

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS**

## **AGENDA ITEM SUMMARY**

**Meeting Date: January 12, 2010**

☒ Consent      ☐ Regular  
☐ Workshop      ☐ Public Hearing

**Submitted By: Department of Airports**

## I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to receive and file: Six (6) original Agreements for the Department of Airports.

- A.** Hangar Lease Agreement with A. Kim Gartmann, Unit 4, Building 11720, at North County General Aviation Airport for one (1) year, automatically renewed at one (1) year intervals, commencing on 11/21/2009. **(AH)**
- B.** Hangar Lease Agreement with A. Kim Gartmann, Unit 8, Building 11720, at North County General Aviation Airport for one (1) year, automatically renewed at one (1) year intervals, commencing on 11/21/2009. **(AH)**
- C.** Agreement Covering the Operation of Aircraft at PBI with Vision Airlines, Inc., commencing 9/1/2009, expiring 9/30/2010 and automatically extended on a year-to-year basis (October 1<sup>st</sup> through September 30<sup>th</sup>). **(AH)**
- D.** Automobile Transport Operator Permit with Triple Express, Inc. d/b/a Connecticut Auto Transport, Inc., commencing 11/17/2009, terminating 9/30/2010, automatically renewed on a yearly basis (October 1<sup>st</sup> through September 30<sup>th</sup>). **(AH)**
- E.** General Aeronautical Services Agreement with Rivera Aircraft Detailing, LLC, commencing 12/1/2009, expiring 9/30/2010, automatically renewed on a year-to-year basis (10/1 through 9/30). **(AH)**
- F.** First Amendment to Airline-Airport Use and Lease Agreement with Airtran Airways, Inc. (R-2007-0137), replacing Exhibits "B" and "D", effective 8/20/2009. **(AH)**

**Summary:** Delegation of authority for execution of the standard County agreements above was approved by the BCC in R-93-801, R-2006-1906, R-2008-1845 and R-2009-1960. **Countywide**

**Background and Justification:** N/A

**Attachments:** Six (6) Standard Agreements for the Department of Airports

**Recommended By:**

Department Head

**Date**

**Approved By:**

**County Administrator**

Date \_\_\_\_\_

## HANGAR LEASE AGREEMENT

This Lease, is made and entered into this NOV 18 2009, 2009, (the "Effective Date") by and between Palm Beach County, a political subdivision of the State of Florida ("COUNTY"), and A. Kim Gartmann, whose address is 5400 Occidental Road, Santa Rosa, CA 95401 ("LESSEE") (COUNTY and LESSEE are sometimes referred to herein individually as a "Party" and collectively as the "Parties").

### WITNESSETH

**WHEREAS**, COUNTY, by and through its Department of Airports (the "Department"), owns and operates the North County General Aviation Airport (the "Airport") located in Palm Beach County, Florida; and

**WHEREAS**, COUNTY has certain property at the Airport which is available for lease; and

**WHEREAS**, LESSEE has indicated willingness and demonstrated the ability to lease the Airport property in accordance with the terms and conditions of this Lease.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the Parties expressly acknowledge, the Parties covenant and agree to the following terms and conditions.

1. Term. The term of this Lease shall be for a period of one (1) year commencing on the 21st day of November, 2009, (the "Commencement Date") and terminating on the 20th day of November, 2010. This Lease shall be automatically renewed at one (1) year intervals thereafter; provided, however, either party may elect to not renew this Lease upon providing no less than thirty (30) days advance written notice to the other party prior to the expiration of the then current term.

2. Premises. COUNTY hereby leases to LESSEE and LESSEE hereby rents from COUNTY that certain hangar identified as unit number 4, Building 11720, containing a total of 1,399 square feet, located at the Airport, all as more particularly described on Exhibit "A", attached hereto and made a part hereof (the "Premises").

3. Rental. LESSEE shall pay COUNTY as the initial annual rental for the Premises, the sum of Seven Thousand One Hundred Forty Dollars (\$7,140.00), payable in equal monthly installments of Five Hundred Ninety Five Dollars (\$595.00), plus any applicable taxes as may be required by law. Payment of rental by LESSEE to County shall commence on the Commencement Date. Rental shall be payable in advance, without demand and without any deduction, holdback or set off whatsoever, on or before the first day of each and every month throughout the term of this Lease, as adjusted in accordance with the provisions of Section 5 below. If the Commencement Date occurs on a day other than the first day of a month, LESSEE shall pay rent from the Commencement Date to the first day of the following month on a per diem basis [calculated on the basis of a thirty (30) day month], payable in advance on the Commencement Date. Any rent payment due hereunder for any other fractional month shall likewise be calculated and paid on such a per diem basis. Rental payable for each month during any renewal term shall be the monthly rental in effect for the prior year, as adjusted in accordance with the provisions of Section 5 below. Rental shall be made payable to Palm Beach County Board of Commissioners and shall be mailed or hand delivered to the following address:

Department of Airports  
Fiscal Department  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470

COUNTY may, at any time, elect to hire, utilize, or select an agent(s) to administer this Lease and to collect rent payments on behalf of COUNTY and the Department. COUNTY will provide thirty (30) days written notice to LESSEE prior to any change in payment procedure or the payment addresses. COUNTY may offer alternative methods of payment, including, but not limited to, payment by debit card, credit card, or similar method of payment. If LESSEE selects an alternative method of payment, LESSEE agrees to abide by any terms and conditions promulgated by COUNTY in connection with the abovementioned method of payment. LESSEE shall pay interest at the rate of one and one half percent (1.5%) per month on late payments, which shall accrue against the delinquent payment(s) from date due until the date payment is received by the Department. Notwithstanding the foregoing, COUNTY shall not be prevented from terminating this Lease for default in the payment of rentals or from enforcing any other provisions contained herein or implied by law.

