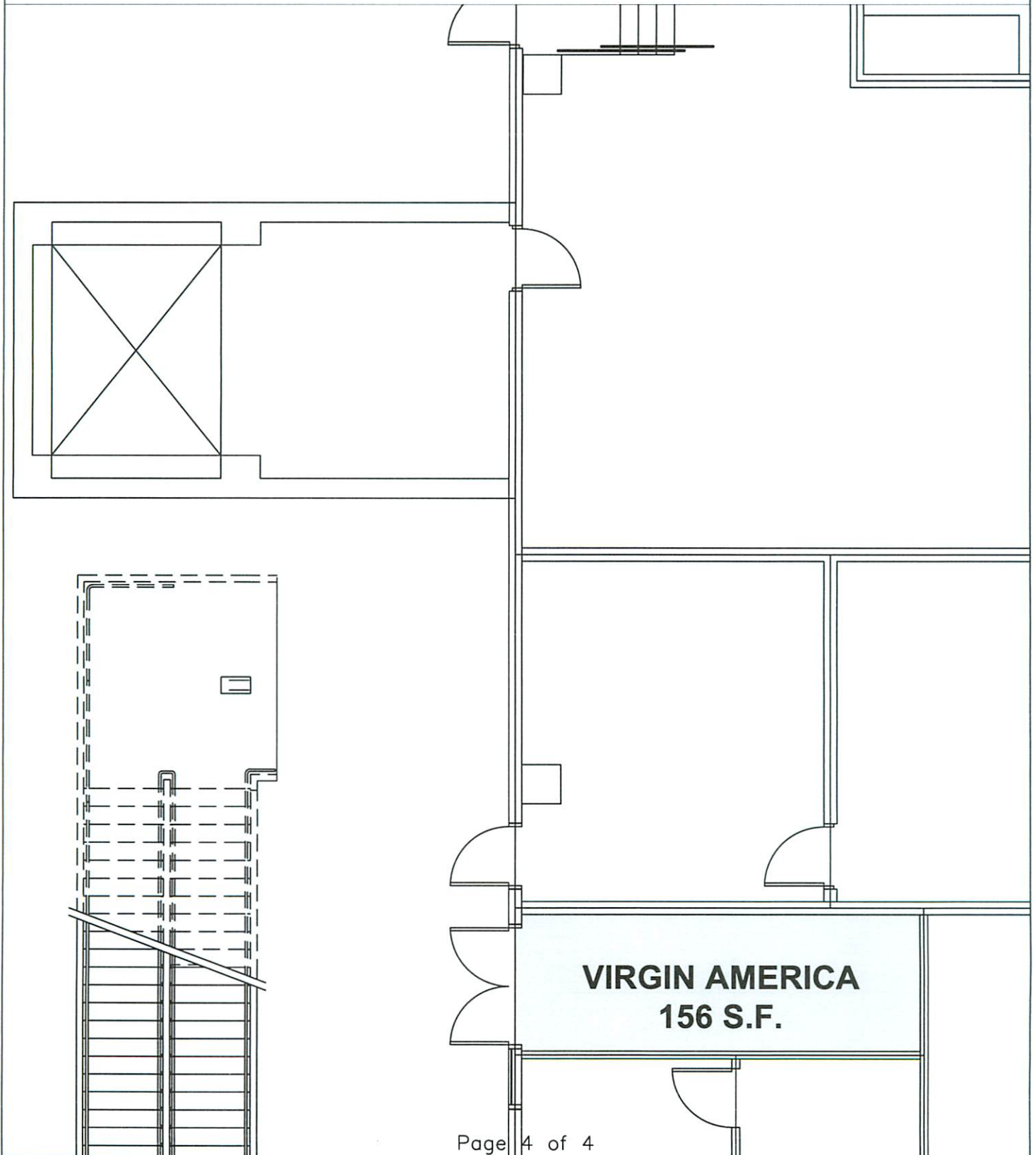
**EXHIBIT A
LEASED PREMISES - VIRGIN AMERICA, INC.
TERMINAL 1 BAG CLAIM LEVEL
BAG SERVICE OFFICE SPACE 264 S.F.**



**EXHIBIT A
LEASED PREMISES - VIRGIN AMERICA, INC.
TERMINAL 1 CONCOURSE C RAMP LEVEL
OPERATIONS SPACE 156 S.F.**



LOCATION



**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 the Federal Aviation Administration (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, and/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, the 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
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 \$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 \$250,000, the following shall apply:

- (a) 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).
- (b) 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.
- (c) 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.
- (d) 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: (1) 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 (2) 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.
- (d) Subparagraphs (a) through (d) above shall apply to prime contracts and subcontracts under such prime contracts.
- (e) 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.

