

**SETTLEMENT AGREEMENT BETWEEN BROWARD COUNTY AND
THE BANKRUPTCY ESTATE OF FMT AIRCRAFT GATE SUPPORT SYSTEMS AB**

This is a Settlement Agreement ("Agreement") by and between Broward County ("County") and the bankruptcy estate of FMT Aircraft Gate Support Systems AB ("FMT").

RECITALS

A. FMT Aircraft Gate Support Systems AB and County (collectively the "Parties") entered into the following two separate agreements: Broward County Bid/Contract No.: BLD2115305Q1 for the fabrication, erection, commissioning, and warranty services of two (2) mobile elevated gangways ("MEGS") at Cruise Terminal 25 at Port Everglades; and Broward County Bid/Contract No.: X2113794Q1 for the fabrication, erection, commissioning and warranty services of two (2) MEGS for Cruise Terminal 18 at Port Everglades (collectively the "Contracts").

B. FMT Aircraft Gate Support Systems AB has filed for bankruptcy protection with the Swedish District Court in Ystad, Sweden. Notwithstanding, FMT, a new legal entity created under Sweden's bankruptcy laws, is desirous of having all remaining work under the Contracts performed, including, but not limited to, the provision of warranty services (the "Remaining Work").

C. County has incurred additional costs and expenses relating to the Contracts.

D. FMT and County have engaged in considerable negotiations and discussions in an effort to amicably resolve all outstanding claims and matters relating to the Contracts.

E. The Parties desire to reduce their negotiations and discussions to writing so that it is binding upon them.

NOW, THEREFORE, in consideration of the foregoing representations and covenants herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Terms of Settlement:** FMT and County agree as follows:

A. On the date the Broward County Board of County Commissioners (the "Board") approves this Agreement, the County's Acting Port Director and Chief Executive shall direct Svenska Handelsbanken AB New York Branch to pay out a total amount of Two Million Eight Hundred Seventy One Thousand Eight hundred Seventy Dollars and Fifty-six cents (\$2,871,870.56) under the Standby Letter of Credit No. S17132 issued by Svenska Handelsbanken AB, and shall direct the bank to divide the

payment of \$2,871,870.56 as follows: i) the total sum of Two Million Five Hundred Five Thousand Nine Hundred Eighty-eight Dollars and Fifty-one Cents (\$2,505,988.51) payable to County; ii) the total sum of Two Hundred Six Thousand Five Hundred Sixty-one Dollars and Thirty-eight Cents (\$206,561.38) payable to Ships & Turbines, LLC, dba Centrifugal Rebabbiting, an FMT subcontractor performing work at Port Everglades; and iii) the total sum of One Hundred Fifty-nine Thousand Three Hundred Twenty Dollars and Sixty-seven Cents (\$159,320.67) payable to International Consulting Engineers, Inc., an FMT subcontractor performing work at Port Everglades. Each Party shall bear its own respective attorneys' fees and costs expended in connection with this Agreement. Should the Board not approve this Agreement, the terms and conditions hereof shall automatically become null and void and shall have no binding effect upon either Party.

- B. FMT shall perform or cause a qualified subcontractor(s) to perform all remaining punch list items, programming, commissioning, testing and warranty services required for the MEGS pursuant to the terms and conditions of the Contracts. Broward County shall provide FMT and its subcontractor(s) access to the work sites as reasonably required by FMT and its subcontractor(s) to perform the Remaining Work. County payments to FMT for all Remaining Work shall be in accordance with the terms and the conditions of the Contracts.
- C. FMT hereby assumes the obligation to and shall honor and perform all warranties, expressed or implied, for materials, equipment, and labor furnished by FMT as provided in the Contracts or as otherwise provided by Florida law and same shall not be deemed or construed to be modified by this Agreement.
- D. FMT shall on the date the Board approves this Agreement, ensure that Svenska Handelsbanken AB extends the validity of the existing Standby Letter of Credit No. S17132 through December 1, 2021, and any approved time extensions, in an amount of Two Million Two Hundred Thousand Dollars (\$2,200,000), as financial security to County for all remaining FMT payment and performance obligations arising from the Contracts. FMT shall ensure that Svenska Handelsbanken AB amends the Standby Letter of Credit No. S17132 to provide that the Standby Letter of Credit as amended, will replace the existing surety bonds in the amount of Six Million Six Hundred Six Thousand Nine Hundred Dollars (\$6,606,900) for County Bid/Contract No.: X2113794Q1.

