

CARGO BUILDING LEASE AGREEMENT
BETWEEN
BROWARD COUNTY AND
DELTA AIR LINES, INC.

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CARGO BUILDING LEASE AGREEMENT

This CARGO BUILDING LEASE AGREEMENT is made by and between BROWARD COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners ("County") and DELTA AIR LINES, INC., a corporation organized and existing under the laws of the State of Delaware, and legally authorized to do business in the State of Florida, and having offices at 1030 Delta Blvd., Atlanta, Georgia 30354 ("Lessee").

RECITALS

WHEREAS, County owns and has jurisdiction over the development, operation and maintenance of the Fort Lauderdale-Hollywood International Airport located in Broward County, Florida; and

WHEREAS, County and Lessee desire to enter into this Cargo Building Lease Agreement with respect to the Premises hereinafter described;

NOW, THEREFORE, in consideration of the Premises and the mutual covenants contained herein, the parties agree as follows:

ARTICLE 1 DEFINITIONS

The following terms set forth below, when used in this Agreement, shall be defined as follows:

- 1.1 Airport means the Fort Lauderdale-Hollywood International Airport, located in Broward County, Florida.
- 1.2 Agreement and Lease mean this Cargo Building Lease Agreement, including any supplements, modifications or amendments thereof.
- 1.3 Applicable Environmental Laws means any and all applicable federal, state, County and local statutes, ordinances, regulations, rules, laws, permits, and orders and directives of any federal, state or local court or entity with jurisdiction of such matter, relating to the generation, use, storage, transportation, or disposal of hazardous materials, that have been, or may hereinafter be adopted, and as may be amended from time to time, including but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 USC § 9601, et. seq.), the Resources Conservation and Recovery Act of 1976 (42 USC § 6901, et. seq.), the Clean Water Act (33 USC § 1251 et. seq.), the Safe Drinking Water Act (42 USC § 300 et. seq.), the Hazardous Materials Transportation Act (49 USC § 5101 et. seq.), and the Toxic Substance Control Act (15 USC § 2601, et. seq.), all as may be amended from time to time.

- 1.4 **Applicable Laws** means any and all applicable laws, codes, advisory circulars, rules, regulations, ordinances or resolutions of any governmental or quasi-governmental entity relating to the Airport, the Premises, or activities at the Airport or the Premises, that have been, or may hereinafter be adopted, and as may be amended from time to time, including without limitation all applicable federal, state, County, local and any quasi-governmental agency laws, codes, advisory circulars, rules, regulations, ordinances, resolutions, development orders, grant agreements, and Applicable Environmental Laws.
- 1.5 **Approved Plans** means plans and specifications for improvements to the Premises that have received the prior written approval of the Aviation Department pursuant to Article 6, hereof.
- 1.6 **Aviation Department** means the Broward County Aviation Department or such other named County organization that from time to time may exercise functions equivalent or similar to those now exercised by such Department.
- 1.7 **Board and Commission** mean the Board of County Commissioners of Broward County, Florida.
- 1.8 **Cargo Building** means the cargo building constructed by the County on the Parcel, as depicted on **Exhibit B**.
- 1.9 **CO Date** and the date(s) that any improvements are deemed to be completely constructed, means the date upon which the improvements may first be put into service for the intended use (regardless of whether such is the actual first date of usage).
- 1.10 **Commencement Date** means the later date to occur of July 1, 2015 or the date this Agreement is fully executed by the parties hereto.
- 1.11 **Common Use Area** means the landside area designated for the nonexclusive use of Lessee, other tenants of the Cargo Building and other persons, for the picking up or dropping off of cargo, freight or mail at the Cargo Building, which facilities are designated on **Exhibit B**, attached hereto and made a part hereof. This area includes, but is not limited to, temporary parking in front of the loading dock, temporary landside parking, and all areas accessible to the public.
- 1.12 **County** means Broward County, a political subdivision of the State of Florida.
- 1.13 **CPA** means a duly licensed independent firm of certified public accountants.
- 1.14 **Days or "days"** means the days of the week, consisting Sunday through Saturday.
- 1.15 **FAA** means the Federal Aviation Administration, or any successor agency.

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- 1.5 **Approved Plans** means plans and specifications for improvements to the Premises that have received the prior written approval of the Aviation Department pursuant to Article 6, hereof.
- 1.6 **Aviation Department** means the Broward County Aviation Department or such other named County organization that from time to time may exercise functions equivalent or similar to those now exercised by such Department.
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- 1.14 **Days** or "days" means the days of the week, consisting Sunday through Saturday.
- 1.15 **FAA** means the Federal Aviation Administration, or any successor agency.

- 1.16 **Improvements** means any and all construction, alterations, installations, modifications, renovations, replacements, refurbishments, fixtures, permanently affixed equipment, facilities (both above ground and below ground), and any other structures now or hereafter constructed on or removed from the Premises, and all additions, alterations, modification, renovations, and replacements thereto. Any structure, furnishing, display, equipment, trade fixture, fixture, or any other improvement that is nailed, bolted, stapled, or otherwise permanently affixed to the Premises shall be considered permanently installed or affixed and is included within the definition of improvement.
- 1.17 **Joint Use Area** means the airside cargo ramp area on the south portion of the Parcel and the landside loading dock area in front of the Cargo Building, that are designated for the nonexclusive use of Lessee and other tenants of the Cargo Building and other duly authorized users of the Airport, which areas are designated on **Exhibit B**, attached hereto and made a part hereof.
- 1.18 **Lease Year** means the period beginning on the earlier to occur of (i) the first day of the month following the Commencement Date, or (ii) the Commencement Date, if it occurs on the first day of a month; and ending on the last day of the twelfth month thereafter; and each twelve-month period thereafter, until the termination of this Agreement.
- 1.19 **Lessee** means Delta Air Lines, Inc., its successors and assigns, as permitted herein.
- 1.20 **Lessee's Parties** means the sublessees, officers, agents, affiliates, employees, contractors, subcontractors and invitees of Lessee.
- 1.21 **Master Plan** means the Fort Lauderdale-Hollywood International Airport Master Plan or Update thereto, that is in effect on the Commencement Date, and all amendments and replacements thereof.
- 1.22 **Parcel** means the Cargo Building, the Joint Use Area and the Common Use Area as described and depicted on **Exhibit B**, attached hereto and made a part hereof, and all improvements thereon, subject to rights-of-way and all other property interests of record ("Parcel").
- 1.23 **Part 150 Study** means the Fort Lauderdale-Hollywood International Airport FAR Part 150 Program or Update thereto, that is in effect on the Commencement Date, and all amendments and replacements thereof.
- 1.24 **Person** means any individual, firm, trust, estate, partnership, joint venture, company, corporation, association, or any other legal entity or business enterprise. The reference in this Agreement to any one of the foregoing types of persons shall be deemed a reference to all other types of persons.

- 1.25 **Premises** means the portion of the Cargo Building more particularly described on **Exhibit A**, as (i) Bay 1 measuring approximately 10,000 sq. ft. and (ii) Bay 1 Ramp Area measuring approximately 13,648 sq. ft., attached hereto and made a part hereof, which is being leased to the Lessee pursuant to this Agreement.
- 1.26 **Public Landing Area** means the area of land at the Airport, including Runways, Taxiways and the areas between and adjacent to Runways and Taxiways, designated and made available from time to time by the County for the landing and taking off of aircraft.
- 1.27 **Runways** (including approaches thereto) mean the portion of the Airport used for the purpose of landing and taking off of aircraft.
- 1.28 **Taxiways** mean the portion of the Airport used for the purpose of ground movement of aircraft to, from and between the Runways, the public ramps and apron area, the aircraft parking and storage space and other portions of the Airport (not including, however, any taxiways the exclusive use of which is granted to the Lessee or any other person by lease, permit or otherwise).
- 1.29 **Termination Date** means as set forth in Article 3 of this Agreement.
- 1.30 **Term of this Lease** or words of similar import means the term set forth in Article 3 hereof, including the initial term and any renewal terms, as applicable.
- 1.31 **Transportation Security Administration** or **TSA** means the Federal Transportation Security Administration, or any successor agency.

ARTICLE 2
LETTING

- 2.1 The County hereby lets to Lessee and Lessee hereby hires and takes from the County, at Fort Lauderdale-Hollywood International Airport, in Broward County, State of Florida, the "Premises" as herein above defined in Article 1. The Premises shall be used solely for the uses and purposes permitted by this Agreement and for no other uses or purposes.
- 2.1.1 Lessee shall have the non-exclusive use of the Joint Use Areas and the Common Use Areas, to be shared with other tenants of the Cargo Building and other authorized users of the Airport facilities, subject to such rules as may be established by the Aviation Department. The Aviation Department reserves the right, at any time, to designate portions of the Common Use Areas or Joint Use Areas to be allocated to the Lessee or to other tenants of the Cargo Building, if deemed necessary to provide for the best utilization of available facilities. Lessee shall be responsible for any damage to the Common Use Areas and the Joint Use Areas, as applicable, caused by Lessee or any of the Lessee's Parties and shall repair same to the condition

that existed immediately prior to such damage. Lessee shall use the Joint Use Areas primarily to facilitate movement of cargo to and from the Premises and for staging of equipment to be utilized in the immediate future. Lessee shall not use the Joint Use Areas for storage of equipment not currently being used for the Lessee's operations. Lessee shall use the Common Use Areas only for temporary vehicle traffic by its patrons and service providers in order to facilitate the dropping off or picking up of deliverable items authorized pursuant to Article 5 in this Lease. The Common Use Areas are located on the non-airside portion of the Parcel in the following locations: (i) the north side of the Cargo Building, and (ii) the temporary patron and ADA parking spaces to the east of the Cargo Building.

- 2.1.2 The Lessee specifically obligates itself to conduct its own due diligence investigation as to the Premises and the Parcel. Lessee shall examine the Parcel and Premises before taking possession of the Premises. There is no promise, representation or undertaking by or binding upon the County with respect to the Parcel, the Premises, or the installation of any equipment or fixtures, except such, if any, as are expressly set forth in this Lease.
- 2.2 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.
- 2.3 The County reserves the right to further develop and improve the Airport, including but not limited to all Public Landing Areas, Runways and Taxiways of the Airport, as it sees fit, regardless of the desires or views of the Lessee, and without interference or hindrance, subject to Article 9, hereof.
- 2.4 Except to the extent required for the performance of any of the obligations of the Lessee hereunder, nothing contained in this Agreement shall grant to the Lessee any rights whatsoever in the air space above the Parcel. In that regard, the County reserves the right to take any action whatsoever that it considers necessary to protect the aerial approaches of the Airport against obstruction, including, but not limited to demolition or removal of structures upon the Parcel, together with the right to prevent the Lessee from erecting or permitting to be erected any building or other structure at the Airport which, in the opinion of the County, would limit the usefulness of or interfere with the operations at the Airport, or constitute a hazard to aircraft.
- 2.5 This Agreement, and all provisions hereof, are 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 operation or maintenance of the Airport, or 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 execution of which has been required as a condition precedent to the expenditure of federal funds for the improvements or development of the Airport, including without limitation the expenditure of federal funds for the 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.

