

AMENDMENT NO. 5 TO THE LEASE AGREEMENT  
BETWEEN  
BROWARD COUNTY  
AND  
EMBRAER AIRCRAFT HOLDING, INC.

THIS AMENDMENT NO. 5 TO LEASE ("Fifth Amendment") is entered into by and between BROWARD COUNTY, a political subdivision of the State of Florida, acting by and through its Board of County Commissioners ("County"), and EMBRAER AIRCRAFT HOLDING, INC., a Delaware corporation, having offices at 276 SW 34<sup>th</sup> Street, Fort Lauderdale, Florida 33315 ("Lessee").

WITNESSETH:

WHEREAS, the County and Lessee are parties to an Agreement of Lease, dated April 17, 1990; as amended by Amendment No. 1, dated April 21, 1992 ("First Amendment"); Amendment No. 2, dated June 9, 1998 ("Second Amendment"); Amendment No. 3 dated September 8, 1998 ("Third Amendment"); and Amendment No. 4, dated June 21, 2007 ("Fourth Amendment") (said agreement, as amended by the foregoing amendments is hereinafter referred to as the "Base Lease"); and

WHEREAS, Lessee and County desire to amend the Base Lease as hereinafter set forth; and

WHEREAS, the Base Lease as amended by this Fifth Amendment, is hereinafter referred to interchangeably as the "Lease" or "Agreement"; and

WHEREAS, on May 13, 1997, Lessee, County and H Aviation, Inc. entered into a Consent to Sublease, Attornment and Nondisturbance Agreement and now desire to mutually terminate said Consent to Sublease, Attornment and Nondisturbance Agreement; and

WHEREAS, Lessee desires to enter into a new sublease agreement and the Lease requires that the County consent to any sublease agreement; and

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, privileges, obligations and agreements both herein and in the Base Lease, the County and the Lessee hereby mutually undertake, promise and agree as follows:

1. The foregoing recitations are true and correct and are hereby incorporated herein by reference.
2. Section 5 of the Lease is hereby amended to read as follows:



Section 5. RENTAL.

\* \* \*

D. Annual Rent Adjustments. On and after April 17, 2020, Section 5.A, Sections 5.B.1, 5.B.2 and 5.B.3 and Section 5.C shall be of no further force or effect for the remainder of the Term. ~~Notwithstanding anything to the contrary contained in the Agreement, effective April 17, 2020, and for all Lease Years thereafter, annual rental payments shall be established as set forth in this Paragraph 5 of this Fourth Amendment, and the provisions of Section 5 of the Base Lease, shall not be applicable from and after April 17, 2020.~~ Commencing on April 17, 2020, and on the first day of each Lease Year thereafter, the annual rental payment for the Premises shall be adjusted (each such date being referred to as an "Adjustment Date") as set forth in subparagraphs (a) and (b) below, and such adjusted rental (together with applicable sales taxes thereon) shall be the new annual rental for the succeeding Lease Year, commencing on the first day of the respective Lease Year (subject to further adjustment as provided in this Paragraph 5 of this Fourth Amendment) and shall be payable in twelve (12) equal monthly installments, together with all applicable sales taxes thereon, in advance and without demand, set off or deduction. The monthly rental installments shall be payable in advance on the first day of each and every month and on each Adjustment Date a partial payment of rent shall be due, which shall be an amount equal to the adjusted monthly rental payment, prorated based on the number of calendar days occurring between the Adjustment Date and the first day of the month following the Adjustment Date. Upon determining a rental adjustment, the Aviation Department shall advise Lessee of the new annual and monthly rental installment for the respective Lease Year, which shall be accompanied by evidence supporting the manner in which the new adjusted rent was determined, which evidence shall be in sufficient detail to enable Lessee to verify the calculations.