4. Payment of Taxes. LESSEE shall pay any and all taxes and other costs lawfully assessed against its leasehold interest in the Premises, its improvements and its operations under this Lease. LESSEE shall have the right to contest the amount or validity of any tax or assessment payable by it by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending LESSEE's covenants to pay any such tax or assessment, unless the legal proceedings shall operate to prevent the collection of the tax or assessment. Upon termination of such legal proceedings, LESSEE shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

5. Adjustment of Rent. The amount of rentals due hereunder may be adjusted from time-to-time by the COUNTY. In such event, LESSEE shall be provided at least ninety (90) days advance written notice prior to the commencement of any new rental rate. Notwithstanding anything to the contrary contained in this Lease, the rental rate shall be maintained at all times to ensure compliance with the provisions Section 710 (rate covenant) of the Palm Beach County Airport System Revenue Bond Resolution, dated April 3, 1984, as amended, and supplemented (the "Bond Resolution"), which is hereby incorporated by reference and made a part hereof.

6. Security Deposit. LESSEE shall pay to COUNTY, prior to the Effective Date of this Lease, and shall maintain at all times during the term of this Lease, a refundable security deposit, in the form of a certified or cashier's check, in an amount equal to three (3) months rental due hereunder. The security deposit shall be held by the Department and will be refunded to LESSEE upon termination of this Lease provided that LESSEE is not in default of any of the provisions of this Lease; the Premises are left in good and serviceable condition, to be determined in the sole discretion of the Department; all rentals, fees, and taxes due are paid in full by LESSEE; and LESSEE has returned all Airport access cards and hangar keys to the Department. If there is a rental or fee deficiency or if the Premises require maintenance or repair in order to be returned to serviceable condition, or if any Airport access cards or hangar key are not returned to Department, the Department may apply the security deposit, or any part thereof, to the deficiency or to costs incurred by COUNTY, plus any applicable administrative overhead.

7. Additional Rent. Any and all sums of money or charges required to be paid by LESSEE under this Lease, other than the annual rent, shall be considered "Additional Rent," whether or not the same is specifically so designated, and COUNTY shall have the same rights to enforce due and timely payment by LESSEE of all Additional Rent as are available to COUNTY with regard to annual rent.

8. Description of Specific Privileges, Uses and Rights. The County hereby grants to LESSEE, the limited right to use the Premises for the following purposes, and for no other purposes whatsoever, all of which shall be subject to the terms, conditions, and covenants set forth in this Lease:

A. LESSEE shall use the Premises to store the following aircraft which are owned by or leased to LESSEE and registered with the Department in accordance with the provisions of this Lease (the "Registered Aircraft").

FAA Registration No. N2074C, N3947C, N9421G,  
N145UA, N903KC, N9421P

Make: Schweizer, Schweizer, Schweizer, Robinson,  
Robinson, Schweizer

Model: 269C-1, 269C-1, 269C, R22 Beta, R22 Beta,  
269C-1

LESSEE shall promptly register all aircraft being stored within the Premises with the Department, and shall promptly notify the County in writing of any changes in registration or aircraft. LESSEE shall not use the Premises for any commercial purpose, including, but not limited to, the sale of products or services of any kind, whether or not such transactions are engaged in for a profit. LESSEE shall not store or park aircraft within the Premises, which are not owned or leased by LESSEE and registered with the Department in accordance with the provisions of this Section.

B. LESSEE may perform only preventive maintenance on the Registered Aircraft, of the kind and to the extent permitted by Title 14, Part 43.3 Appendix A, paragraph (C) of the Code of Federal Regulations entitled "Preventive Maintenance", as may be amended from time to time. LESSEE shall not perform repairs or maintenance to its Aircraft on any ramp, apron, taxiway, runway or other public area of the Airport.

C. LESSEE agrees that use of the Premises shall be in accordance with federal, state and local laws and regulations including, but not limited to, the Palm Beach County Airport Rules and Regulations, Resolution No. R-98-220, as amended and as may be amended from time to time.

D. LESSEE's aircraft shall not be parked or positioned in such common use areas so as to block, limit or restrict the use of the ramps, aprons or taxiways by other Airport tenants or users.

E. LESSEE may place within the Premises a small desk, workbench, tool cabinet and necessary small hand tools required for work permitted under Section 8(B) above.

F. LESSEE may store parts and accessories within the Premises for the Registered Aircraft; provided, however, storage of any parts, accessories, hulls, or incomplete aircraft, which are not manufactured for use on, or cannot be readily adapted for use on the Registered Aircraft for the Premises is prohibited.

G. LESSEE may park one (1) operable automobile within the Premises, but only while the Registered Aircraft is in use.

H. LESSEE may place within the Premises one (1) hand-operated winch, and/or one (1) motorized towing vehicle to assist with maneuvering and hanging of aircraft.

I. LESSEE may store not more than five (5) gallons of flammable fluid within the Premises, provided that any such storage shall be limited to NFPA-approved containers, or unopened original cans.