- 2.6 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 Parcel 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.
- 2.7 Lessee, its successors and assigns, agrees to restrict the height of structures, objects of natural growth and other obstructions on the Parcel to a height in order to comply with all provisions of this Lease and all applicable Federal Aviation Regulations, including but not limited to 14 CFR Part 77, as amended from time to time.
- 2.8 Lessee shall not use any portion of the Parcel or any improvements thereon in a manner that would interfere with or adversely affect the operation or maintenance of the Cargo Building, or the Airport, or otherwise constitute a hazard to aircraft or others. Lessee shall also prevent any such use by any of Lessee's Parties.
- 2.9 County reserves the right to maintain such utility easements on the Parcel as may now or in the future be determined to be necessary to serve the needs of the Airport, and the Lessee agrees to take the Premises subject to said easement requirements. Such easements will be used for, but not limited to, the installation of water distribution, sewage collection, underground electrical, telephone and telecommunications conduits, above ground street lighting and power poles. However, it is understood and agreed that the County will restore any improvements which Lessee has made to the Premises if such improvements are

materially damaged by any installation made by the County. Furthermore, the County shall take reasonable steps to insure that any such installation be the least disruptive to Lessee's operations.

- 2.10 **Relocation, Change of Locations.** Notwithstanding anything to the contrary in the Agreement, in the event the Aviation Department, due to operational needs, requires that Lessee operate at a different location in the Cargo Building, then upon written notice from the Aviation Department, Lessee shall move into the replacement area within the time period specified in the written notice. County may reimburse Lessee through credits to Lessee's rental payments for actual expenses incurred, if any, in the relocation of Lessee's cargo operation, excluding new furnishings, Lessee's employees labor costs, new signage and new equipment. Lessee shall submit the relocation and estimated costs to the Aviation Department, as a tenant improvement project, for review and approval. Lessee shall be required to submit invoices and proof of payments of the submitted invoices for the approved reimbursement amount at the completion of the relocation. If Lessee requests to relocate to a different location in the Cargo Building, or if Lessee requests to add additional space in the Cargo Building, then such costs incurred by Lessee shall be borne by Lessee, without expense to the County. In the event of any change as provided hereunder, then an exhibit reflecting such areas, the effective date, and the square footage of such areas 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. Amendments pursuant to this Article may be approved and executed by the Director of the Aviation Department, on behalf of the County. **Relocated space may not be similar in size or configuration to the Premises leased herein.**

ARTICLE 3 **TERM**

The Term of this Lease shall commence on the Commencement Date and this Lease shall terminate on the last day of the fifth (5th) Lease Year ("Termination Date"), unless sooner terminated as provided herein or unless the parties agree otherwise. At any time either party may terminate this Lease (with or without cause) by giving the other party at least ninety (90) days prior written notice to that effect. In the event any such notice of termination is given, the Termination Date of this Lease shall be the later to occur of: (i) ninety (90) days following the giving of notice; or (ii) the date set forth in such notice of termination.

ARTICLE 4 **RENTALS, FEES AND CHARGES**

- 4.1 **Annual Rental.** During each Lease Year, the annual rental, subject to adjustment as hereinafter provided, 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.

- 4.1.1 The first monthly installment of annual rent shall be paid on that date (the "First Payment Date") which is the first day of the first Lease Year. Thereafter monthly installments of rental shall be payable in advance on the 1st day of each and every month.
- 4.1.2 If the Commencement Date does not occur on the first day of a month, then on the First Payment Date a partial payment of rent shall also be due, which shall be an amount equal to the first monthly rental payment, prorated based on the number of days occurring between the Commencement Date and the First Payment Date, together with applicable sales taxes thereon.
- 4.1.3 (a) The annual rental payable during the first Lease Year of the Term for Bay 1 shall be One Hundred Fifty Two Thousand Dollars and 00/100 (\$152,000.00) plus applicable sales taxes. The monthly installment payments of rent during the first Lease Year shall be Twelve Thousand Six Hundred Sixty-six Dollars and 67/100 (\$12,666.67) plus applicable sales taxes.
- (b) The annual rental payable during the first Lease Year of the Term for Bay 1 Ramp Area shall be Eighteen Thousand Four Hundred Twenty Four Dollars and 80/100 (\$18,424.80) plus applicable sales taxes. The monthly installment payments of rent during the first Lease Year shall be One Thousand Five Hundred Thirty Five Dollars and 40/100 (\$1,535.40) plus applicable sales taxes.
- 4.1.4 County and Lessee agree that following the Commencement Date, the annual rental payment established at subsection 4.1.3 above, shall be adjusted on the first day of each Lease Year thereafter (each such date being referred to as an "Adjustment Date") as set forth below. Such adjusted annual rental, together with applicable sales taxes thereon, shall thereafter be the new annual rental for the succeeding Lease Year (subject to any further adjustment as may be provided by this Lease), and shall be payable in twelve (12) equal monthly installments.
- 4.1.5 On each Adjustment Date the annual rental shall be increased to an amount equal to the greater of either: (i) the product of the annual rental paid during the immediately preceding Lease Year, multiplied by the "CPI Multiplier" (as hereinafter defined); or (ii) the product of the annual rental paid during the immediately preceding Lease Year, multiplied by 1.03. The product of such multiplication shall be the amount of the annual rental payment to be made during the next succeeding Lease Year, commencing on the first day of such Lease Year. Upon determining the annual rental adjustment, the Aviation Department shall advise Lessee of the new annual rental, and the monthly installment payment of annual rent. In no event shall any adjusted annual rental established pursuant to this subsection 4.1.5 be less than the total annual rental paid during the immediate prior Lease Year.

4.1.5.1 The "CPI Multiplier" is a fraction, the numerator of which shall be the "CPI Index Number" (as hereinafter defined) indicated for the month that is three (3) months prior to the Adjustment Date and the denominator of which shall be the CPI Index Number indicated for the month that is fifteen (15) months prior to the Adjustment Date.

4.1.5.2 The "CPI Index Numbers" are the index numbers of retail commodity prices designated "CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS -UNITED STATES CITY AVERAGE - ALL ITEMS" (1982-1984 =100) (Consumer Price Index) issued by the Bureau of Labor Statistics, United States Department of Labor. The adjustments made to rental based upon these provisions shall be made solely by County. Any publication by either the United States Department of Labor or the United States Department of Commerce in which such index numbers are published shall be admissible in evidence in any legal or judicial proceeding involving this Lease without further proof of authenticity. Should the Bureau of Labor Statistics cease publishing the above-described index, then such other index as may be published by the United States Department of Labor that most nearly approximates the discontinued index shall be used in making the adjustments described above. Should the United States Department of Labor discontinue publication of an index approximating the index contemplated, then such index as may be published by another United States governmental agency which most nearly approximates the index first above referenced shall govern and be substituted as the index to be used.

4.2 Licenses, Fees and Taxes. Lessee shall pay, on or before their respective due dates, Lessee's proportionate share of 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 Parcel (including improvements) or the estate hereby granted, including without limitation any ad valorem taxes. Proportionate share shall be determined based upon the ratio of the Premises as to the Parcel. Lessee shall also 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 business conducted on the Premises, or upon any of Lessee's property used in connection therewith, or upon any rentals or other sums payable hereunder, 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. Lessee shall have the right to protest any such taxes at its own expense and seek a refund thereof.

- 4.3 **Utilities.** The Lessee shall pay, when due, all electric, water, garbage and other utilities charges and assessments for the Premises. Extension of utility mains or services to meet the needs of the Lessee shall be at the expense of the Lessee, and shall become the property of the County upon installation.
- 4.3.1 Lessee shall procure at its own expense all electric utilities for the Premises, which shall be separately metered for its Premises. Any metering devices installed by the Lessee for such electric utilities shall be installed at the cost of the Lessee and shall become the property of the County upon installation.
- 4.3.2 County shall provide a single meter for water supplied to the Cargo Building, the Common Use Areas and the Joint Use Areas. Lessee shall pay to County, on a monthly basis, its pro rata share of water and sewer charges and assessments for such areas based on the total square footage of the Cargo Building compared to the total square footage of the Premises. All such charges and assessments shall be paid by Lessee within thirty (30) days after receipt of County's invoice for same.
- 4.3.3 County shall provide a single meter for electric service supplied to the Common Use Areas and the Joint Use Areas. Lessee shall pay to County on a monthly basis, its pro rata share of such electric charges and assessments based on the total square footage of the Cargo Building compared to the total square footage of the Premises. All such charges and assessments shall be paid by Lessee within thirty (30) days after receipt of County's invoice for same.
- 4.4 **Other Fees and Charges.** 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, and the procedures relating to payment of same. In addition to rentals for the Premises, the Lessee agrees to pay all other rentals, rates, fees and charges payable by Lessee for use of any Airport facilities, in accordance with any agreement between Lessee and the County pertaining to Lessee's operations at the Airport and in the manner prescribed by the County in such agreement.
- 4.5 **Additional Rent and Charges.** If the County is required or elects to pay any sum or sums or incur any obligations or expense by reason of the failure, neglect or refusal of Lessee to perform or fulfill any one or more of the conditions, covenants or requirements contained in this Agreement or as a result of any act or omission of the Lessee contrary to said conditions, covenants or requirements, Lessee agrees to pay the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties actually incurred by County, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of 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 Section 4.1, hereof. All such sums of money shall be paid by Lessee within thirty (30) days after written demand therefore.

- 4.6 **Late Payments - Interest.** The County shall be entitled to collect interest at the rate of eighteen percent (18%) per annum from the date due until the date paid on any amounts that are past due under this Agreement. The right of the County to require payment of such interest and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the right of the County to enforce other provisions herein, including termination of this Agreement, and to pursue other remedies provided at law and equity.
- 4.7 **Dishonored Check or Draft.** In the event the Lessee delivers a dishonored check or draft to the County in payment of any obligation of Lessee to the County, the Lessee shall incur and pay a service charge in the amount established by the County from time to time. In such event, the Aviation Department may require that future payments be made by cashier's check or other means acceptable to the Aviation Department.
- 4.8 **Place of Payments.** All payments required to be made by the Lessee under this Agreement shall be made payable to "Broward County," and shall be paid to the Finance Division, Broward County Aviation Department, 2200 SW 45th Street, Suite 101, Dania Beach, FL 33312, or to such other office or address as may be designated by the Aviation Department.