(a) Annual Rent Adjustment Established by Appraisal. The annual rental commencing April 17, 2020 and the annual rental commencing April 17, 2030 (if the Lease is extended pursuant to Section 4(b)), shall be adjusted (up or down) to an amount equal to the "fair market rental amount"(as hereinafter defined). ~~The "fair market rental amount" is the market value of the rights of use of the land included in Parcels A, B, C, D and E on Exhibit A-1 to the Third Amendment (the "Parcels"), as improved by the buildings and other improvements depicted on the surveys and described in the engineer's letter, all as attached hereto as Composite Exhibit G (hereinafter "Existing Improvements"), considering its current use, and excluding consideration of any buildings or improvements that are not depicted or described on Composite Exhibit G, and as further described in subparagraph (2), below.~~

\* \* \*

3. Section 7(5) of the Lease, is hereby amended to read as follows:

- (5) The right of dispensing and selling aviation fuels and lubricating oils on the Premises, provided such aviation fuels and lubricating oils shall be the product of a supplier or suppliers specifically approved by the Aviation Department (except that such right shall not be available for the portion of the Premises demised by Lessee to H. Aviation, Inc., as Sublessee ~~which sublease is described in the Consent to Sublease, Attachment, and Nondisturbance Agreement, dated May 13, 1997, between County, Lessee, and Sublessee~~ any authorized sublessee, and there shall be no ~~dispensing or selling of aviation fuels and lubricating oils from such subleased area~~), ~~provided such aviation fuels and lubricating oils shall be the product of a fixed based operation on the Airport specifically approved by the Aviation Department.~~ An authorized sublessee may authorize and invite any authorized fixed base operation to enter the demised area of such sublessee to dispense aviation fuels and oils. In addition, the Lessee shall have the right of dispensing and selling aviation fuels and lubricating oils within the confines of any area of the Airport that is mutually opened to all other lessees having aviation fuels and lubricating oils dispensing sales privileges; provided such right of Lessee shall be under the same terms and conditions provided to all such other lessees that are granted such privileges. However, the County shall in no way be hampered from granting exclusive rights for the sale and dispensing of aviation fuels and lubricating oils on premises other than those covered by this Lease under such terms and conditions as it may deem advisable. In connection with the sale or dispensing of such products, the County assumes no responsibility for acts of any supplier regarding delivery, quality of product, or maintenance of supplier-owned or Lessee-owned equipment. Aviation fuels and lubricating oils shall be stored and dispensed by the Lessee in accordance with all local, state and federal laws, regulations, rules and other requirements regarding the sale and storage of such fuels and oils. Aviation fuels and lubricating oils delivered to the Premises shall be paid for at the rate of cost to the Lessee, plus an additional fee payable for the account of the County ("Fuel Flowage Fees"), except aviation fuels and lubricating oils delivered on account of an airline that has executed a direct agreement with the County for use of the airfield shall be exempt from the Fuel Flowage Fees. The Fuel Flowage Fees shall be paid by Lessee to the supplier for the account of the County. The amount of the Fuel Flowage Fees shall be established by a resolution adopted by the Board of County Commissioners and may be increased or decreased by the County from time to time in its sole discretion. The Lessee shall provide such reports and back-up documentation to the County on a monthly basis, as the County may require to verify all amounts payable to the County, which shall be provided on or before the tenth (10th) day of each month. The County

shall have the right, upon reasonable notice to Lessee, to audit the Lessee's books and records relating to the Lessee's operations pursuant to this Agreement in order to determine the correctness of the Flowage Fees actually paid to the County for any Lease Year. In the event that any such audit reflects that the total Flowage Fees actually paid to the County during such Lease Year shall be less than the Flowage Fees due and owing for such Lease Year, then the Lessee shall immediately pay the difference to the County upon written demand therefor. If, as a result of any audit, it is established that the total Flowage Fees paid to the County during such Lease Year shall be three per cent (3%) or more less than the Flowage Fees actually owed to the County for such Lease Year, the entire expense of said audit shall be borne by the Lessee. County shall provide Lessee with a copy of any audit results obtained by County, upon written request of Lessee.