- (f) 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 D**.
- (g) 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.
- (h) 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 D

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

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 July 26, 2017,

Karen Gruen

Vice President

Lessee

Real Estate

By _____

(Signature)

(Name and Title)

STATE OF Washington
COUNTY OF King

The foregoing instrument was acknowledged before me this 26th day of July, 2017, by Karen Gruen who is personally known to me or who has produced Wa State Drivers License as identification.

WITNESS my hand and official seal, this 26th day of July, 2017.

(NOTARY SEAL)

Kelly Rankin
(Signature of person taking acknowledgment)

Kelly Rankin

(Name of officer taking acknowledgment)

typed, printed or stamped

Claims & Corporate Insurance Programs Manager
(Title or rank)

(Serial number, if any)

My commission expires _____



CAF #405
7/26/2011

EXHIBIT E
ENVIRONMENTAL DOCUMENTS

Company Name: Alaska Airlines ~~100~~ Virgin America

Mailing Address: P.O. Box 68900 - SEAPZ
Street or Post Office Box

City: Seattle State: WA Zip Code: 98168-0900

Type of Agreement: Terminal Building Lease Agreement

Please describe the activities performed and services provided on leasehold:

Gate and terminal operations for passenger airline activities.

Will there be fueling: Yes No

Will there be maintenance: Yes No (except in cases of emergency)

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 N/A.
2. Storm water Pollution Prevention Plan, dated N/A.
3. Spill Prevention Control and Countermeasures Plan, dated N/A.
4. Hazardous Materials Plan, dated N/A.
5. Other applicable environmental plans:

N/A

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

Is the Lessee a generator of hazardous waste pursuant to 40 CFR 261?

EXHIBIT E

CAF #405
7/26/2011

Yes ___ No X.

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

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

The following environmental licenses and/or 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. <u>None.</u>		
2. _____		
3. _____		
4. _____		
5. _____		
6. _____		

Exhibit F

MAINTENANCE - CLEANING AND OPERATIONS RESPONSIBILITIES

B - Broward County

A - Airline

Airline Leased Properties

All Other Non-Leased Areas

	Ticket Counter Space	Airline Leased Premises Non-Public Use²	Airline Leased Premises Public Use¹	Interior Space	Exterior and Aircraft Apron
1 Air Conditioning					
a. Maintenance	B	B	B	B	N/A
b. Operation	B	B	B	B	N/A
c. Chilled Air Distribution	B	B	B	B	N/A
2 Electrical					
a. Bulb & Tube Repl.	B	A	B	B	B
b. Illu. incl. Power	B	A	B	B	B
Power exc. for Illumination -					
c. Maintenance	B	A	B	B	B
d. Operational Cost	B	B	B	B	B
3 Heating					
a. Maintenance	B	B	B	B	N/A
b. Operation Cost	B	B	B	B	N/A
4 Water-Maintenance					
a. Distribution	B	B	B	B	B
b. Fixtures	B	B	B	B	B
5 Maintenance					
a. Other than structural	B	A	B	B	B
b. Structural	B	B	B	B	B
c. Exterior of kinds	B	B	B	B	B
6 Sewage & Plumbing					
a. Distribution	B	B	B	B	B
b. Fixtures	B	B	B	B	B
7 Public Address System	B	B	B	B	B
8 Custodial Service	A	A	B	B	B
9 Window cleaning					
a. Exterior	B	B	B	B	N/A
b. Interior	N/A	A	B	B	N/A
10 Ramp Markings	N/A	A	N/A	N/A	B

¹Airline Leased Premises - Public Use = Restrooms, Curbside and Remote Check-In

²Airline Leased Premises - Non-Public Use = All Other Leased Space

**EXHIBIT G
ADDENDUM TO AGREEMENT PROVIDING
FOR THE USE OF LIFT DEVICE
PURSUANT TO 49 CFR PART 27 AND 14 CFR PART 382**

1. COUNTY, as the owner and operator of the Fort Lauderdale-Hollywood International Airport ("Airport") and those entities providing boarding assistance to individuals with disabilities are required to enter into an agreement addressing the respective responsibilities of the parties regarding the provision of accessible facilities for individuals with disabilities, which includes providing boarding assistance using mechanical lifts ("Lift Device"). 49 CFR Part 27 and 14 CFR Part 382.

2. COUNTY and Lessee agree, subject to all existing terms and conditions of the Agreement between the parties, as follows:
 - a. COUNTY shall make available to the Lessee, on a nonexclusive basis, the use of the Lift Device. Such Lift Device is to be used solely for the purpose of loading and unloading passengers from aircraft owned or operated by the Lessee at the Airport. The Lift Device may be used only on the Air Operations Area of the Airport.