ARTICLE 5
USES OF THE PREMISES

- 5.1 Lessee may use the Premises and the Parcel for the following purposes and for activities reasonably connected with achieving such purposes and for no other purposes whatsoever:
- 5.1.1 Acceptance, storage, handling and delivery of air cargo, air freight and air mail;
- 5.1.2 Perform preventative maintenance on ground service equipment and facility support equipment. Preventative maintenance as used herein means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations or requiring special licenses, such as changing oil, tires, servicing batteries, replacing lights, and the like. No mechanical or heavy maintenance of any nature is permitted without prior approval of the Aviation Department.
- 5.1.3 Office activities and other operations as related to Lessee's conduct of a cargo, freight and mail air transportation business.

- 5.1.4 Any activities or operations ancillary to the purposes and activities set forth above and/or as approved, in advance, by the Director of the Aviation Department in writing.
- 5.2 Lessee is expressly prohibited from storing, staging, stationing, parking or any similar action of trucks, cars, trailers, boats, recreational vehicles, pallets, or other supplies or materials of any kind in any area of the Parcel (including without limitation, any area of the Premises), except to perform the authorized uses described above.

ARTICLE 6
IMPROVEMENTS BY LESSEE

- 6.1 No improvements, alterations, additions, or renovations may be constructed by Lessee or Lessee's Parties on any area of the Parcel or Premises, unless the Lessee shall first obtain the prior written approval of the Aviation Department.
- 6.2 Prior to the commencement of construction of any improvements on the Premises, Lessee shall submit to the Aviation Department six (6) sets of the contract documents, which must receive an Aviation Department review stamp and approval letter prior to submittal for a construction permit. Contract documents shall include at a minimum, a site plan and complete plans and specifications of the contemplated construction. The plans and specifications shall be certified by an architect or engineer licensed to practice in the State of Florida and shall consist of: (i) working drawings, (ii) technical specifications, (iii) schedule for accomplishing improvements and (iv) such other information as may be required by the Aviation Department. All construction, improvements, signs, equipment and landscaping must be made in accordance with the requirements set forth in this Lease and the standard requirements of the Aviation Department that are applicable to tenants of the Cargo Building. All of the plans and specifications shall be in such detail as may reasonably permit the Aviation Department to make a determination as to whether the construction will be consistent with the provisions of this Lease and the standards of the Aviation Department. Any plans and specifications that have received the Aviation Department's written approval, and any amendments and changes thereto that have received the Aviation Department's written approval, are hereinafter referred to collectively, as the "Approved Plans." No work may be performed on the Premises, except pursuant to Approved Plans.
- 6.3 All plans and specifications, including without limitation, "as built" plans provided pursuant to Section 6.10, below, shall not identify any conduit ducts for cable, telecommunications, electric service, and the like by any specific company name, and such plans shall identify the purpose of such conduits by generic reference only (e.g., 'phone conduit,' 'telecommunications conduit,' or 'power conduit'). No material changes shall be made to any Approved Plans, without the prior written approval of the Aviation Department, which approval shall not be unreasonably

withheld. Any change that requires the issuance of a building permit or modifies an existing building permit shall be considered a material change.

- 6.4 It is understood and agreed that in the course of any construction undertaken by Lessee during the Term of this Agreement, the Lessee shall be responsible for all costs associated with any removal, replacement, relocation and protection of all utilities, whether such utilities are located at or under the Premises or the Parcel, or on adjacent property, including but not limited to water, wastewater disposal, sewer, telephone, electric, airfield lighting system, conduit ducts for cable, telecommunications and electric service, and navigational aid system. All utilities conduits installed at the Premises, including without limitation cable, electric and telecommunications, shall be deemed leasehold improvements and ownership thereof shall be vested in the County upon installation. All such conduits shall be installed by the Lessee at its expense, and shall be free of all liens, claims and encumbrances, including any claims of any utilities provider.
- 6.5 All improvements, equipment and interior design and decor constructed or installed by the Lessee or Lessee's Parties, including the plans and specifications relating to same, shall conform to all Applicable Laws. The approval by the Aviation Department of any plans, specifications, or designs shall not constitute a representation or warranty as to such conformity, and the responsibility therefore shall at all times remain in Lessee.
- 6.6 Any work impacting portions of the Airport other than the Premises shall be performed within schedules approved by the Aviation Department.
- 6.7 All fixtures, structures, facilities, pavements and other leasehold improvements and any additions and alterations made to the Parcel, including without limitation the Premises, shall become County's property and shall be surrendered with and remain on the Parcel and the Premises, as applicable, excluding furnishings, equipment and trade fixtures that are not permanently affixed. Any addition, fixture or other improvement that is nailed, bolted, stapled, or otherwise affixed to the Parcel or the Premises and is not readily removable as a trade fixture or item of equipment, is a leasehold improvement. If any personal property, including furnishings, trade fixtures or equipment is removed by Lessee, Lessee shall restore any damage to the Premises and the Parcel. All utilities conduits installed at the Parcel and the Premises, including without limitation cable, electric and telecommunications, shall be owned by County and ownership thereof shall be vested in the County upon installation. All such conduits as are installed by the Lessee shall be deemed leasehold improvements and ownership shall be vested in County upon installation, and same shall be free of all liens, claims and encumbrances, including any claims of any utilities provider.
- 6.8 Within one hundred twenty (120) days after the CO Date with respect to any improvements, the Lessee must provide to the Aviation Department: (1) a certified statement from the construction contractor(s) stating that the improvements are

free and clear of all liens, claims or encumbrances by any material supplier, subcontractors, or laborers and that all such fees and charges have been paid; and (2) a certified statement from the architect or engineer stating that the improvements have been constructed in accordance with the Approved Plans and in compliance with all Applicable Laws. Lessee shall provide, upon request, such back-up documentation and releases of lien as may be required by the Aviation Department.

- 6.9 Lessee hereby represents, warrants and covenants to the County that the Premises and all improvements now and hereafter constructed or placed on the Premises or the Parcel by the Lessee or the Lessee's Parties shall be at all times free and clear of all liens, claims and encumbrances created by Lessee or Lessee's Parties. If any such lien or notice of lien shall be filed against the Premises, the Parcel or any improvements, the Lessee shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, or order of a court of competent jurisdiction.
- 6.10 Within ninety (90) days after the CO Date with respect to any improvements constructed by Lessee or Lessee's Parties, the Lessee shall at its expense, provide the Aviation Department with a complete set of "as built" plans and specifications, including one set of machine readable disks containing electronic data in an AUTOCAD format that meets the Aviation Department's graphic standards of the 'as-constructed' or 'record' plans for such improvements.
- 6.11 In addition to the Aviation Department's approval, Lessee shall obtain any required approval from all other agencies having jurisdiction over any improvements constructed by Lessee or Lessee's Parties, including but not limited to departments, divisions or offices of County, the State of Florida, and the federal government.
- 6.12 All improvements constructed by Lessee or Lessee's Parties must be coordinated with the FAA, including the filing of required forms and the provision of any documentation the FAA may request.
- 6.13 All improvements to the Parcel and the Premises constructed by Lessee or Lessee's Parties shall be in conformity and consistent with all applicable provisions of the Americans with Disability Act of 1990, as same may be amended from time to time.
- 6.14 In the event any improvement, addition, alteration, modification or replacement is made without the approvals required pursuant to this Article 6, then, upon notice in writing so to do, the Lessee shall remove the same or at the option of the Aviation Department cause the same to be changed to the satisfaction of the Aviation Department. In the case of any failure on the part of the Lessee to comply with such notice, the Aviation Department may effect the removal or change and the Lessee shall pay the cost thereof to the County.

ARTICLE 7
CONSTRUCTION BONDS; INSURANCE
REQUIREMENTS FOR CONTRACTORS

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

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

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

7.3 Insurance Requirements for Construction Contracts.

7.3.1 In the event Lessee enters into any agreement with any contractor to perform work or activities with respect to this Agreement, Lessee will obtain proof of insurance from the contractor, which insurance shall protect Broward County by adding Broward County as an additional insured. Lessee will provide County with a copy of the foregoing insurance coverage upon County's request.

- (a)** Such policy or policies must be issued by approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in the State of Florida. The Commercial General Liability policy shall specifically protect County by naming Broward County as an additional insured.
- (b)** Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of contractor is completed. All policies must be endorsed to provide County with at

least thirty (30) days' notice of cancellation or restriction. If any of the insurance coverages will expire before the completion of the work, proof of renewal policies must be furnished at least thirty (30) days' before their expiration date. Any insurance coverage that is written on a "claims made" basis must remain in force for two (2) years after completion of the work.

7.3.2 Lessee shall provide to County, not less than ten (10) days before commencement of any improvements at the Premises, site certificates of insurance evidencing the insurance coverage as specified by County's Risk Management Division pursuant to the risk associated with the proposed Improvements and the Approved Plans, as defined in Section 6.2, above. The required certificates of insurance must not only name the types of coverage provided, but also must refer specifically to this Agreement with the type of insurance that is being furnished, and must state that the insurance is as required by this Agreement. If the initial insurance expires before the completion of the improvements, Lessee shall furnish renewal certificates of insurance at least thirty (30) days before the expiration date. Lessee will not cancel, modify, or restrict insurance, without at least thirty (30) days prior written notice to County, and any insurance must be endorsed to provide the same. County shall review the aforesaid minimum limits of insurance from time to time and may require the same to be adjusted if County determines that the adjustment would protect County's interest. After Lessee delivers those policies or certificates to County, County may notify Lessee, in writing, at any time, that the insurance represented thereby does not conform to the provisions hereof because of the amount or because of the insurance company or for any other reason, and Lessee shall have fifteen (15) days to cure any identified defect.

7.3.3 Contractor shall name Broward County as a certificate holder for all coverage and as an additional insured for its General Liability and Excess Liability coverage. The contractor's certificate of insurance must be in a form that is satisfactory to the County's Risk Manager or Risk Management Division.

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

ARTICLE 8 OBLIGATIONS OF LESSEE

8.1 Lessee shall at all times maintain its Premises in a neat, orderly, sanitary and presentable condition. Lessee will provide cleaning and litter pick-up of the Common Use Areas and the Joint Use Areas being used by Lessee and any of Lessee's Parties.