J. LESSEE shall not use the Premises to store furniture, boats, recreational vehicles, hang gliders, ultralights, inoperative or unregistered aircraft (except to the extent permitted under Section 8(F) and (G) above), utility trailers, or any other objects unrelated to the purposes for which the Premises have been leased.

K. LESSEE shall not perform repair service on automobiles or automotive equipment of any kind, other than an authorized motorized towing vehicle, from or at the Premises.

L. LESSEE shall not perform painting or "doping" operations of any kind within the Premises and shall not install or use compressors for any purpose; provided, however, LESSEE may use non-electric, non-combustible, air pressure tanks used to inflate aircraft landing gear tires within the Premises.

M. LESSEE shall install and maintain an appropriate fire extinguisher within the Premises at all times.

N. Subject to written approval of the Department, LESSEE may be permitted to use approved electrical appliances that have a combined maximum load of 5.0 amps or less. Such electrical appliances shall not be used on a continual basis or while the Registered Aircraft is not within the Premises or while the LESSEE is not actually working within the Premises. It shall be the responsibility of the LESSEE to request and obtain the Department's written approval of the installation and use of approved electrical appliances and failure to do so may result in termination of this Lease or other action deemed appropriate by the Department. In addition to any other remedy or action available to COUNTY, COUNTY shall have, and LESSEE hereby agrees that COUNTY shall have the right to enter onto the Premises and remove therefrom any and all electrical appliances or devices which COUNTY has not approved for installation and use in the Premises. COUNTY shall not be held liable for any such loss or damage suffered by the LESSEE as a result of such action by COUNTY unless such loss or damage results from solely from negligence of COUNTY, its officers, agents, or employees.

O. LESSEE shall not have open flames or weld within the Premises.

P. LESSEE shall keep hangar doors closed when the Registered Aircraft is not being stored within the Premises.

Q. No running water or washing of aircraft shall take place within the Premises, or any other Airport location except the COUNTY approved aircraft wash rack.

9. Description of General Privileges, Uses and Rights. In addition to the specific privileges granted in Section 8 above, COUNTY hereby grants to LESSEE the following general, nonexclusive privileges, uses, and rights on the Airport, all of which shall be subject to the terms, conditions, and covenants set forth in this Lease:

A. The general use, in common with others, of all public Airport facilities and improvements which are now or may hereafter be connected with or appurtenant to the Airport (including airfield access). For purposes of this Lease, "public Airport facilities" shall include all necessary roadways, sidewalks, or other public facilities appurtenant to the Airport, which are not specifically leased to or under the contractual control of others.

B. The right of ingress to and egress from the Premises over and across public roadways serving the Airport. Said right shall be subject to such laws, rules, regulations and orders as now or may hereafter have application at the Airport.

Except as expressly set forth in Sections 9 (A) and (B) above, nothing contained in this Lease shall be construed to grant to LESSEE the right to use any space or area improved or unimproved which is leased to a third party, or which COUNTY has not leased herein.

10. Condition of Premises. LESSEE acknowledges that COUNTY has made no representations or warranties of any nature whatsoever regarding the Premises including, without limitation, the physical and/or environmental condition of the Premises, or any improvements located thereon, or the value of such Premises or improvements, or the suitability of the Premises for LESSEE's intended use thereof.

11. Obligations of COUNTY.

A. Condition of Airport. Except as to the Premises and facilities leased to others by COUNTY, COUNTY shall maintain all public Airport facilities in good and adequate condition for their intended use to the extent required by law.

B. Utilities. COUNTY shall provide at no additional cost to LESSEE electrical power within the Premises for lighting and the operation of electrical appliances as approved by the Department pursuant to Section 8 above, if any.

12. Obligations of LESSEE.

A. Maintenance. LESSEE shall, at its sole cost and expense, maintain the Premises in a clean, safe and presentable condition consistent with good business practice, industry standards, and in accordance with all applicable laws, regulations, and rules of any applicable governmental entity. LESSEE shall repair all damages to the Premises and improvements caused by its employees, patrons, invitees, suppliers of services or furnishers of material, or any other persons whomsoever, and all damages caused by or resulting from or in any way arising out of LESSEE's operations thereon or LESSEE's use of the Premises. LESSEE hereby agrees that it shall abide by the decision of the Department with respect to any and all such maintenance or repair. Upon written notice by the Department to LESSEE, LESSEE shall perform the required maintenance or repair in accordance with the Department's decision. If LESSEE has not made a good faith effort, as determined by the Department, to begin to perform the required maintenance or repair within twenty (20) days after written notice and to diligently pursue the same to completion, COUNTY shall have the right to enter the Premises and perform the necessary maintenance or repair, and LESSEE hereby expressly agrees that it shall fully assume and be liable to COUNTY for payment of any costs incurred by COUNTY, plus a twenty-five percent (25%) administrative overhead. Such maintenance or repair cost, plus the administrative cost, shall be due and payable within thirty (30) days from the date of the Department's billing therefore.