- E. The County shall in connection with the extension of the Standby Letter of Credit in accordance with clause D above, release Travelers Casualty and Surety Company of America and its affiliates under any and all obligations under the existing surety bonds (\$6,606,900) for County Bid/Contract No.: X2113794Q1.
2. **Mutual Final Releases:** The Parties (FMT on behalf of FMT Aircraft Gate Support Systems AB) do respectively release each other from all claim(s), demand(s), damage(s), cause(s) of action, and losses of every kind and nature, whether known or unknown on account of or in any way arising out of or related to the Contracts as of the date of County's execution of this Agreement. Further, the Parties mutually release and forever discharge each other and acknowledge, agree, and covenant for each of themselves and their respective successor(s) and assign(s), and irrevocably bind themselves to refrain from making any claim(s), action(s), or demand(s) or to commence, cause, or permit to be prosecuted any claim(s) or action(s) in law or in equity against the other on account of or in any way arising out of or related to the Contracts which may have heretofore existed as of the date the Board approves this Agreement. Notwithstanding the foregoing, this Agreement shall not be deemed to release FMT from any warranties, warranty obligations, or any other FMT obligations under the Contracts that extend beyond the final completion date of the Remaining Work including, but not limited to, FMT's indemnity obligations to County for third party claims and County claim(s) for latent defect(s), if any.
3. **Default:** In the event of a default of any of the covenants and conditions set forth herein, any provision as to release of the defaulting Party is null and void.
4. **Binding Effect:** The provisions, conditions, terms, and covenants contained herein shall be of a binding effect. The benefits and advantages hereof shall inure to the respective Parties, and the respective successors, assigns, trustees, receivers, and personal representatives of the Parties hereto.
5. **Full Disclosure and Representations:** The Parties acknowledge that each is releasing certain rights, but for this Agreement, would not have been released. Accordingly, the Parties acknowledge that this Agreement is fully and adequately supported by consideration, is fair and reasonable, and each Party has had the opportunity to consult with and has in fact consulted with such experts of their choice. FMT represents and warrants to the County that the undersigning official receiver, Peter Öfverman, is appointed by the court in Sweden and has the legal authority to enter into and bind the bankruptcy estate of FMT to the terms and conditions of this Agreement.

6. **Venue:** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the state courts and the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs. To encourage prompt and equitable resolution of any litigation that may arise hereunder, each Party hereby waives any rights it may have to a trial by jury of any such litigation.
7. **Severability:** In the event any portion of this Agreement is found by a court of competent jurisdiction to be unenforceable, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect unless County or FMT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.
8. **Merger:** This document incorporates, includes, and supersedes 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 Agreement. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
9. **Joint Preparation:** The Parties have sought and received whatever competent advice and legal counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses the Parties' mutual intent, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.
10. **Counterparts:** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, will constitute one and the same document.
11. **Captions:** The captions of the sections of this Agreement are for reference only, and shall not affect the construction or interpretation of any of the terms and provisions of this Agreement.
12. **Further Assurance:** The Parties shall execute all such further instruments, and take all such further actions that may be reasonably required to fully effectuate the terms and provisions of this Agreement.

13. Modification: No change or modification of this Agreement shall be valid unless in writing and signed by the Parties. No waiver of any of the provisions of this Agreement shall be valid unless in writing and signed by the Party against whom it is sought to be enforced.
14. Execution Authority: The individual(s) executing this Agreement on behalf of FMT personally warrant and represent to County that they have full authority to execute this Agreement on behalf of FMT for whom they are acting herein.

(Remainder of page intentionally left blank)



IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: Broward County through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 2019, and the bankruptcy estate of FMT Aircraft Gate Support Systems AB, signing by and through its duly authorized officer.

County

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator
ex officio Clerk of Broward County
Board of County Commissioners

By _____
Mayor
____ day of _____, 2019

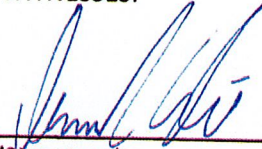
Approved as to form by
Andrew J. Meyers
Broward County Attorney
Port Everglades Department
1850 Eller Drive, Suite 502
Fort Lauderdale, Florida 33316
Telephone: (954) 523-3404
Telecopier: (954) 468-3690

By *RMJ* 5/14/19
Russell J. Morrison (Date)
Sr. Assistant County Attorney

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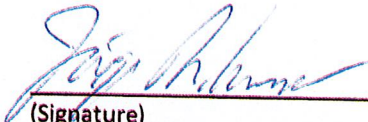
FMT

WITNESSES:



(Signature)
Aleksandra Lakić

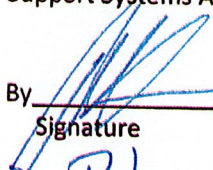
(Print Name)



(Signature)
Jörgen Andersson

(Print Name)

The bankruptcy estate of FMT Aircraft Gate
Support Systems AB

By  _____ 2019-05-14
Signature Date
Name: Peter Öfvermum
Title: official receiver