- 8.2 Lessee covenants and agrees to observe and obey, and to require all of Lessee's Parties to observe and obey such rules and regulations of the Aviation Department and/or the County (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee and others on the Parcel and at the Premises as may from time to time be promulgated, including without limitation any rules, regulations or minimum standards that are established for operations of Airport tenants.**
- 8.3 Lessee and its sublessees shall conduct operations hereunder in an orderly and commercially reasonable manner, considering the nature of such operations so as not to unreasonably annoy, disturb, endanger or be offensive to others at the Airport.**
- 8.4 Lessee shall take all reasonable measures:**
- 8.4.1 To reduce to a minimum vibrations tending to damage any equipment, structure, building or portion of a building which is on the Parcel, the Premises, or any portion thereof, or is located elsewhere on the Airport; and**
- 8.4.2 To keep the sound level of its operations as low as possible. The parties agree that aircraft that operate within federal noise requirements shall not be deemed to be a violation of this provision.**
- 8.5 Lessee shall control the conduct, demeanor and appearance of all of Lessee's Parties and, upon objection from the Aviation Department concerning the conduct, demeanor and appearance of any such persons, shall immediately take all reasonable steps necessary to remove or remedy the cause of objection.**
- 8.6 Lessee shall furnish its own janitor service for the Premises and shall cause to be removed from the Premises, at Lessee's own expense, 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 at the Premises or in space designated by County in connection with collection for removal. The Lessee shall make arrangements for trash removal directly with such company as may be authorized by the County to provide such service. Upon failure of Lessee to carry out the provisions hereof, County may have the work performed and the applicable charges shall be paid by Lessee.**
- 8.7 Lessee shall commit no nuisance, waste or injury on the Parcel or the Premises and shall not do or permit to be done anything which may result in the creation or commission or maintenance of such nuisance, waste or injury.**
- 8.8 Lessee shall not create nor permit to be caused or created upon the Parcel or the Premises any obnoxious odors or smokes or noxious gases or vapors; provided, however, that fumes resulting from the normal operations of properly certified and**

maintained vehicles and equipment shall be excepted from this provision. Lessee shall ensure that emissions generated by any such vehicles and equipment shall comply with all provisions of Applicable Laws.

- 8.9 Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the utilities systems, plumbing facilities, fire protection system, sprinkler system, alarm system, and fire hydrants and hoses, if any, installed or located on or about the Parcel or the Premises.**
- 8.10 Lessee shall not overload any floor or paved area on the Parcel or the Premises and shall repair any floor, including supporting members, and any paved area damaged by overloading.**
- 8.11 Lessee shall not do or permit to be done any act or thing upon the Parcel or the Premises:**
- 8.11.1 which will invalidate or conflict with any fire insurance policies covering the Parcel, the Premises or any part thereof or other contiguous premises at the Airport; or**
- 8.11.2 which may constitute a hazardous condition so as to increase the risks normally attendant upon the operations permitted by this Agreement.**
- 8.12 Lessee shall fuel or refuel equipment only at locations designated by the Aviation Department and shall comply with all Aviation Department rules, regulations and procedures. All flammable liquids that are kept or stored at the Premises or the Parcel must at all times be handled, stored, used and dispensed in accordance with all Applicable Laws, including without limitation any rules, regulations or minimum standards that are established by the Aviation Department for operations of Airport tenants.**
- 8.13 From time to time and as often as reasonably required by the Aviation Department or any governmental authority having jurisdiction, Lessee shall conduct pressure, water flow, and other appropriate tests of the fire extinguishing system and apparatus which are maintained by the Lessee.**
- 8.14 Lessee shall not place any coin or token operated vending machine or similar device (including without limitation, pay telephones, beverage or food machines, or other commodities) upon or within the Parcel or the outside portion of the Cargo Building, except such as may be placed within the Premises, following the prior written consent of the Aviation Department. Any food/beverage vending machines may only be provided in a non-public area of the Premises to be used by employees of Lessee. Lessee shall not operate or allow to be operated upon or within the Premises any restaurant, coffee shop, lounge, or cafeteria (except a lounge with food/beverage vending machines as aforesaid that is provided solely**

for the employees of the Lessee and receives the prior written consent of the Aviation Department).

- 8.15 Lessee shall pay before delinquency all licenses and permit fees and charges for the conduct of any business conducted at the Premises.
- 8.16 Lessee and all sublessees shall not park or store or allow the parking or storage of any vehicles, boats, motorcycles, recreation vehicles, trailers or any other non-aviation equipment whatsoever on the Parcel or at the Premises that are not used in the daily operation of the business permitted to be conducted at the Premises pursuant to Article 5 of this Agreement without the prior written consent of the Aviation Department. Any violation of these provisions shall be a default hereunder.
- 8.17 Emergency Evacuation and Hurricane Plan. Within thirty (30) days following the Commencement Date, the Lessee shall provide the Aviation Department with emergency evacuation and hurricane plans consistent with the County's plans for the Airport. These plans shall be detailed procedures of actions to be taken by the Lessee, if an evacuation need or hurricane alert warning is present. Hurricane plans are to be annually updated, if requested by the Aviation Department.
- 8.18 Lessee shall not allow any use at the Premises that is prohibited by any Applicable Laws.

ARTICLE 9
INGRESS AND EGRESS

- 9.1 Lessee, and Lessee's Parties shall have ingress and egress to the Premises via appropriate public ways to be used in common with other tenants and users of the Airport, provided that the County may, from time to time, substitute other suitable means of ingress and egress, so long as an alternate adequate means of ingress and egress is available.
- 9.2 The County may at any time temporarily or permanently close or consent to or request the closing of any roadway, taxiway and any other area at the Airport presently or hereafter used as such, so long as an alternate adequate means of ingress and egress is made available to the Parcel. The Lessee hereby releases and discharges the County, its successors and assigns, of and from any and all claims, demands or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing arising or alleged to arise out of the closing of any roadway, taxiway, or other area used as such, whether within or outside the Airport, provided that the County makes available to the Premises an adequate means of ingress and egress.

ARTICLE 10
COMPLIANCE WITH GOVERNMENTAL REQUIREMENTS

- 10.1 Lessee and Lessee's Parties shall comply with all Applicable Laws, including Airport rules and regulations, that are now or at any time during the Term of this Lease applicable to Lessee or any of Lessee's Parties or any operations conducted at the Premises or the Parcel. These obligations are provided herein for the purpose of assuring proper safeguards for the protection of persons and property on the Parcel and the Premises. Such provisions are not to be construed as a submission by the County to the application to itself of such requirements or any of them.
- 10.2 The Lessee agrees to permit entry, inspection, and testing of the Premises and the Parcel, at all reasonable times, by inspectors of any federal, state, County or other agency having jurisdiction under any Applicable Laws applicable to the Parcel or the Premises, any portion thereof. This right of entry, inspection and testing shall impose no duty on the County to take any such action and shall impart no liability on the County should it not take any such action.

ARTICLE 11
MAINTENANCE AND REPAIR

- 11.1 County shall maintain the structure of the Cargo Building, including exterior walls, foundation, roof, exterior lighting (excluding trade signs, enclosures, junction boxes, and all components of such signage, all of which shall be Lessee's responsibility), pavement, security fencing, utility cables to their point of connection with the Cargo Building and utilities serving common area, provided, however, that the County shall not be responsible for structural alterations, or window or door glass, or cargo roll-up doors or gates for the Premises. County shall be responsible for the upkeep of the grounds surrounding the Cargo Building and for maintenance of the ramp and other Joint Use Areas and Common Use Areas.
- 11.2 Except as set forth in Section 11.1, above, Lessee shall throughout the Term of the Lease assume the entire responsibility and shall relieve the County from all responsibility for all repair and maintenance whatsoever of the Premises other than as specifically set forth in Section 11.1, above, whether such repair or maintenance be ordinary or extraordinary, and without limiting the generality thereof, shall:
- 11.2.1 Paint the interior of the Premises, repair and maintain all doors, windows, and lighting fixtures.
- 11.2.2 Keep the Premises at all times in a clean and orderly condition and appearance and all of the fixtures, equipment and personal property which are located in any part of the Premises which is open to or visible by the general public.

- 11.2.3 Provide and maintain for the Premises all fire protection and safety equipment and all other equipment of every kind and nature required by any Applicable Laws.**
- 11.2.4 Repair any damage to the paving or other surface of the Parcel caused by operations of Lessee, or Lessee's Parties entering upon or using the Premises at any time during the Term, including without limitation any oil, gasoline, grease, lubricants or other liquids and substances having a corrosive or detrimental effect thereon and report the incident of such spill pursuant to Article 29. In addition, Lessee shall repair any damage to the paving or other surfaces of the Common Use Areas and Joint Use Areas, as applicable, caused by any actions of Lessee or Lessee's Parties.**
- 11.2.5 Be responsible for the maintenance and repair of all utilities including but not limited to, service lines for the supply of water, gas service lines, electrical power, telephone and telecommunications conduits and lines, sanitary sewers and storm sewers which are now or which may be subsequently located upon the Premises leased to the Lessee and used by the Lessee exclusively.**
- 11.3 The Aviation Department shall have the right to enter the Premises at reasonable times to inspect same for purposes of determining if the Lessee is maintaining the Premises as required by this Lease. In the event Lessee fails in any material respect to commence so to maintain, clean, repair, replace, rebuild or paint within the period of time required by this provision and after written notice from the Aviation Department to do so; or fails in any material respect diligently to continue to completion of the maintenance, repair, replacement, rebuilding or painting of all of the Premises required to be maintained, repaired, replaced, rebuilt or painted by the Lessee under the terms of this Agreement, the Aviation Department may, at its option, and in addition to any other remedies which may be available to it, maintain, repair, replace, rebuild or paint all or any part of the Premises included in the said notice and the cost thereof shall be payable by the Lessee upon demand. The Lessee shall have a period of thirty (30) days to commence any required action hereunder, except for emergency and public safety items which shall be immediately undertaken by Lessee.**

ARTICLE 12
INSURANCE REQUIREMENTS - LESSEE

- 12.1 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 set forth in the subparagraphs below, in accordance with the terms and conditions required by this Article 12. Such policy or policies shall be issued by companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in Broward County, Florida. Lessee shall specifically protect the County by naming Broward County as an additional**

insured/loss payees on the Commercial General Liability Policy, Property Insurance, all environmental impairment policies, and any Excess Liability coverage. The certificate holder address shall read "Broward County."