4. Section 12 of the Lease is hereby deleted in its entirety and replaced to read as follows:

12. Insurance Requirements

12 (a) 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 **Exhibit H**, in accordance with the terms and conditions required by this Article. 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

(1) 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- . Coverage shall be afforded on a form no more restrictive than the latest edition of the respective Insurance Services Office policy. Lessee shall specifically protect the County by naming Broward County as an additional insured/loss payees, under the primary and non-contributory General Liability Policy, Business Automobile Liability, Excess Liability and any Property or Environmental Insurance policies. The official title of the certificate holder is Broward County. This official title shall be used in all insurance documentation.

(2) All policies of insurance required herein, shall be endorsed to provide County with thirty (30) days prior written notice of cancellation and/or non-renewal and/or restriction, and shall be evidenced by a Certificate of Insurance. County reserves the right to obtain a copy of any policy required by this Article within fourteen (14) days of a written request to Lessee, either by a personal inspection of the policy at Lessee's office at FLL or by receiving a copy of the policy, Any insurance coverage that is

written on a "claims made" basis must remain in force for two (2) years after the termination of this contract. Commercial General Liability Insurance shall be written on an "occurrence" basis only.

- (3) **Review by County:** The aforesaid insurance coverage shall be reviewed from time to time by the County Risk Management Division and may be adjusted if the Risk Management Division determines that such adjustments are necessary to protect County's interest. When such policies or certificates have been delivered by the Lessee to the County as aforesaid and at any time or times thereafter, the County may notify the Lessee in writing that the insurance represented thereby does not conform to the provisions of this Article due to the amount of coverage, the insurance company, or for any other reason, and the Lessee shall have five (5) days in which to cure any such defect. Compliance with the requirements of this Article as to the carrying of insurance shall not relieve the Lessee of its liability under any other provision of this Agreement.
  - (4) **Subrogation.** Notwithstanding anything to the contrary herein, Lessee waives any right of recovery against County for any loss or damage to the extent the same is required to be covered by Lessee's insurance hereunder. Lessee shall obtain from its insurers, a waiver of subrogation in favor of the County in connection with any loss or damage covered by Lessee's insurance.
  - (5) Any contractor or subcontractor performing work for Lessee on the Premises shall have Broward County listed as a certificate holder for all coverages. Lessee and or contractor shall require all appropriate and necessary insurance coverage in their respective agreements.
5. Section 19 of the Lease, as previously amended by the Second Amendment, is hereby deleted in its entirety and replaced to read as follows:

19. ASSIGNMENT, SUBLEASE, LEASEHOLD MORTGAGE

- (a) Prior Written Consent. County's prior written consent, which consent may be conditioned upon additional terms and conditions as may be imposed in the County's sole discretion, shall be required prior to any action of Lessee, or any sublessee to (i) sublet the Premises or any part thereof; (ii) permit any transfer, assignment, pledge, mortgage, or encumbrance of any sublease; (iii) transfer, assign, pledge, mortgage, or otherwise encumber this Agreement or any rights or obligations hereunder; (iv) allow this Agreement or any rights or obligations hereunder to be assigned by operation of law; or (v) permit any sublessee to sublet the Premises or any part thereof (any of the foregoing actions are hereinafter

referred to as an "assignment"). Failure of Lessee or its sublessees to obtain the prior written consent of the County to any assignment shall constitute a default of this Lease.

- (b) Lessee's Request for Consent. Lessee's request for consent to an assignment shall include copies of all documentation pertaining to the assignment. In addition, Lessee shall provide the County with such additional information and documentation as may be reasonably requested.
- (1) County's decision whether to consent to an assignment shall be made in its sole discretion, and may include, without limitation, a consideration of whether the proposed assignee meets standards of creditworthiness; whether the Premises will be used only for the purposes described herein; the ability of the proposed assignee to perform the obligations under this Agreement; and any prior history with the County or the Aviation Department.
  - (2) In the event of any assignment, Lessee shall not be released of any liability hereunder and the assignee shall be required to execute a written assumption agreement, agreeing to assume all obligations and liabilities under this Agreement and to abide by all of the terms and conditions of this Agreement, which assumption agreement must be acceptable to the County in all respects. If Lessee seeks County's consent to an assignment to an affiliate, then as a condition of that assignment, Lessee (or those persons or entities that have majority ownership of Lessee, directly or indirectly) may be required to execute an irrevocable Guaranty of Payment and Performance of this Agreement, which will be in form and substance satisfactory to the County.
  - (3) As a condition of the County's consent to any Approved Leasehold Mortgage, each Approved Leasehold Mortgagee shall provide the County with a Debt Service Schedule pursuant to the section of the Lease entitled "County Buy-Out of Lease" as set forth in the Fourth Amendment, and an acknowledgement that it shall record a satisfaction of the Approved Leasehold Mortgage upon County's tender of the Buy-Out Amount to the Lessee, and that the Approved Leasehold Mortgagee shall look solely to the Lessee for any amounts due to the Approved Leasehold Mortgagee. The Lessee and each Approved Leasehold Mortgagee shall provide an updated Debt Service Schedule within thirty (30)