B. Alterations, Changes or Additions to the Premises. LESSEE shall not make any improvements, alterations, additions or changes (hereinafter collectively referred to as "Alterations") to the Premises without the Department's prior written consent. Upon written notice by the Department, LESSEE shall remove any Alterations to the Premises, whether or not approved by the Department, and restore the Premises to the condition it was in as of the Commencement Date using materials of like kind and quality. LESSEE shall be responsible for all maintenance or repair to the Premises caused by or resulting from any Alterations made by LESSEE. LESSEE hereby agrees to abide by the decision of the Department with respect to any restoration, removal, maintenance or repair to the Premises caused by or resulting from any Alterations. If LESSEE has not made a good faith effort, as determined by the Department, to perform the required restoration, removal, maintenance or repair, COUNTY shall have the right to enter the Premises and perform the required restoration, removal, maintenance or repair. LESSEE shall pay all costs incurred by COUNTY for any restoration, removal, maintenance or repair, plus a twenty-five percent (25%) administrative overhead, within thirty (30) days of the Department's invoice.

C. Security. LESSEE acknowledges and accepts full responsibility for the security and protection of the Premises and any and all of LESSEE's property placed upon the Premises. LESSEE fully understands that the police security protection provided by COUNTY is limited to that provided to any other business situated in Palm Beach County by the Palm Beach County Sheriff's Office, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Premises and property thereon, shall be the sole responsibility of LESSEE and shall involve no cost to COUNTY. COUNTY shall have the right to review, change, alter, or revise any security policy or procedure at any time based on the COUNTY's responsibility to operate the Airport in a safe and secure manner, including the right to restrict access to the Airport, including the Premises, if required by the FAA or any agency of the Department of Homeland Security, including the TSA.

D. Vehicle Operations. LESSEE shall provide proof of Automobile Liability Insurance coverage insuring each vehicle operating within the Airport's Air Operations Area ("AOA"), in accordance with Section 14(C) below. LESSEE acknowledges that vehicle access to certain areas of the AOA, including, but not limited to, those areas designated as runways, taxiways and other restricted or limited areas as designated by the Department, requires prior approval by the Department. Conditions of approval of vehicle access within such areas of the AOA may include, but shall not be limited to, lighting and radio requirements for each vehicle, as well as proof of Automobile Liability Insurance coverage for each vehicle, in such amounts and coverage determined by the Department.

13. Indemnification. LESSEE agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney fees at trial and appellate levels) and causes of action of every kind and character against, or in which COUNTY is named or joined, arising out of this Lease or LESSEE's use or occupancy of the Premises, including, without limitation, those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder,

any agent or employee of any party hereto or of any party acquiring an interest hereunder, and any third or other party whomsoever, or any governmental agency, arising out of or incident to or in connection with LESSEE's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of LESSEE or any breach of the terms of this Lease; provided, however, LESSEE shall not be responsible to COUNTY for damages resulting out of bodily injury (including death) or damages to property which are judicially determined to be solely attributable to the negligence of COUNTY, its respective agents, servants, employees and officers. LESSEE further agrees to hold harmless and indemnify COUNTY for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or due to LESSEE's activities or operations or use of the Premises whether or not LESSEE was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving said activities. This indemnification shall be extended to include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of, or at the request of LESSEE. LESSEE recognizes the broad nature of this indemnification and hold-harmless clause, and acknowledges that COUNTY would not have entered into this Lease without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by COUNTY in support of this indemnification. The obligations arising under this Section shall survive the expiration or termination of this Lease.

14. Insurance. Without limiting LESSEE's obligation to indemnify COUNTY, as provided herein, LESSEE shall provide, pay for, and maintain in force at all times during the term of this Lease:

A. A policy of Aircraft Liability Insurance to protect against bodily injury liability and property damage liability in an amount of not less than Five Hundred Thousand Dollars (\$500,000) each occurrence.

B. A policy of General Liability Insurance to protect against bodily injury liability and property damage liability arising out of use of the leased Premises in an amount of not less than Five Hundred Thousand Dollars (\$500,000) each occurrence. Coverage must include not less than One Hundred Thousand Dollars (\$100,000) property damage liability for damage to the Premises. This requirement may be satisfied by endorsement to the Aircraft Liability Insurance.

C. LESSEE shall maintain a policy of Automobile Liability Insurance coverage insuring each vehicle operating within the AOA, other than those areas of the AOA designated as runways, taxiways and other restricted or limited areas as designated by the Department, with minimum limits of One Hundred Thousand Dollars (\$100,000) per person, Three Hundred Thousand Dollars (\$300,000) per accident for bodily injury, and Fifty Thousand Dollars (\$50,000) per accident for property damage. For vehicle operations within those areas of the AOA designated as runways, taxiways and other restricted or limited areas as designated by the Department, a policy of Automobile Liability Insurance coverage with higher minimum limits of coverage shall be provided in accordance with Section 12(D) above.

D. A certificate(s) or copy of pertinent pages from the policy(ies) evidencing all required insurance must be provided to COUNTY prior to the Effective Date of this Lease, and renewal certificate(s) or copies of pertinent pages from renewal policy(ies) must be provided throughout the term of this Lease. The certificate(s) or copy of pertinent policy(ies) must clearly indicate:

1. The coverages and limits provided include coverage for liability arising out of and damage to the Premises; and
2. Confirmation that the Aircraft Liability and General Liability includes "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL, 33406-1470" as an "additional insured" with respect to the Premises; and
3. Certificate(s) of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage; and
4. If the Named Insured on the Aircraft Liability Policy is other than LESSEE, and the Aircraft Liability Policy provides coverage for the Premises, that LESSEE is clearly identified as a Named Insured.

COUNTY shall have the right to review and modify insurance requirements of this Lease from time to time, provided that COUNTY gives LESSEE ninety (90) days prior written notice of any such change.