- 12.2 Such policies shall be issued by companies authorized to do business in the State of Florida, with a minimum AM Best financial rating of A- or its equivalent, which the County in its sole discretion may accept. Coverage shall be afforded on a form no more restrictive than the latest edition of the respective Insurance Services Office policy. Lessee shall name Broward County as an additional insured under the primary and non-contributory Commercial General Liability policy, Business Automobile Liability policy as well as on any Excess Liability policy. The official title of the certificate holder is Broward County. This official title shall be used in all insurance documentation. Lessee is responsible for all deductibles in the event of a claim.
- 12.3 The County may obtain for its sole benefit, insurance coverage for all buildings and fixtures on the Parcel. This insurance will cover only the County's insurable interest. Lessee shall be responsible for and shall pay County on a monthly basis, its pro rata share of the cost of such insurance coverage. All such costs shall be paid by Lessee to County within thirty (30) days after receipt of County's invoice for same. The amount payable to the County hereunder may be reviewed and adjusted from time to time by the County. The Lessee shall be responsible for obtaining insurance to cover any tenant's improvements and betterments to the structure, all building contents and all other personal property whatsoever.
- 12.4 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 Five Million Dollars (\$5,000,000.00) per occurrence and per aggregate, combined single limit, and such policy shall include Parcel/Premises/Operations, Independent Contractors, Broad Form Property Damage, Broad Form Contractual coverage, covering all liability arising out of this Agreement. Lessee is responsible for all deductibles in the event of a claim.
- 12.5 Business Automobile Liability Insurance shall be provided in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence combined single limit, for bodily injury and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: Owned, Non-owned and Hired vehicles. Lessee is responsible for all deductibles in the event of a claim, however, in no event, unless agree to in writing by Lessee and the County, shall the deductible on Lessee's business automobile liability insurance exceed One Million Dollars (\$1,000,000.00) per occurrence. In the event the deductible is less than \$1,000,000.00 on the date this Agreement is fully executed, Lessee shall notify County, in writing, any time there is an increase in the deductible.

- 12.6 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. Lessee is responsible for all deductibles in the event of a claim, however, in no event, unless agreed to in writing by Lessee and County, shall the deductible on Lessee's property insurance for "All Other Perils," exceed One Hundred Million Dollars (\$100,000,000.00) per occurrence except for named Wind and Flood events. In the event the deductible is less than \$100,000,000.00 on the date this Agreement is fully executed, Lessee shall notify County, in writing, any time there is an increase in the deductible.
- 12.7 Workers' Compensation and Employer's Liability Insurance shall be provided to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include: Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000) each accident.
- 12.8 If operations at the Parcel will include storage, fueling of equipment, or transportation of hazardous materials, the Lessee shall be required to carry environmental and impairment insurance to cover such activities in amounts and pursuant to policies that are acceptable to the County's Risk Management Division. "Environmental and Impairment Liability Insurance" is defined as a specialized insurance policy that covers liability and clean-up costs associated with discharge of hazardous materials. It provides broader coverage than the general liability policy by covering gradual as well as sudden and accidental releases.
- 12.9 If after review of the environmental and impairment insurance coverages covering the Parcel, the County's Risk Management Division determines additional protection to the Parcel is required, the County may obtain additional environmental and impairment insurance covering the entire Parcel, for the sole benefit of County. Such insurance will insure the County only. In such event Lessee shall be responsible for and shall pay County on a monthly basis it's pro rata share of the cost of such insurance coverage. All such costs shall be paid by Lessee to County within thirty (30) days after receipt of County's invoice for same. The amount payable to the County hereunder may be reviewed and adjusted from time to time by the County.
- 12.10 Lessee shall furnish to the Aviation Department, Certificates of Insurance evidencing the insurance coverages specified by this Article prior to the commencement of this Agreement.
- 12.11 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 and certificates of insurance shall provide at least thirty (30) days prior written notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the termination of

this Agreement, copies of renewal certificates shall be furnished within thirty (30) days from the expiration of the coverage. Any insurance coverage that is written on a "claims made" basis must remain in force for two (2) years after the termination of this Agreement. Comprehensive General and Commercial Liability Insurance shall be written on an "occurrence" basis and shall not be written on a "claims made" basis.

- 12.12 The aforesaid minimum limits of insurance shall be reviewed from time to time by County and may be adjusted if the County's Risk Management Department determines that such adjustments 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 notify the Lessee, in writing, that the insurance represented thereby does not conform to the provisions of this Article 12 either because of the amount or because of the insurance company or for any other reason, and the Lessee shall have fifteen (15) days in which to cure any such defect.
- 12.13 Subrogation. Notwithstanding anything to the contrary herein, Lessee waives any right of recovery against County for any loss or damage to the extent the same is required to be covered by Lessee's insurance hereunder. Lessee shall obtain from its insurers, 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.
- 12.14 Compliance with the foregoing requirements shall not relieve the Lessee of its liability and obligations under any other provision of this Lease.

ARTICLE 13
DAMAGE OR DESTRUCTION OF PARCEL

- 13.1 In the event that structural or permanent portions of the Cargo Building or the Premises shall be partially damaged by fire or other casualty, the Lessee shall give prompt notice thereof to the County and the same shall be repaired by County or the Lessee, as provided in Article 12, to the extent of insurance proceeds, unless County determines that the damage is so extensive that the repair or rebuilding is not feasible. From the date of such casualty until said portion of the Cargo Building is so repaired, the monthly installments of the rental hereunder shall abate in such proportion as the part of the Premises thus destroyed bears to the Cargo Building as a whole, and in accordance with Article 26, provided, however, that if any area shall be so slightly injured in any such casualty as not to be rendered unfit for occupancy, such installment payments shall not cease or be abated during any repair period. In the event of the Cargo Building being damaged to such an extent as to render it necessary in the exclusive judgment of the County not to rebuild same, then, at the option of the County and upon thirty (30) days' written notice to Lessee, this Agreement shall cease and come to an end.

- 13.2 The County's obligations to rebuild or repair under this Article shall in any event be limited to restoring only the structural or permanent portions of the Cargo Building to substantially the condition that existed prior to the casualty and shall further be limited to the extent of the insurance proceeds available to County for such restoration. Lessee agrees that if the County elects to repair or rebuild as provided in this Article, then Lessee will proceed with reasonable diligence and at its sole cost and expense to rebuild, repair and restore its signs, fixtures, furnishings, equipment, improvements and other items provided or installed by Lessee, in or about the Premises and the Cargo Building in a manner and to a condition at least equal to that which existed prior to its damage or destruction.

ARTICLE 14
INDEMNITY

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.

ARTICLE 15
SIGNS

- 15.1 Except with the prior written approval of the County, which approval may be withheld by the County in its sole discretion, Lessee shall not erect, maintain or display any signs or any advertising at or on the exterior parts of the Premises or at any Common Use Areas or Joint Use Areas. Any signage on the outside of the Cargo Building must only be placed on the facade of the Cargo Building in areas that are authorized in writing by the Aviation Department. No billboards shall be permitted at or on any portion of the Parcel.
- 15.2 Upon the expiration or termination of this Agreement, the Lessee shall remove, obliterate or paint out, as the Aviation Department may direct, any and all signs and advertising placed at the Cargo Building, the Premises or the Parcel by the

Lessee or any of Lessee's Parties and, in connection therewith, shall restore the portion of the Premises, or the Cargo Building or the Parcel affected by such signs or advertising, to the same condition as the same existed prior to the placing thereon of such signs or advertising, and whether the signs or advertising were installed or painted on the interior or exterior of the Premises or the Cargo Building or the Parcel. In the event of a failure on the part of the Lessee so to remove, obliterate or paint out each and every sign or advertising and so to restore the Premises, the Cargo Building, and the Parcel, then after notice from the Aviation Department to Lessee, the Aviation Department may perform the necessary work and the Lessee shall pay the costs thereof to the County on demand.

ARTICLE 16
RIGHTS OF ENTRY RESERVED

- 16.1 The County, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times to enter upon the Premises for the purpose of inspecting the same, for observing the performance by the Lessee of its obligations under this Agreement and for the doing of any act or thing which the County may be obligated or have the right to do under this Agreement or otherwise.
- 16.2 Without limiting the generality of the foregoing, the County, by its officers, employees, agents, representatives, contractors and furnishers of utilities and other services, shall have the right from time to time, for its own benefit or for the benefit of others or for the benefit of the Lessee, to construct, maintain, repair, alter, replace, install, and rebuild, over, in, or under the Parcel, existing and future utility, mechanical, electrical and other systems and parts thereof, and to enter upon the Parcel, the Cargo Building and the Premises at all reasonable times for any such purposes, as may, in the opinion of the County, be deemed necessary or advisable, provided, however, that in the exercise of such rights, the County shall not unreasonably interfere with the actual use and occupancy of the Premises by the Lessee.
- 16.3 In the event that any personal property of the Lessee shall obstruct the access of the County, its officers, employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems or part thereof, the Lessee shall move such property, as directed by the County, in order that access may be had to the system or part thereof by the County, its officers, employees, agents, representatives, contractors and furnishers of utilities and other services. If the Lessee shall fail to so remove such property after direction from the County to do so, the County may move it and the Lessee hereby agrees to pay the cost of such moving upon demand.
- 16.4 At any time and from time to time during the ordinary business hours of Lessee's operation, County, by its agents and employees, whether or not accompanied by prospective occupiers or users of the Premises, shall have the right to enter

thereon for the purpose of exhibiting and viewing all parts of same and during the six (6) month period preceding the termination of this Agreement.

- 16.5 The exercise of any or all of the foregoing rights by the County or others shall not be or be construed to be an eviction of the Lessee nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.
- 16.6 Nothing herein contained shall be deemed to in any way limit the County in the exercise of its police and regulatory powers or its powers of eminent domain.

ARTICLE 17
ASSIGNMENT OR SUBLEASE

- 17.1 Lessee shall not enter into any sublease for any part of the Parcel, except a sublease of a portion of the Premises as permitted hereby. Any sublease by Lessee of any portion of the Premises shall require the prior written consent of the County, which consent shall not be unreasonably withheld. Any sublease to which the County has given its written consent shall be subject and subordinate to each and every provision of this Lease. The Lessee shall not be entitled to sublet the entirety of the Premises.
- 17.2 The Lessee must obtain the prior written consent of the County (which consent shall not be unreasonably withheld) 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 17 shall not apply to any public trades of registered stock that occur on a national stock exchange, or to a merger or consolidation of Lessee with its current parent company or a company currently under the common control of Lessee's parent.
- 17.3 Except as set forth in Sections 17.1 and 17.2, above, Lessee shall not transfer, assign, pledge, mortgage or otherwise encumber this Agreement or any rights or obligations hereunder, or allow same to be assigned by operation of law or otherwise and any such action shall be null and void and shall have no force or effect whatsoever.