days of any written request made by the Aviation Department. Lessee and all Approved Leasehold Mortgagees acknowledge and agree that any assignment of its interest as Lessee to any Approved Leasehold Mortgagee does not give the Lessee or its assignee any lien or encumbrance upon the fee simple interest in the Premises which is vested in Broward County, State of Florida.

- (c) No Assignment if Lessee is in Default. In no case will an assignment be permitted if Lessee is in default of this Agreement and the default is uncured.
- (d) "Assignment." In addition to any action pursuant to Section 19 (a) above, an "assignment" shall also include any transfer of this Agreement by merger, consolidation or liquidation or by operation of law, or if Lessee or any sublessee is a corporation, any change in control of or ownership of or power to vote a majority of the outstanding voting stock of Lessee, or any sublessee or of any parent corporation of Lessee or any sublessee from the owners of such stock or those controlling the power to vote such stock on the date of this Agreement (whether occurring as a result of a single transaction or as a result of a series of transactions), or if Lessee or any sublessee is a limited or a general partnership or joint venture, any transfer of an interest in the partnership or joint venture (or a transfer of an interest in a corporate general partner or corporate joint venturer) which results in a change in control (either directly or indirectly) of such partnership or joint venture from those controlling such partnership or joint venture on the date of this Agreement (whether occurring as a result of a single transaction or as a result of a series of transactions). Notwithstanding the foregoing, a transfer of stock among current stockholders or among current stockholders and their immediate families, any transfer of stock resulting from the death of a stockholder, a transfer of partnership or joint venture interests among existing partners or among existing partners or joint venturers and their immediate families, or any transfer of such an interest resulting from the death of a partner or joint venturer, shall not be deemed an assignment for purposes of this section. Notwithstanding the foregoing, this Section 19 (d) will not apply to any public trades of registered stock of a Lessee or sublessee that occurs on a national stock exchange.
- (e) Action Without County Consent is Null and Void. If any action specified in this Article 19 is taken without County's prior written consent, then that assignment or other action is null and void and of no force or effect, and in addition to all other available remedies, County shall be entitled to immediately terminate this Agreement.

Any written consent required hereunder is not effective unless evidenced by a written document signed by County's authorized representative.

- (f) Sublessees and Assignees. Each sublessee and assignee of Lessee is subject and subordinate to all of the terms and conditions of this Agreement, including but not limited to the requirement that each such sublessee and assignee must comply with Applicable Laws. Notwithstanding any sublease of the Premises to which County has consented, Lessee shall remain responsible for ensuring that each and every provision of this Agreement is abided by and complied with and, in that regard, any failure by any sublessee to abide by or comply with any provision of this Agreement is a default hereunder, entitling County to any and all remedies available hereunder. Each sublease to which County has consented is subordinate in all respects to all terms and conditions of this Agreement and upon any termination of this Agreement, all subleases of the Premises shall also terminate.
- (g) Ability to Collect Rent from Wrongfully Assigned Occupant. If, without County's prior written consent, Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of this Article 19 or if the Premises are occupied by anyone other than Lessee, County may collect rent from any assignee, sublessee or anyone who claims a right to this Agreement or letting or who occupies the Premises, and County shall apply the net amount collected to the rent herein reserved, but no such collection shall be deemed to be a waiver by County of this Article 19 or any acceptance by County of any such person or entity.
- (h) Lessee's Mortgage Does Not Bind County. No mortgage of this Agreement shall be binding upon County in the enforcement of its rights under this Agreement.
- (i) Rights of Lessee to Mortgage Lessee's Interest Under This Agreement and Rights of Approved Leasehold Mortgagees. Lessee has the right, subject to County's prior written consent as required by this Section 19, to mortgage Lessee's interest under this Lease to any lender that is both authorized to make leasehold mortgage loans in the State of Florida and that has been approved by County pursuant to this Section 19, subject to the other provisions of this Lease. The phrase "Approved Leasehold Mortgage" means a leasehold mortgage of Lessee or of an authorized sublessee which mortgage loan has been approved and consented to by Lessee and that has obtained County's prior written consent under this Article 19 and that has not been satisfied