15. Assignment by LESSEE. LESSEE shall not assign an interest in this Lease, or any part thereof, without the prior written consent of the Department, which consent may be granted or withheld at the Department's sole and absolute discretion for any reason or no reason at all. Any attempted assignment without Department approval shall be null and void. In the event the Department provides such consent, LESSEE shall have the right only to the extent permitted by the Department's consent to assign all or any portion of the Premises, provided that any such assignment shall be limited to only the same purposes as are permitted under this Lease. LESSEE is expressly prohibited from subleasing, mortgaging

or otherwise encumbering this Lease, or any part thereof. Any such sublease, mortgage or encumbrance shall be considered null and void and will be considered grounds for termination of this Lease.

16. Assignment by COUNTY. COUNTY may freely assign this Lease at any time without the consent of LESSEE, and COUNTY shall be released from all liability and obligation arising under this Lease upon such assignment. In the event of an assignment by COUNTY, LESSEE agrees that it shall recognize COUNTY's assignee as its new landlord under this Lease upon the effective date of such assignment. LESSEE acknowledges and agrees that this Lease shall be subject and subordinate to any future agreement entered into between COUNTY and its assignee related to the Premises, and shall be given only such effect as will not conflict with nor be inconsistent with terms and conditions of such agreement. LESSEE acknowledges and agrees that COUNTY may transfer any security deposit held by COUNTY pursuant to Section 6 above to COUNTY's assignee.

17. Signs and Improvements. No signs, emblems, or advertising shall be placed or erected on or in the Premises.

18. Disclaimer of Liability. COUNTY HEREBY DISCLAIMS, AND LESSEE HEREBY RELEASES COUNTY, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY LESSEE, ITS EMPLOYEES, AGENTS OR INVITEES DURING THE TERM OF THIS LEASE OR ANY EXTENSION HEREOF INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF LESSEE OR LESSEE'S INVITEES THAT MIGHT BE LOCATED OR STORED ON THE PREMISES, UNLESS SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY COUNTY'S NEGLIGENCE. THE PARTIES EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THE LEASING OF THE PREMISES PURSUANT TO THIS LEASE. LESSEE RELEASES COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY RELATING TO THIS LEASE. FURTHERMORE, LESSEE ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY SUCH INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS LEASE WAS AT ITS SOLE RISK. THE FOREGOING DISCLAIMER SHALL NOT BE CONSTRUED TO CONSTITUTE AN AGREEMENT BY LESSEE TO INDEMNIFY THE COUNTY FOR THE COUNTY'S NEGLIGENT, WILLFUL OR INTENTIONAL ACTS.

19. Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by LESSEE:

A. The vacating or abandonment of the Premises by LESSEE for a period of more than sixty (60) consecutive, calendar days.

B. The failure by LESSEE to make payment of rent or any other payment required to be made by LESSEE, as and when due, where such failure shall continue for a period of three (3) days after written notice from the Department to LESSEE.

C. The failure by LESSEE to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by LESSEE, other than described in paragraph B. above, where such failure shall continue for a period of fifteen (15) days after written notice from the Department; provided, however, that if the nature of LESSEE's default is such that more than fifteen (15) days are reasonably required for its cure, then LESSEE shall not be deemed to be in default if LESSEE has commenced such cure within such fifteen (15) day period and thereafter diligently pursues such cure to completion.

D. To the extent permitted by law, (i) the making by LESSEE or any guarantor hereof of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against LESSEE of a petition to have LESSEE adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against LESSEE, the same is dismissed within sixty (60) days]; (iii) the appointment of a trustee or receiver to take possession of substantially all of LESSEE's assets located at the Premises or of LESSEE's interest in this Lease, where possession is not restored to LESSEE within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of LESSEE's assets located at the Premises or of LESSEE's interest in this Lease, where such seizure is not discharged within thirty (30) days.

E. The discovery by COUNTY that any information given to COUNTY by LESSEE relating to this Lease was materially false.

F. A default by LESSEE of any other agreement or lease between COUNTY and LESSEE, which default has not been cured within the applicable cure period provided in such agreement or lease.

20. Remedies. In the event of any such material default or breach by LESSEE, COUNTY may, at any time thereafter, with or without notice or demand and without limiting any other right or remedy which

COUNTY may have under the law by reason of such default or breach, elect to exercise any one of the following remedies:

- A. Declare the entire rent for the balance of the Lease term, or any part thereof, due and payable forthwith, and bring an action for the recovery thereof.
- B. Terminate LESSEE's right to possession of the Premises by any lawful means and reenter and retake possession of the Premises for the account of LESSEE, in which case the rent and other sums due hereunder shall be accelerated and due in full and LESSEE shall be liable for the difference between the rent which is stipulated to be paid hereunder plus other sums as described herein and what COUNTY is able to recover from its good faith efforts to relet the Premises, which deficiency shall be paid by LESSEE. Upon such reletting, all rentals received by COUNTY shall be applied, first to the payment of any indebtedness other than rent due under this Lease from LESSEE; second, to the payment of any costs and expenses of such reletting, which shall include all damages incurred by COUNTY due to LESSEE's default including, but not limited to, the cost of recovering possession of the Premises including attorneys' fees, expenses relating to the renovation or alteration of the Premises, and real estate commissions paid by COUNTY relating to the unexpired term of this Lease; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be paid to LESSEE.
- C. Treat this Lease as terminated and reenter and retake possession of the Premises for the account of COUNTY, thereby terminating any further liability under this Lease on the part of LESSEE and COUNTY. Notwithstanding the foregoing, COUNTY shall have a cause of action to recover any rent remaining unpaid when COUNTY retakes possession of the Premises for the account of COUNTY.
- D. Stand by and do nothing, holding LESSEE liable for the rent as it comes due.
- E. Pursue any other remedy now or hereafter available to COUNTY under the laws and judicial decisions of the State of Florida.