ARTICLE 18
DEFAULT; TERMINATION

- 18.1 If any one or more of the following events shall occur, same shall be an event of default under this Lease:
- 18.1.1 By or pursuant to or under authority of any legislative act, resolution or rule or any order or decree of any court or governmental board, agency or officer

having jurisdiction, a receiver, trustee or liquidator shall take possession or control of all or substantially all of the property of the Lessee, and such possession or control shall continue in effect for a period of thirty (30) days; or

18.1.2 The Lessee shall voluntarily abandon, desert or vacate the Premises or discontinue its operation at the Airport for a period of thirty (30) days; or

18.1.3 Any lien, claim or other encumbrance which is filed against the Premises as a result of Lessee's actions is not removed, or if the County is not adequately secured by bond or otherwise, within thirty (30) days after the Lessee has received notice thereof; or

18.1.4 The Lessee shall fail to pay the rentals within thirty (30) days following written notice from County that payment is past due.

18.1.5 The Lessee shall fail to make any other payment required hereunder when due to the County and shall continue in its failure to make any such other payment required hereunder for a period of thirty (30) days after written notice is given by County to make such payments; or

18.1.6 The Lessee shall take any action described by Article 17 hereof without the prior written consent of the County; or

18.1.7 Any business is conducted, or service is performed, or product is sold from the Premises or the Parcel that is not specifically authorized by this Lease, and such activity does not cease within ten (10) days after Lessee's receipt of notice to that effect; or

18.1.8 The Lessee shall fail to keep, perform and observe each and every non-monetary promise, covenant and term set forth in this Agreement on its part to be kept, performed or observed within thirty (30) days after receipt of notice of non-compliance thereunder (except where fulfillment of its obligation requires activity over a greater period of time and the Lessee shall have commenced to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice and continues such performance without interruption).

18.2 Then upon the occurrence of any event set forth in Section 18.1, above, which is not cured within any applicable cure period, or at any time thereafter during the continuance thereof, the County may at its option immediately terminate the rights of Lessee hereunder by giving written notice thereof, which termination shall be effective upon the date specified in such notice. Furthermore the County may exercise any and all other remedies available to County hereunder or at law or in equity. Any such termination shall be without prejudice to any remedy for arrears of payments due hereunder or breach of covenant, or damages for the balance of

the rent payable hereunder through the full Term of this Agreement. In the event of any such termination, Lessee shall have no further rights under this Agreement and shall cease forthwith all operations upon the Premises. 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 and including reasonable attorney's fees.

- 18.3 **Habitual Default.** Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly or repetitively defaulted or have been in non-compliance 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 non-compliance, 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 non-compliances, breaches or defaults and that any subsequent non-compliances, breaches or defaults of whatever nature, taken with all previous non-compliances, breaches and defaults, shall be considered cumulative, and collectively, shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent non-compliances, 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.
- 18.4 No acceptance by the County of rental, fees, charges or other payments in whole or in part for any period or periods after a default of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Lessee shall be deemed a waiver of any right on the part of the County to terminate this Lease, or to exercise any other available remedies.
- 18.5 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.
- 18.6 The rights of termination described above shall be in addition to any other rights provided in this Agreement and in addition to any rights and remedies that the parties would have at law or in equity consequent upon any breach of this Agreement and the exercise of any right of termination shall be without prejudice to any other such rights and remedies.

ARTICLE 19
REMEDIES ARE NON-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 20
SURRENDER

The Lessee covenants and agrees to yield and deliver peaceably and promptly to the County, possession of the Premises on the date of cessation of the letting, whether such cessation be by termination, expiration or otherwise. The Lessee shall surrender the Premises in the condition required under Article 11, Maintenance and Repair, reasonable wear and tear excepted. All maintenance and repairs shall be completed prior to surrender. The Lessee shall deliver to the County all keys to the Premises upon surrender. The Lessee shall at its expense take all actions required by all Applicable Laws to remove from the Premises, the Cargo Building, and the Parcel any hazardous substances or other Materials, as hereinafter defined, placed thereon by the Lessee or any of the Lessee's Parties, whether stored in drums, or found in vats, containers, distribution pipe lines, or the like or discharged into the ground. All such substances shall be removed by the Lessee in a manner that complies with all Applicable Laws and the provisions of Article 29 shall be applicable.

ARTICLE 21
ACCEPTANCE OF SURRENDER OF LEASE

No agreement of surrender or to accept a surrender of this Lease shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representatives of the County and of the Lessee. 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 Lease.

ARTICLE 22
REMOVAL OF PROPERTY

The Lessee shall have the right at any time during the letting to remove its inventories, trade fixtures and other personal property from the Premises. Lessee shall immediately repair any damage to the Premises or the Parcel caused by its removal of any personal property or trade fixtures. If the Lessee shall fail to remove its inventories, trade fixtures, and personal property by the termination or expiration of this Agreement, then, Lessee shall be considered to be holding over and subject to charges under Section 31.15, hereof, and after fourteen (14) days following said termination or expiration and notice of

the County's election to do so, at the County's option: (i) title to same shall vest in the County, at no cost to the County; or (ii) County may remove such property to a public warehouse for deposit; or (iii) County may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, second, to any sums owed by the Lessee to the County, with any balance remaining to be paid to the Lessee, without interest; or (iv) County may dispose of such property in any manner permitted by Applicable Laws. If the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the County upon demand.

ARTICLE 23
LIMITATION OF PRIVILEGES GRANTED

No greater privileges with respect to the use of the Airport or any part thereon are granted or intended to be granted to the Lessee by this Agreement or by any provision hereof, other than the privileges expressly and specifically granted hereby.

ARTICLE 24
NOTICES

24.1 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 in this section. For the present, the parties designate the following:

FOR BROWARD COUNTY:

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

with a copy to:

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

FOR LESSEE:

**Overnight Delivery:
Delta Air Lines, Inc.
Attention: Vice President, Corporate Real Estate
Department 877
1030 Delta Boulevard
Atlanta, GA 30354**

**US Mail Delivery:
Delta Air Lines, Inc.
Attention: Vice President, Corporate Real Estate
Department 877
P.O. Box 20706
Atlanta, GA 30320**

- 24.2 All notices, approvals and consents required hereunder must be in writing to be effective. The parties may email each other from time to time as a matter of administrative convenience; however, any such emails shall not be deemed effective as to any requirements for notice or written consent under this Agreement.**
- 24.3 Lessee shall be required to notify the County, in writing, whenever there is a change in the address of Lessee for which notice is to be sent, which notice of address change shall be sent as required in Section 24.1 above. In the event Lessee fails to maintain a current address on record with the County as required herein, County shall be deemed to have properly notified Lessee by using the last known address on record with the Aviation Department and County shall not have any responsibility or obligation to investigate the validity of the address that Lessee has provided. As a result, Lessee agrees to hold County harmless and defend same for any action, occurrence or nonoccurrence as a result of Lessee not receiving notice due to Lessee's failure to update its address for notification.**
- 24.4 All notices sent in accordance with this Article shall be deemed to be effective upon receipt or refusal of same.**

ARTICLE 25
UTILITIES

- 25.1 The Lessee shall pay for all electric, water, garbage and other utilities charges for the Premises. The metering devices installed by the Lessee for such utilities shall be installed at the cost of the Lessee and shall become the property of the County upon installation. Extension of utility mains or services to meet the needs of the Lessee shall be at the expense of the Lessee, and shall become the property of the County upon installation.**

25.2 Any failure, delay or interruption in supplying any services for any reason whatsoever (whether or not a separate charge is made therefor) shall not be construed to be an eviction of the Lessee or grounds for any diminution or abatement of rental and shall not be grounds for any claim by the Lessee under this Lease for damages, consequential or otherwise.

ARTICLE 26
ABATEMENT

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

ARTICLE 27
AIRPORT SECURITY PROGRAM AND REGULATIONS

27.1 **Airport Security Program and Aviation Regulations.** Lessee agrees to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Lessee, including without limitation, all regulations of the United States Department of Transportation, the Federal Aviation Administration and the Transportation Security Administration, and the Lessee agrees to comply with the County's Airport Security Program and 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 attorney's 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. The County reserves the right to take whatever action is necessary to rectify any security deficiency or other

deficiency.

- 27.2 Access to Security Identification Display Areas and Identification Media.** The Lessee shall be responsible for requesting the Aviation Department to issue Airport Issued Identification Media to all employees who are authorized access to Security Identification Display Areas ("SIDA"), Secured Areas, Air Operations Areas (AOA), Sterile Areas and/or other restricted areas 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 Airport Issued Identification Media and the immediate return of the Airport Issued Identification Media of Lessee's personnel transferred from the Airport, or terminated from the employ of the Lessee, or upon termination of this Agreement. Before an Airport Issued Identification Media 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 security 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 Airport Issued Identification Media 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 Airport Issued Identification Media, which data may include the fingerprinting of employee applicants for such media.
- 27.3 Operation of Vehicles on the AOA.** Before the Lessee shall permit any employee of Lessee 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 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.
- 27.4 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 subconsultant/subcontractors, 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 by any subconsultant/subcontractor at the Airport in any position requiring access to

the AOA or allowed entry to the AOA by the Lessee or by any subconsultant/subcontractors.

- 27.5 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.
- 27.6 The provisions of this Article 27 shall survive the expiration or any other termination of this Agreement.

ARTICLE 28
NONDISCRIMINATION

- 28.1 The Lessee agrees to abide by and comply with the nondiscrimination requirements set forth on **Exhibit E**, attached hereto and made a part hereof, to the extent same are applicable by law, rule or regulation, or federal grant requirements.
- 28.2 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.
- 28.3 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 16½), 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.
- 28.4 Lessee shall not engage in or commit any discriminatory practice in violation of the Broward County Human Rights Act (Broward County Code or Ordinances, Chapter 16½) in performing any services pursuant to this Agreement.

ARTICLE 29
ENVIRONMENTAL COMPLIANCE;
ENVIRONMENTAL CONTAINMENT AND REMOVAL

- 29.1 Lessee shall provide the Aviation Department, if requested, at any time, with a list of all pollutants, hazardous materials, bio-hazardous, hydrocarbon contamination,

other contaminants or materials regulated under Applicable Environmental Laws (collectively, "Materials") that are stored, used, generated or disposed of on the Parcel or within the Premises.