in the Official Records of Broward County, Florida. The phrase "Approved Leasehold Mortgagee" means a lender under an Approved Leasehold Mortgage that has not been satisfied of record in the Official Records of Broward County, Florida.

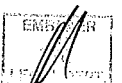
- (1) If Lessee mortgages its leasehold interest to an Approved Leasehold Mortgagee and if the Approved Leasehold Mortgagee forwards to County at the addresses stated for County in the notice section of this Agreement, a copy of the Approved Leasehold Mortgage certified as a true copy by the Office of Official Records of Broward County, Florida together with a written notice setting forth the name and address of the Approved Leasehold Mortgagee, then, until the time that the Approved Leasehold Mortgage shall be satisfied of record, the provisions of this Section 19(i) will apply.
- (2) County shall provide each Approved Leasehold Mortgagee with a copy of any notice of default that is given to Lessee by providing the notice via certified mail, return receipt requested, or any other method of delivery which can be confirmed and verified, to that mortgagee at the address set forth in the Approved Leasehold Mortgage or as provided in the statement given under Subsection 19(i)(1). Both Lessee and the Approved Leasehold Mortgagee shall ensure that County has the correct and current mailing address for both Lessee and Approved Leasehold Mortgagee.
- (3) If Lessee defaults under this Agreement in any way and County has notified Lessee of that default, Lessee shall promptly notify the Approved Leasehold Mortgagee of the default and shall state in the notice what action Lessee has taken, or will take, to cure the default. Lessee shall simultaneously provide the Aviation Department with a copy of the notice.
- (4) If Lessee defaults under this Agreement in any way, the Approved Leasehold Mortgagee shall have the right to cure that default within the time period established by this Agreement for any such cure, and County shall accept the performance on the part of the Approved Leasehold Mortgagee as though the same had been done or performed by Lessee.
- (5) If Lessee defaults under this Agreement in any way, County will not provide Lessee with a notice of termination of the



Lease ("Notice of Termination"), before giving the Approved Leasehold Mortgagee the same Notice of Termination and the same amount of time as Lessee should have to cure the default. In no event will the Approved Leasehold Mortgagee have a greater period of time to cure a default of Lessee's than the cumulative period of time between the dates any Notice of Default and corresponding Notice of Termination are sent and until such time as the termination is approved by the Board.

Before the Board approves the Notice of Termination, the Approved Leasehold Mortgagee may: (1) obtain the rights to the leasehold Premises and cure that default if the default is susceptible to being cured when the Approved Leasehold Mortgagee has obtained the same leasehold rights as Lessee; or (2) institute foreclosure proceedings and complete such foreclosure or otherwise acquire Lessee's interest under this Lease with diligence and continuity and thereafter commence and diligently proceed to cure such default; provided, however, that the Approved Leasehold Mortgagee is not required to continue such possession or continue such foreclosure proceedings if the default is cured, and provided further, that nothing in this Subsection 18(i)(5) precludes County from exercising any rights or remedies under this Lease for any other default by Lessee during any period of forbearance.