Notwithstanding anything in this Lease to the contrary, upon the occurrence of a material default or breach of this Lease by LESSEE, COUNTY shall have the right to bring an action for damages. COUNTY further reserves all rights which the laws of the State of Florida confer upon a landlord against a Tenant in default.

21. Termination by LESSEE. LESSEE may terminate this Lease, if LESSEE is not in default of this Lease, by giving COUNTY sixty (60) days' advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:

- A. The issuance by any court of competent jurisdiction of an injunction in any way preventing the use of the Airport for Airport purposes or a substantial part of the Premises, which injunction remains in force for a period of at least ninety (90) days.
- B. The default by COUNTY in the performance of any covenant or agreement required to be performed by COUNTY and the failure of COUNTY to remedy such default for a period of ninety (90) days after receipt from LESSEE of written notice to remedy same; provided, however, that no notice of cancellation, as provided herein, shall be of any force or effect if COUNTY shall have remedied the default prior to receipt of LESSEE's notice of termination; or in the event the same cannot be cured within such ninety (90) day period and COUNTY has commenced such cure and thereafter diligently pursues the same until completion.
- C. The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control, or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict the operation of LESSEE, for a period of at least ninety (90) days.

In the event of termination as herein provided, the Parties shall be relieved of all obligations created hereunder except for those obligations accruing prior to termination of this Lease and those obligations that specifically survive termination of this Lease.

22. Surrender of Premises. LESSEE expressly agrees that it shall immediately surrender the Premises to COUNTY in good and fit condition upon expiration or termination of this Lease, depreciation and wear from ordinary use for the purpose for which the Premises were leased being excepted. All repairs and obligations that LESSEE is responsible for shall be completed by the earliest practical date prior to surrender. In the event LESSEE shall holdover, refuse, or fail to give up the possession of the Premises at the termination of this Lease, LESSEE shall be liable to COUNTY for any and all damages, and in addition thereto, LESSEE shall also be strictly liable to pay to COUNTY during the entire time period of such holdover, double rental, as provided for in section 83.06, Florida Statutes. LESSEE shall remove all of its personal property from the Premises prior to the expiration or earlier termination of this Lease. Any personal property of LESSEE, including, but not limited to aircraft, not removed shall, at the option of County, become the property of COUNTY.



23. Inspection. COUNTY, its agents and employees and any applicable Federal, State or local governmental entity having jurisdiction shall have the right to enter the Premises at any time for the purpose of inspecting the Premises for compliance with the provisions of this Lease and/or applicable laws. LESSEE agrees that COUNTY may take such action and to make such repairs or alterations as are, in the sole opinion of the COUNTY, desirable or necessary, and to take such materials into or out of the Premises for the safe and economical accomplishment of said purposes without in any way being deemed guilty of an actual or constructive eviction of the LESSEE.

24. Relationship of the Parties. LESSEE or any successor in interest to this Lease, is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and COUNTY shall in no way be responsible therefor.

25. Remedies Cumulative. The rights and remedies of the Parties with respect to any of the terms and conditions of this Lease shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the Parties.

26. Notice. All notices and elections (collectively, "notices") to be given or delivered by or to any Party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The Parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such Party:

COUNTY:

Department of Airports  
Palm Beach County  
Building 846, Palm Beach International Airport  
West Palm Beach, Florida 33406-1491

With a copy to:

Palm Beach County Attorney's Office  
Chief Deputy County Attorney  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 33401

LESSEE:

A. Kim Gartmann  
5400 Occidental Road  
Santa Rosa, CA 95401  
E-mail Address: [apskg@aol.com](mailto:apskg@aol.com)  
Fax: (707) 576-1286

Either Party may from time to time change the address to which notice under this Lease shall be given such party, upon three (3) days' prior written notice to the other party.

27. Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Premises are located, for public purposes for a period in excess of ninety (90) days, either party may terminate this Lease by providing written notice of such termination to the other Party and the Parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This Section shall not act or be construed as a waiver of any rights LESSEE may have against the United States as a result of such taking.

28. Federal Review. LESSEE acknowledges this Lease may be subject to review or inspection by the Federal Aviation Administration to determine satisfactory compliance with Federal law or grant assurances and this Lease shall be in full force and effect and binding upon the Parties pending such review or inspection by the Federal Aviation Administration, if applicable; provided, however, that upon such review or inspection the Parties agree to modify any of the terms of this Lease which shall be determined by the Federal Aviation Administration to be in violation of existing laws, regulations, grant assurances or other requirements.

29. County Tax Assessment Right. None of the terms, covenants and conditions of this Lease shall in any way be construed as a release or waiver on the part of the COUNTY, as a political subdivision of the State of Florida, or any of the public officials of the County of Palm Beach, of the rights to assess, levy, and collect any ad valorem, non ad valorem, license, personal, intangible, occupation, or other tax which shall be lawfully imposed on the Premises, the business or property of LESSEE.