- 29.2 Lessee shall complete the form attached hereto as **Exhibit F** with respect to matters pertaining to the Parcel or within the Premises 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 with respect to the Parcel and within the Premises as to the matters set forth on **Exhibit F**.
- 29.3 Lessee agrees to comply with all existing and future Applicable Environmental Laws and the requirements of any development order covering the Airport, issued to the County pursuant to Chapter 380, Florida Statutes with respect to Lessee's use and occupancy of the Premises, Common Use Areas and the Joint Use Areas, including without limitation those addressing the following:
- 29.3.1 Proper use, storage, treatment and disposal of Materials, including contracting with a licensed hazardous waste transporter and/or treatment and disposal facility to assure proper transport and disposal of hazardous waste and other regulated materials.
- 29.3.2 Proper use, disposal and treatment of storm water runoff, including the construction and installation of adequate pre-treatment devices or mechanisms, if applicable. The Lessee shall have in place, and make available to the Aviation Department for review, all applicable required environmental licenses and documents including, but not limited to, a site specific Stormwater Pollution Prevention Plan, and a Spill Prevention and Countermeasures Plan.
- 29.3.3 Adequate inspection, licensing, insurance and registration of existing and future storage tanks, storage systems, and ancillary facilities to meet all Applicable Environmental Laws, including the installation and operation of adequate monitoring devices and leak detection systems.
- 29.3.4 Adequate facilities for management and, as necessary, pretreatment of industrial waste, industrial wastewater, and regulated materials and the proper disposal thereof.
- 29.3.5 Compliance with reporting requirements of Title III of the Superfund Amendment and Chapter 27 of the Broward County Code, as applicable and as such laws may be amended from time to time.
- 29.4 The unlawful release of any Materials at or on the Premises or the Parcel of the

Lessee, or any other Airport property caused by Lessee, or any party on the Lessee's Parcels, that is in an amount that is in violation of any federal, state, County or local law, rule or regulation or in violation of an order or directive of any federal, state, or local court or governmental authority, 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 Environmental Laws. If Lessee does not take action immediately to have such Materials contained, removed and abated after prior verbal notice to Lessee, the County or any of its agencies may undertake the removal of the 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 Applicable Environmental Laws. No action taken by either the Lessee or the County to contain or remove Materials, or to abate a discharge, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its discharge. As used in this Agreement, Lessee's operations and Lessee's actions and words of similar import, shall include all actions and inaction by Lessee and by Lessee's Parties.

- 29.5 Lessee shall provide the Aviation Department with notice of releases of Materials occurring at any area used by Lessee or occasioned due to Lessee's operations at the Airport, which notices 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 Applicable Environmental Laws and also such records as are reasonably necessary to adequately assess environmental compliance in accordance with Applicable Environmental Laws. Upon request by the Aviation Department, Lessee shall make all documentation required by this section available for the review of County representatives.
- 29.6 As required by Applicable Environmental Laws, Lessee shall provide the federal, state, County and local regulatory agencies with notice of spills, releases, leaks or discharges (collectively, "release") of Materials at the Parcel or the Premises, or on the Airport property. Lessee shall further provide the Aviation Department and the County Department of Planning and Environmental Protection (or successor agency) with written notice within one (1) day following commencement of same, of the curative measures, remediation efforts and/or monitoring activities to be effected. Lessee shall have an updated plan in effect relating to such releases which provide minimum standards and procedures for storage of regulated Materials and other Materials, prevention and containment of spills and releases, and transfer and disposal of regulated Materials and other Materials. The plan shall describe design features, response actions, and procedures to be followed in case of releases or other accidents involving hazardous Materials, bio-hazardous Materials or petroleum products or other Materials.

- 29.7 The Aviation Department, upon advanced written notice to Lessee, shall have the right to inspect all documents relating in any way to the discharge of any Materials at the Airport, the environmental condition of the Premises occupied by Lessee, any curative, remediation, or monitoring efforts, and any documents required to be maintained under Applicable Environmental Laws or 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 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 Applicable Environmental Laws and as required by any development order issued to the County pertaining to the Airport, pursuant to Chapter 380, Florida Statutes.
- 29.8 If the County arranges for the removal of any Materials from the Parcel, the Premises or other Airport Property that were released by the Lessee, or any of Lessee's Parties, all costs of such removal incurred by the County shall be paid by Lessee to the County within thirty (30) days of County's written demand, with interest at the rate of eighteen percent (18%) per annum thereafter accruing.
- 29.9 Lessee shall not be liable for the discharge of any Materials caused by anyone other than Lessee, or any of Lessee's Parties. Nothing herein shall relieve Lessee of its general duty to cooperate with the County in ascertaining the source and, containing, removing and abating any Materials. The Aviation Department and its employees, contractors, and agents, upon notice to Lessee, and the federal, state, local and other County agencies, and their employees, contractors, and agents, at times in accordance with Applicable Environmental Laws shall have the right to enter the Parcel and 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.
- 29.10 If any assessment or inspection undertaken by County indicates that further actions should be conducted under Applicable Environmental Laws, as the result of the unlawful discharge of any Materials caused by Lessee, or any party on the Lessee's Parcel, 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 thirty (30) days following written demand therefore, 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.
- 29.11 In the event County shall arrange for the removal of Materials on the Premises 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.

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

ARTICLE 30
SECURITY DEPOSIT

- 30.1 The Lessee shall post a security deposit with the County equal to three (3) monthly installments of annual rent plus sales taxes, if applicable, ("Security Deposit"). The Security Deposit shall serve as security for the payment of all monies due to County by Lessee and shall also secure the performance of all obligations of Lessee to the County. The Security Deposit shall be either in the form of cash or an Irrevocable Letter of Credit ("Letter of Credit"), in form and substance satisfactory to the County. No interest shall be paid on the Security Deposit. In the event of any failure by Lessee to pay when due any rentals or charges or upon any other failure to perform its obligations or other default under this Agreement, then in addition to any other rights and remedies available to County at law or in equity, County shall be entitled to draw down the full amount of the Security Deposit and apply same to all amounts owed after prior written notice to Lessee. Upon notice of any such draw, Lessee shall promptly replace the Security Deposit with a new Letter of Credit or cash in the full amount of the Security Deposit required hereunder. The Aviation Department, upon fourteen (14) days' written notice to the Lessee, may require an increase in the amount of the Security Deposit to reflect any increases in the monies payable hereunder. In addition the Aviation Department, upon fourteen (14) days' written notice to the Lessee, may require an increase in the amount of the Security Deposit equal to up to nine (9) additional months installments of annual rent 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. The Security Deposit instrument shall provide coverage from the Commencement Date of this Lease and shall be kept in full force and effect throughout the Term of this Lease and for a period of three (3) months thereafter. Any cancellation of the Security Deposit instrument without the consent of the Aviation Department Finance Division prior to the end of the aforesaid three (3) months period following the termination of this Lease shall be a default of this Lease. Not less than sixty (60) days prior to any expiration date of a Letter of Credit, Lessee shall submit evidence in form satisfactory to County that said security instrument has been renewed. A failure to renew a Letter of Credit, or to increase the amount of the Security Deposit, if required pursuant hereto, shall (i) entitle the County to draw down the full amount of such Security Deposit, and (ii) be a default of this Agreement entitling County to all available remedies. The Security Deposit shall not be returned to the Lessee until all obligations under this Lease are performed and satisfied.
- 30.2 Each Letter of Credit provided hereunder or under any other Article or provision of this Lease shall be provided by a financial institution of recognized standing authorized to do business in the State of Florida. Throughout the term of the Letter of Credit, the financial institution that has issued the Letter of Credit must maintain

a relationship with a financial institution having an office in Broward, Miami-Dade, or Palm Beach County, Florida at which the Letter of Credit may be presented for drawing down, and the financial institution that has issued the Letter of Credit must have been in business with a record of successful continuous operation for at least five (5) years. Each Letter of Credit shall be in form and substance satisfactory to the County.

ARTICLE 31
CONSTRUCTION; APPLICATION OF TERMS;
CERTAIN OTHER PROVISIONS

- 31.1 The article, section and paragraph headings in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision hereof.
- 31.2 **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.**
- 31.3 **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) days after the finding by the court becomes final.
- 31.4 **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 any of Lessee's Parties, 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 venturers, or any other similar relationship between the parties hereto.

- 31.5 Third Party Beneficiaries. Lessee and County do not intend 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.
- 31.6 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 Articles 1 through 32 of this Agreement shall prevail and be given effect.
- 31.7 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.
- 31.8 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, G and H are incorporated into and made a part of this Agreement.
- 31.9 Incorporation of Required Provisions. The parties incorporate herein by this reference all provisions lawfully required to be contained herein by any governmental body or agency.
- 31.10 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties hereto.
- 31.11 Termination of Prior Agreements; Prior Negotiations. This Agreement shall supersede and terminate all previously executed lease agreements between the parties with respect to the Cargo Building; provided however that Lessee shall not be released of any obligations or liabilities to the County that have accrued prior to the termination date of any prior agreements with respect to the Cargo Building. This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments,

agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

- 31.12 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 an Article of this Agreement, such reference is to the Article as a whole, including all of the sections and paragraphs of such Article, unless the reference is made to a particular section or paragraph of such Article.
- 31.13 **Non-Liability.** No commissioner, director, officer, agent or employee of either party 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.
- 31.14 **County Funded Construction Work.** 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.
- 31.15 **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 it may be amended from time to time. County reserves the right to pursue all remedies available to it under Applicable Laws 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 Director of Aviation, 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.