- (6) The Approved Leasehold Mortgagee may become the legal owner and holder of this Lease by foreclosure of its mortgage or as a result of the assignment of this Lease in lieu of foreclosure, whereupon the Approved Leasehold Mortgagee will immediately become and remain liable under this Lease as provided in Section 19(i)(7) below. However, in no event may the Approved Leasehold Mortgagee sell, assign, transfer, convey or otherwise dispose of its interest in its leasehold to a third party without County's prior written consent under this Article 19.
- (7) If an Approved Leasehold Mortgagee becomes the owner or holder of Lessee's interest by foreclosure of its mortgage, by assignment of this Lease in lieu of foreclosure or otherwise, the term "Lessee," as used in this Lease, means only the owner or holder of Lessee's interest for the time being so that, in the event of a sale, assignment or other disposition of Lessee's interest in this Lease by the Approved Leasehold Mortgagee, and provided County's prior written consent is



obtained under Section 19(a) above, and the Approved Leasehold Mortgagee has no interest or claim in or to the leasehold or against County, the Approved Leasehold Mortgagee will be entirely freed and relieved of all Lessee's covenants and obligations under this Lease and it will be deemed and construed, without further agreement between County and the Approved Leasehold Mortgagee or between County, the Approved Leasehold Mortgagee and the Approved Leasehold Mortgagee's purchaser or assignee, that the purchaser or assignee of Lessee's interest has assumed and agreed to carry out any and all covenants and obligations of Lessee under this Lease, including all covenants and obligations that accrued before the sale, assignment or other disposition of this Lease by the Approved Leasehold Mortgagee.

- (8) Within thirty (30) days of a written request by Lessee or by Lessee's Approved Leasehold Mortgagee, or if County needs an estoppel statement upon any sale, assignment or mortgaging of Lessee's interest in this Lease by Lessee or Lessee's Approved Leasehold Mortgagee, County and Lessee shall deliver a certificate to any proposed Approved Leasehold Mortgagee certifying the following (if such be the case): (1) the amount of rent and additional rent due under the Lease if any, and the date to which rents have been paid; (2) whether the Lease is in full force and effect; and (3) that County and Lessee have no knowledge of any default under this Lease, or if any default is known to exist, specifying the nature of the default.
- (9) So long as Lessee's interest in this Lease is mortgaged to an Approved Leasehold Mortgagee, County will not sell, grant or convey to Lessee all or any portion of County's fee simple title to the Premises without the prior written consent of that Approved Leasehold Mortgagee. In the event of any such sale, grant or conveyance by County to Lessee, the sale, grant or conveyance will not create a merger of this Lease into a fee simple title to the Premises. This subparagraph does not prevent County from selling, granting or conveying its fee simple title to any person, firm or corporation other than Lessee, its successors, legal representatives and assigns.
- (j) Reference in this Lease to an Approved Leasehold Mortgagee refers, where circumstances require, to any assignee (subject to the provisions of this Article 19) of an Approved Leasehold



Mortgagee; provided that such assignee is subject to County's prior written consent as provided in this Article 19, and the assignee forwards to County a duplicate original of the assignment of the Approved Leasehold Mortgage in a form proper for record or a copy of that assignment, certified as a true a copy by the Office of Official Records of Broward County, together with a written notice setting forth the name and address of the assignee.

- (k) Any leasehold mortgage is specifically subject and subordinate to County's rights under this Lease. Despite any provision which is or may appear to be to the contrary in this Lease, under no circumstances whatsoever will County's fee simple title interest in the Premises be subordinated to this Lease or to any leasehold mortgage, or to any other encumbrance. In the event of any conflict or ambiguity, this Lease controls.
- (l) County shall accept performance by the holder of any Approved Leasehold Mortgage, of any provision of this Lease required to be performed by Lessee, with the same force and effect as though performed by Lessee, if at the time of such performance, County is furnished with evidence satisfactory to County of the interest in the leased property claimed by the person, firm or corporation tendering such performance or payment, and provided the leasehold mortgage has been approved by County under this Article 19.
- (m) The Aviation Department shall, from time to time, upon reasonable written request, provide an Approved Leasehold Mortgagee with estoppel information as to the status of the Lease. Any assignment of Lessee's interest as Lessee to any leasehold mortgagee does not give Lessee or its assignee any lien or encumbrance upon the fee simple interest in the Premises which is vested in Broward County, State of Florida

6. Section 28 of the Lease is hereby amended to read as follows:

28. Place of Payments. All payments required to be made by the Lessee under the Lease shall be made payable to "Broward County," and shall be paid to the Finance Division, Broward County Aviation Department, ~~400 Aviation Boulevard, Fort Lauderdale, FL 33315~~ 2200 SW 45 Street, Suite 101, Dania Beach, FL 33312, or to such other office of address as may be substituted therefor.