30. Height Restriction. LESSEE expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such a height so as to comply with Title 14, Part 77 of the Code of Federal Regulations, as amended and as may be amended from time to time.

31. Right of Flight. COUNTY reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft now known or hereafter used, for navigation of or flight in the said airspace for landing on, taking off from, or operating on the Airport.

32. Operation of Airport. LESSEE expressly agrees for itself, its successors and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute an Airport hazard.

33. Release. LESSEE acknowledges that noise and/or vibration are inherent to the operation of Airport and hereby releases COUNTY from any and all liability relating to the same.

34. Non-discrimination. LESSEE for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (a) that no person on the grounds of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, marital status, age, or disability shall be excluded from participation in or denied the use of the Premises, (b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services, no person on the grounds of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, marital status, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) that LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended from time to time. In the event of the breach of any of the foregoing non-discrimination covenants, COUNTY shall have the right to terminate this Lease and to reenter and repossess said Premises and the facilities hereon, and hold the same as if said Lease had never been made or issued. This cancellation provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed including exercise or expiration of appeal rights.

35. Damage or Destruction. LESSEE hereby assumes full responsibility for the condition of the Premises and character, acts and conduct of all persons admitted to the Premises by or with the actual or constructive consent of LESSEE or by or with the consent of any person acting for or on behalf of LESSEE. If the Premises, improvements, or any part thereof, are damaged in any way whatsoever by the act, default or negligence of LESSEE or its employees, officers, licensees, agents or invitees, LESSEE shall, at its sole cost and expense, restore the Premises to the condition existing prior to such damage. LESSEE shall commence such restoration within thirty (30) days and shall diligently pursue such restoration to completion. Such repairs, replacements or rebuilding shall be made by LESSEE in accordance with the construction requirements established by the Department. If LESSEE fails to restore the Premises as required above, COUNTY shall have the right to enter the Premises and perform the necessary restoration, and LESSEE hereby expressly agrees that it shall fully assume and be liable to COUNTY for payment of the costs incurred by COUNTY, plus twenty-five percent (25%) administrative overhead. Such restoration cost, plus the administrative cost, shall be due and payable within thirty (30) days from date of COUNTY's written notice.

36. Partial Destruction. If any of the improvements on the Premises are damaged or destroyed in part by fire or other casualty, COUNTY may terminate this Lease upon written notice to LESSEE within ninety (90) days after the date of any such damage or destruction or commence restoration of the Premises within a commercially reasonable period of time subject to the limitations set forth herein. In the event of restoration of the Premises by COUNTY pursuant to this paragraph, LESSEE's obligation to pay rental shall be abated proportionately on a square footage basis as to that portion of the Premises rendered unusable by reason of casualty commencing on the date of the casualty. Such abatement shall continue until thirty (30) days after notice by COUNTY to LESSEE that the Premises have been substantially repaired or restored. Notwithstanding any provision of this Lease to the contrary, COUNTY shall have no obligation under this Lease to restore the Premises in the event the casualty was the result of the act, default or negligence of LESSEE or its employees, officers, licensees, agents or invitees. In such event, LESSEE shall be obligated to restore the Premises in accordance with Section 35 above with no abatement in rental.

37. Total Casualty. In the event of a total casualty to the Premises which renders the Premises unusable, as reasonably determined by the Department, either party shall have the right to terminate this Lease within ninety (90) days of the date of the casualty by delivering a written notice of termination to the other party in accordance with the notice provisions in this Lease; provided, however, LESSEE shall not have the right to terminate in the event the casualty was the result of the act, default or negligence of LESSEE or LESSEE's employees, officers, licensees, agents or invitees. In such event, LESSEE shall be obligated to restore the Premises in accordance with Section 35 above with no abatement in rental. In the event neither party terminates this Lease pursuant to this Section 37 and COUNTY elects to restore the Premises, LESSEE's obligation to pay rental shall be abated until thirty (30) days after notice by COUNTY to LESSEE that the Premises have been substantially repaired or restored.

38. Waiver. LESSEE hereby waives any claim against COUNTY for damages or compensation in the event this Lease is terminated pursuant to Sections 36 or 37 above.

39. Limitations. Notwithstanding any provision of this Lease to the contrary, COUNTY shall have no obligation to repair, rebuild or restore LESSEE's personal property or fixtures or any improvements made by LESSEE to the Premises. In the event COUNTY elects to restore or rebuild the

Premises following a casualty, COUNTY'S obligation to restore, rebuild or restore the Premises pursuant to this Lease shall exist only to the extent of the insurance proceeds received by COUNTY as a result of such casualty. LESSEE shall not be entitled to and hereby waives any claims against COUNTY for any compensation or damage for any loss of use of the Premises, in whole or in part, or for any inconvenience or annoyance occasioned by any such damage, destruction, repair or restoration. In addition, COUNTY shall not be liable for any damage or inconvenience or interruption of the business of LESSEE occasioned by fire or other casualty.

40. COUNTY not Liable. COUNTY shall not be responsible or liable to LESSEE for any claims for compensation or any losses, damages or injury whatsoever sustained by LESSEE including, without limitation, those resulting from failure of any water supply, heat, air conditioning, electrical current, or sewerage or drainage facility, or caused by natural physical conditions on the Premises, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, hurricane, act of God or state of war, civilian commotion or riot, or any cause beyond the control of COUNTY. COUNTY shall have the right to limit or restrict LESSEE's access to all or portions of the Airport, including the Premises, prior to, during and after certain emergencies, including, but not limited to, severe weather events such as hurricanes or tropical storms, acts of terrorism, aircraft incursions and other similar emergencies. COUNTY shall have no liability whatsoever for limiting access to the Airport or Premises prior to, during or after an emergency. LESSEE shall cooperate with the Department to ensure the safety and security of the Airport and the Premises prior to, during and after an emergency event. All personal property placed on or moved onto the Premises shall be at the sole risk of LESSEE. COUNTY shall not be liable for any damage or loss of said personal property.