- 31.16 **Agent for Service of Process.** If Lessee is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of the State of Florida, or is a foreign corporation, then Lessee must be registered to do business in the State of Florida and designate as its agent for service of process an agent within the State of Florida in any court action between Lessee and County arising out of or based upon this Agreement, and the service will be made as provided by the laws of the State of Florida for service upon a non-resident, who has designated the Florida Secretary of State as agent for service. If, despite County's reasonable efforts, service of such process is not possible, and as an alternative method of service of process, Lessee waives personal service and agrees Lessee may be served with process out of the State of Florida by certified mailing to Lessee at the address set forth herein. Any such service out of the State of Florida will constitute valid service upon Lessee as of the mailing date. Lessee consents and agrees to the process so served, submits to the jurisdiction of Florida, and waives any and all objections and protest with respect to such service. If Lessee fails to register to do business in the State of Florida and contests this waiver of personal service, Lessee shall pay Broward County's reasonable attorneys' fees and costs if Broward County successfully enforces this waiver of personal service.
- 31.17 **Waiver of Claims.** The Lessee hereby waives any claim against Broward County and its officers, commissioners and employees for any consequential damages, including, without limitation, any loss of business or anticipated profits, caused by (a) any default of County hereunder, or (b) any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or (c) by any judgment or award in any suit or proceeding declaring this Agreement or any part thereof null, void or voidable, or delaying the same or any part thereof, from being carried out, or (d) any change in the operation or configuration of, or any change in procedures governing the Airport.
- 31.18 **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.
- 31.19 **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 with respect thereto shall be paid to the County, it being understood that title to all real property and all improvements thereon remains fully vested in the County, free and clear of any liens and encumbrances and there shall be no apportionment. In the event of any Condemnation, Lessee shall promptly remove any personal property, including without limitation trade fixtures, from the portion of the Premises subject to Condemnation. The Lessee shall not be entitled to any award for the value of the unexpired portion of the Term of this Agreement, any severance damages, relocation expenses or other costs whatsoever, it being recognized by the parties that this is a short-term agreement, which may be terminated by either

party upon ninety (90) day's written notice. 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 therefrom. 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 thirty (30) calendar days written notice to the County, in which event this Lease shall be terminated on the date the Premises are surrendered by the Lessee pursuant to the requirements of Article 20 and 21.

- 31.20 **Right to Amend.** In the event that the United States government, or its departments or agencies requires changes or additions to this Agreement, including without limitation, any nondiscrimination provisions, as a condition precedent to the granting of funds for the 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 prompt 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.
- 31.21 **Time of Essence.** Time is expressed to be of the essence of this Agreement.
- 31.22 **Written Approvals.** All approvals and consents required to be obtained hereunder must be in writing to be effective.
- 31.23 **Authority of Individuals.** Each of the County and Lessee represent and warrant, as to itself, that the individuals executing this Agreement on behalf of Lessee and County have full authority to execute this Agreement on behalf of the party for whom they are acting herein.
- 31.24 **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, except that, subject to the terms and provisions hereof, the Lessee shall have the right to possess the Premises under the provisions of this Agreement. 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 lessees in the Cargo Building or on other parts of the Airport.
- 31.25 **No Waiver.** All rights and remedies of the parties hereunder or at law or in equity are cumulative, and the exercise of any right or remedy shall not be taken to

exclude or waive the right to the exercise of any other. No waiver by either party of any failure to perform any of the terms, covenants, and conditions hereunder shall operate as a waiver of any other prior or subsequent failure to perform any of the terms, covenants, or conditions herein contained.

- 31.26 **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.
- 31.27 **Survival.** Upon termination or expiration of this Lease, the Lessee shall remain liable for all obligations and liabilities that have accrued under this Lease prior to the date of termination or expiration. Furthermore, notwithstanding any provision of this Lease to the contrary, any obligation of Lessee to County that has accrued but has not been satisfied under any prior or other agreements between the Lessee and County, shall not be terminated or be considered canceled upon execution of this Lease. Rather, such obligation shall continue as if it had accrued under this Lease until the obligation is satisfied.
- 31.28 **Public Entity Crimes Act.** Lessee represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to County, may not submit a bid on a contract with County for the construction or repair of a public building or public work, may not submit bids on leases of real property to County, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with County, and may not transact any business with County in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this article will result in termination of this Agreement and recovery of all monies paid by County hereto, and may result in debarment from County's competitive procurement activities. In addition to the foregoing, Lessee further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Lessee has been placed on the convicted vendor list.
- 31.29 **Recordation of Lease.** Lessee and any sublessees shall not record this Lease or any sublease of any of the Premises in the Public Records of Broward County,

Florida, and a violation of this paragraph by Lessee shall automatically void those provisions and portions of this Lease which run to the benefit of Lessee.

- 31.30 **No Set Off.** The Lessee acknowledges that, through the date hereof, it has no claims against County with respect to any of the matters covered by this Lease, and it has no right of set off or counterclaims against any of the amounts payable by Lessee to County under this Lease.
- 31.31 **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 and Parcel, any improvements thereon, or any operations at the Premises and the Parcel. Nothing in this Lease 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, grant agreements or any other Applicable Laws. In addition, nothing herein shall be considered zoning by contract.
- 31.32 **Regulatory Approvals.** Lessee acknowledges that County, from time to time, will be seeking regulatory approvals (collectively "Regulatory Approvals") in connection with Airport projects, which may include the following: (i) amendment of development agreements and orders; (ii) agreements with the state of Florida and other agencies; (iii) land use and zoning amendments; (iv) preparation of environmental assessments and environmental impact statements; (v) such permitting as may be required by federal, state, County or local regulations; and (vi) any other Regulatory Approvals as may be required by any governmental authority having jurisdiction over the issuance of permits for the approval and implementation of Airport projects. Lessee agrees to cooperate with County in connection with County's efforts to obtain the Regulatory Approvals. From and after the date of execution of this Agreement, Lessee agrees to execute any documents or instruments reasonably requested by County in order to assist County in obtaining the Regulatory Approvals, provided that Lessee shall not be required to bear any expense in connection therewith and Lessee shall not be deemed an agent of County.
- 31.33 **Government Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by the County.
- 31.34 **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.

- 31.35 Visual Artists Rights Act.** With respect to construction or installation of any improvements at the Premises and regarding the requirements of the 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 (1) hire any artist for the purpose of installing or incorporating any work of art into or at the Parcel or the Premises, or (2) permit the installation or incorporation of any work of art into or at the Parcel or the Premises, without the prior written approval of the County. Lessee shall provide such reasonable documentation as the County may request in connection with any such approval and the approval of the County 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 County.
- 31.36 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.
- 31.37 Right to Develop the Airport.** County reserves the right to further develop or improve the Airport and all Public Landing Areas, Runways and Taxiways as it may see fit, regardless of the desires or views of Lessee and without interference or hindrance. If the County deems it desirable that the Parcel or the Premises, or any part thereof, are needed for other Airport purposes, then the County shall have the right to terminate this Agreement by giving Lessee thirty (30) days written notice of such termination. The right of termination set forth herein is in addition to any other rights of termination set forth in this Agreement.
- 31.38 Damage to Airport Facilities.** Lessee shall be responsible for any and all damage to the Airport caused by the negligence of Lessee or Lessee's Parties, including, but not limited to, damage to terminal areas, ramp and taxiway areas, engine run-up areas, Public Landing Areas, Runways, hangar facilities and any and all areas where any activities are performed by Lessee.
- 31.39 Required Passenger Facility Charge Provision.** If the Lessee has any exclusive lease or use agreement with the County covering any existing facilities at the Airport or if this Agreement covers any exclusively leased premises, then, in addition to any other rights of termination contained in this Agreement, and pursuant to the federal regulations regarding passenger facility charges, then if any portion of such exclusive use facilities is not fully utilized by Lessee and is not made available to the County for use by potentially competing air carriers or foreign

air carriers, County shall have the right to terminate this Agreement with respect to such facilities. The right of termination set forth herein is in addition to any other rights of termination set forth in this Agreement.

31.40 Multiple Originals. This Lease may be fully executed in up to five (5) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

ARTICLE 32
ENTIRE AGREEMENT

This Agreement consists of: Articles 1-32, together with **Exhibits A through H**, attached hereto, constitute the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the County and the Lessee. Lessee agrees that no representations or warranties shall be binding upon the County unless expressed in writing in this Agreement.

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CARGO BUILDING LEASE AGREEMENT BETWEEN BROWARD COUNTY AND DELTA AIR LINES, INC.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 2017, and DELTA AIR LINES, INC., signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

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

By _____
Mayor
____ day of _____, 2017

Approved as to form by

Broward County Attorney
Aviation Office
2200 SW 45th Street, Suite 101
Dania Beach, Florida 33312
Telephone: (954) 359-6100
Telecopier: (954) 359-1292

Insurance requirements approved by Broward County Risk Management Division

By Tracy Meyer, Esq. 10-16-17
(Date)
Risk Insurance and Contracts Manager

By Nancy Rubin 10/20/17
(Date)
Assistant County Attorney

By Alexander J. Williams 10/20/17
(Date)
Assistant County Attorney

NR/ch
Cargo Building Lease -Delta
06/30/2016
#15-071.00

CARGO BUILDING LEASE AGREEMENT BETWEEN BROWARD COUNTY AND
DELTA AIR LINES, INC.

LESSEE

ATTEST:

Jan Davidson
Asst. Secretary

Jan M. Davidson
Assistant Secretary

(CORPORATE SEAL)

DELTA AIR LINES, INC.

By: [Signature]

David Hamm
Managing Director - Corporate Real Estate

9th day of October, 2017

WITNESS:

[Signature]

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:

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

contributions for, or costs assumed to provide, fringe benefits); daily and weekly number of hours worked; deductions made; and actual wages paid.

7. If County is funding any portion of the work, Lessee shall submit, with each requisition to County for payment, a signed and sworn "Statement of Compliance" attesting to compliance with Broward County Ordinance No. 83-72. The Statement shall be in the form attached as Exhibit D.
8. The County may withhold or cause to be withheld from Lessee so much of the payments requisitioned as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, watch persons, and guards employed by Lessee or any subcontractor on the work, the full amount of wages required by this Agreement.
9. If Lessee or any subcontractor fails to pay any laborer, mechanic, or apprentice employed or working on the site of the work all or part of the wages required by this Agreement, the County may, after written notice to Lessee, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

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

No. _____

Contract No. _____

Project Title _____

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

Dated _____, 20__.

Lessee

By _____
(Signature)

By _____
(Name and Title)

STATE OF)
) SS.
COUNTY OF)

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

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

(NOTARY SEAL)

(Signature of person taking acknowledgment)

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

(Title or rank)

(Serial number, if any)

My commission expires:

EXHIBIT E
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 Article 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 F
ENVIRONMENTAL DOCUMENTS

Company Name: _____

Mailing Address: _____
Street or Post Office

City: _____ State: _____ Zip Code: _____

Type of Agreement: _____

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

1. Best Management Plan, dated _____.
2. Storm water Pollution Prevention Plan, dated _____.
3. Spill Prevention Control and Countermeasures Plan, dated _____.
4. Hazardous Materials Plan, dated _____.

Other applicable environmental plans:

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

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

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

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

The following environmental licenses and/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. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

EXHIBIT G
VENDING MACHINE INVENTORY

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

EXHIBIT H
SIGNAGE INVENTORY

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Company Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____