7. Exhibit G is hereby removed from the Lease.

8. The provisions of this Fifth Amendment shall survive any termination or expiration of the Lease. The term "Lease" and "Agreement" as used in this Fifth Amendment shall mean the Agreement of Lease between the County and



Lessee, dated April 17, 1990; as amended by: Amendment No. 1, dated April 21, 1992; Amendment No. 2, dated June 9, 1998; Amendment No. 3, dated September 8, 1998, Amendment No. 4 dated June 21, 2007 and this Fifth Amendment.

9. The Lessee acknowledges that, through the date hereof, it had no claims against the County with respect to any of the matters covered by the Lease, as amended, and it has no right of set-off or counterclaims against any of the amounts payable under the Lease.
10. In the event of any conflict or ambiguity between this Fifth Amendment and the Lease, the parties hereto hereby agree that this document shall control.
11. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Lease.
12. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this document 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.
13. Preparation of the Lease, as amended, has been a joint effort of Lessee and County and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.
14. No modification, amendment, or alteration in the terms or conditions contained in the Lease, as amended, shall be effective unless contained in a written document and executed by the parties hereto.
15. Lessee hereby irrevocably submits to the jurisdiction of Florida's state or federal courts in any action or proceeding arising out of or relating to the Lease, as amended, and hereby irrevocably agrees that all claims in respect to such action or proceeding may be heard and determined in Broward County, Florida, the venue situs. The parties agree that the Lease, as amended, shall be construed and interpreted according to the laws of the State of Florida. To encourage prompt and equitable resolution of any litigation that may arise hereunder, the parties hereby waive any rights either may have to a trial by jury of any such litigation.
16. This Fifth Amendment may be executed in up to five (5) counterparts, each of which shall be deemed to be an original.
17. Except as modified herein, all terms and conditions set forth in the Lease shall remain in full force and effect and unmodified.



IN WITNESS WHEREOF, the parties have made and executed this Fifth Amendment to the Lease Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the \_\_\_ day of \_\_\_\_\_, 2017, and by EMBRAER AIRCRAFT HOLDING, INC. signing by and through its duly authorized representatives.

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AMENDMENT No. 5 TO AGREEMENT OF LEASE BETWEEN BROWARD COUNTY  
AND EMBRAER AIRCRAFT HOLDING, INC.

COUNTY

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

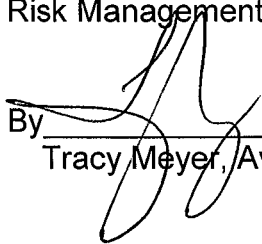
\_\_\_\_\_  
Broward County Administrator, as  
Ex-officio Clerk of the Broward County  
Board of County Commissioners


By \_\_\_\_\_  
Mayor

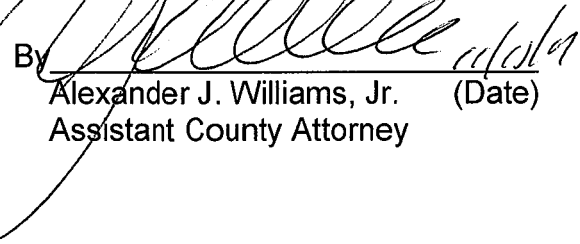
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Aviation Office  
200 SW 45<sup>th</sup> 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  \_\_\_\_\_ (Date) 11-14-17  
Tracy Meyer, Aviation Risk Manager