 - b. Lessee's employees, agents or representatives shall be trained to operate the Lift Device and will attend all training sessions as to the proper use of the Lift Device as may be provided by either the Broward County Aviation Department ("Aviation Department") or the manufacturer of the Lift Device. All persons trained in the use of said Lift Device shall be certified to use the Lift Device by the Aviation Department. Those representatives of the Lessee who have successfully completed such training and have been certified by the Aviation Department or the manufacturer may train other representatives of the Lessee in the proper use of the Lift Device.

 - c. Promptly after each delivery of the Lift Device for use by the Lessee, and in any event prior to any use of the Lift Device, trained representatives of the Lessee shall inspect the Lift Device and following such inspection shall either (i) if the Lift Device appears to be fit for its intended use, accept the Lift Device in which case the Lessee may proceed to use the Lift Device in accordance with the provisions of this Addendum; or (ii) if the Lift Device appears in any way to be damaged, unsafe, broken, improperly or not maintained, missing parts, or unfit for its intended use, immediately notify the Aviation Department and shall not use the Lift Device until such time as the Aviation Department has corrected such problems as it deems necessary and granted its written consent to once again commence use of the Lift Device. Subject to receipt of any sums owed to COUNTY pursuant to subparagraph 3.d. below, the Aviation Department agrees to repair

promptly any damage or problems to the Lift Device and to maintain the Lift Device in good working order. The Lessee's right to use the Lift Device shall be suspended for any period during which the Lift Device is in any way damaged, unsafe, broken, improperly or not maintained, missing parts, or unfit for its intended use.

- d. The Lift Device, until returned to the COUNTY, shall be held and used by the Lessee, at all times at the sole risk of the Lessee for injury, damage (including damage to third parties and their property), loss, destruction, theft, expropriation or requisition (as to either title or use). If the Lift Device or any part of it is destroyed, lost, stolen, damaged beyond repair, or permanently rendered unfit for normal use for any reason whatsoever, or is expropriated or requisitioned while in the possession of the Lessee, and before return to the COUNTY, the Lessee shall promptly notify the COUNTY and pay the COUNTY on demand the replacement value of the Lift Device determined immediately prior to the occurrence as reimbursement to the COUNTY for such occurrence. As used herein, replacement value of the Lift Device shall mean the cost of replacement of the Lift Device by purchasing its replacement thereof from the manufacturer.
 - e. Title to the Lift Device is and at all times shall remain in the COUNTY. Further, the Lessee shall not sell, mortgage, assign, transfer, lease, sublet, loan, part with possession of or encumber the Lift Device or permit any liens or charges to become effective thereon or permit or attempt to do any of the acts aforesaid. The Lessee agrees, at its own expense, to take such action as may be necessary (i) to remove any such encumbrance, lien or charge, and (ii) to prevent any third party from acquiring any interest in the Lift Device or any part thereof.
 - f. If at any time the Lessee becomes aware of the need for maintenance or repairs to the Lift Device, the Lessee shall (i) promptly notify the Aviation Department in writing of the nature of the maintenance or repairs needed, and (ii) refrain from using the Lift Device until such time as the Aviation Department has performed such repairs or maintenance as it deems necessary and has granted its written consent to commence use of the Lift Device.
3. Lessee agrees to comply with all federal, state, County and local laws, regulations, codes, and ordinances, and all applicable requirements of the manufacturer of the Lift Device, applicable to the physical possession, operation, condition, use and maintenance of the Lift Device.
 4. Lessee acknowledges that the COUNTY is not the manufacturer of the Lift Device or a dealer in similar property and has not made and does not make any representation, warranty or covenant, express or implied, with respect to the

condition, quality, durability, suitability or merchantability of the Lift Device. COUNTY shall not be liable to Lessee for any liability, loss or damage caused or alleged to be caused directly or indirectly by the Lift Device, by any inadequacy thereof or defect therein, or by any incident in connection therewith. In the event Lessee provides written notice to COUNTY of a claim against Lessee relating to the operation of the Lift Device, COUNTY shall, to the extent possible, assign any applicable manufacturer's warranty and/or claim against the manufacturer with respect to the Lift Device to Lessee; provided, however, that in assigning such claim, COUNTY'S right to assert a claim in its own interest shall not be prejudiced thereby.

5. The Lessee acknowledges that COUNTY may establish, in its discretion, reasonable and nondiscriminatory fees and charges for the use and/or maintenance of the Lift Device. Lessee agrees to pay any such fees and charges in the manner prescribed by the Director of Aviation.
6. COUNTY and Lessee reserve the right to assign all of the obligations to maintain and operate the Lift Device, as provided in this Addendum, on behalf of COUNTY and Lessee, to a provider of ground handling services.