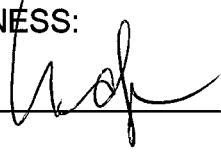
By  \_\_\_\_\_ (Date) 11/14/17  
Nancy Rubin  
Assistant County Attorney


By  \_\_\_\_\_ (Date) 11/14/17  
Alexander J. Williams, Jr.  
Assistant County Attorney

**AMENDMENT NO. 5 TO THE LEASE AGREEMENT BETWEEN BROWARD  
COUNTY, FLORIDA AND EMBRAER AIRCRAFT HOLDING, INC.**


LESSEE

WITNESS:

  
\_\_\_\_\_

  
\_\_\_\_\_

EMBRAER AIRCRAFT HOLDING, INC.

  
By: \_\_\_\_\_  
Michael Klevens  
General Counsel, N.A.

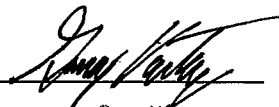
  
Gary Kretz  
Senior Manager - Finance  
9<sup>th</sup> day of November, 2017



EXHIBIT H

Minimum Insurance Requirements for Lease between Broward County and Embraer.

The following are deemed appropriate for minimum insurance requirements for this project and will be required of the selected firm and be incorporated in the final agreement. Any deviation or change shall be approved in writing by Risk Management.

TYPE OF INSURANCE Accord 25 Form Self Insurance is not approved	Limits on Liability in Thousands of Dollars		
		Each Occurrence	Aggregate
<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input type="checkbox"/> Explosion & Collapse Hazard <input type="checkbox"/> Underground Hazard <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input type="checkbox"/> Independent Contractors <input type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> mobile equipment <input checked="" type="checkbox"/> Fire legal liability	Bodily Injury		
	Property Damage		
	Bodily Injury and Property Damage Combined	\$5 Mil	\$5 Mil
	Personal Injury		
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto If applicable	Bodily Injury (each person)		Broward County reserves the right to review and revise any insurance requirements at the time of contract renewal, not limited to the limits, coverages and endorsements based on insurance market conditions and/or changes in the scope of services.
	Bodily Injury (each accident)		
	Property Damage		
	Bodily Injury and Property Damage Combined	\$5 mil airside \$1 mil landside	
<input checked="" type="checkbox"/> <b>POLLUTION &amp; ENVIRONMENTAL LIABILITY</b>	Max Ded \$25K	\$ 2 Mil	\$2 Mil
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY (NOTE *)</b>	<input checked="" type="checkbox"/> STATUTORY		
		(each accident)	\$1 Mil
Contractor responsible for all tools, materials, equipment, machinery, etc., until completion and acceptance by County. <b>NO DEDUCTIBLE SHALL BE GREATER THAN TEN THOUSAND DOLLARS (\$10,000.00)</b> "claims made" basis must remain in force for two (2) years after the termination of this contract			
Description of Operations/Locations/Vehicles Certificate must show on general liability and excess liability <b>Additional Insured: Broward County.</b> Also when applicable certificate should show Certificate Must be Signed and All applicable Deductibles shown. <b>INSURED is RESPONSIBLE FOR ALL DEDUCTIBLES UNLESS OTHERWISE STATED.</b> Indicate bid number, RLI, RFP, and project manager on COI.			

**NOTE \*** - If the Company is exempt from Workers' Compensation Coverage, please provide a letter on company letterhead or a copy of the State's exemption which documents this status and attaché to the Certificate of Insurance for approval. If any operations are to be undertaken on or about navigable waters, coverage must be included for U.S. Longshoremen & Harbor Workers' Act/ & Jones Act **CANCELLATION: Thirty (30) Day written notice of cancellation required to the Certificate Holder:**

**Name & Address of Certificate Holder**  
 Broward County  
 2200 SW 45<sup>th</sup> Street, Suite 101  
 Fort Lauderdale, FL 33301 RE: Business

  
 Aviation Department  
 Risk Manager

Digitally signed by Tracy Meyer  
 DN: dc=local, dc=fl-airport, ou=FLLUSERS, cn=Tracy Meyer  
 Date: 2017.11.14 07:56:40 -05'00'