41. Compliance with Laws. Notwithstanding anything to the contrary herein, LESSEE shall not use or permit the use of the Premises or the Airport for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Premises or the Airport for COUNTY or LESSEE.

42. Waiver. The failure of COUNTY to insist on a strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that COUNTY may have for any subsequent breach, event of default, or nonperformance, and COUNTY's right to insist on strict performance of this Lease shall not be affected by any previous waiver or course of dealing.

43. Subordination to Bond Resolution. This Lease and all rights granted to LESSEE hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by COUNTY in the Bond Resolution, and COUNTY and LESSEE agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of COUNTY hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by LESSEE and COUNTY with the terms and provisions of this Lease and Bond Resolution.

44. Subordination to Federal Agreements. This Lease shall be subject and subordinate to all the terms and conditions of any instrument and documents under which COUNTY acquired the land or improvements thereon, of which the Premises are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. LESSEE understands and agrees that this Lease shall be subordinate to the provisions of any existing or future agreement between COUNTY and the United States of America, or any of its agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

45. Exclusive Rights. Notwithstanding anything contained in this Lease to the contrary, it is expressly understood and agreed that the rights granted under this Lease are nonexclusive, other than the exclusive right of use of the Premises, and that COUNTY may grant similar privileges to another lessee or other lessees on other parts of the Airport.

46. Public Entity Crimes. As provided in sections 287.132-133, Florida Statutes, as may be amended from time to time, by entering into this Lease or performing any work in furtherance hereof, LESSEE certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the Effective Date hereof. This notice is required by section 287.133(3)(a), Florida Statutes.

47. Governmental Authority. Nothing in this Lease shall be construed to waive or limit COUNTY's governmental authority as a political subdivision of the State of Florida to regulate LESSEE or its operations.

48. Rights Reserved to the COUNTY. All rights not specifically granted LESSEE by this Lease are reserved to the COUNTY.

49. Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision, clause or any portion thereof of this Lease shall have no effect upon the validity of any other part or portion hereof.

50. Paragraph Headings. The heading of the various articles and sections of this Lease are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.

51. Consent and Approval. In the event this Lease is silent as to the standard for any consent, approval, determination, or similar discretionary action, the standard shall be at the sole, absolute and unfettered discretion of COUNTY or the Department, rather than any implied standard of good faith, fairness or reasonableness. Wherever this Lease requires COUNTY's or the Department's consent or approval or permits COUNTY or the Department to act, such consent, approval or action may be given or performed by the Airport Director. If LESSEE requests the COUNTY or Department's consent or approval pursuant to any provision of this Lease and COUNTY or the Department fails or refuses to give such consent, LESSEE shall not be entitled to any damages as a result of such failure or refusal, whether or not unreasonable.

52. No Recording. Neither this Lease, nor any memorandum or short form hereof, shall be recorded in the Public Records of Palm Beach County, Florida.

53. Binding Effect. The terms, conditions and covenants of this Lease shall inure to the benefit of and be binding upon the Parties and their successors and assigns, if any. This provision shall not constitute a waiver of any conditions against assignment or subletting.

54. Performance. The Parties expressly agree that time is of the essence in this Lease and the failure by LESSEE to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of COUNTY, in addition to any other rights or remedies, relieve COUNTY of any obligation to accept such performance without liability.

55. No Broker. LESSEE warrants to COUNTY that no real estate broker or agent has been used or consulted in connection with the transaction contemplated by this Lease and agrees to indemnify and hold COUNTY harmless from all loss, cost, damage or expense (including reasonable attorneys' fees) incurred by COUNTY as a result of any claim arising out of the acts of LESSEE (or others on its behalf) for a commission, finder's fee or similar compensation made by any broker or agent who claims to have dealt with LESSEE. The terms of this section shall survive the expiration or earlier termination of this Lease.

56. Excusable Delay. Any Party in performing under this Lease shall use reasonable efforts to remedy the cause or causes of an excusable delay. Excusable delays are those delays due to force majeure, acts of God, fire, flood, earthquake, explosion, riot, sabotage, windstorm, or labor dispute, and shall toll the time to perform under this Lease.

57. Incorporation by References. Exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Lease by such reference.

58. Venue and Governing Law. To the extent allowed by law, the venue for any action arising from this Lease shall be in Palm Beach County, Florida. This Lease shall be governed by and in accordance with the laws of the State of Florida.

59. Negotiated Agreement. The Parties agree that they have had meaningful discussion and/or negotiation of the provisions, terms and conditions contained in this Lease. Therefore, doubtful or ambiguous provisions, of any, contained in this Lease shall not be construed against the Party who physically prepared this Lease.

60. Entirety of Agreement. The Parties agree that this Lease sets forth the entire agreement between the Parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Lease may be added to, modified, superseded or otherwise altered except by written instrument executed by the Parties.

61. Radon. 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 the County's public health unit.

**Remainder of page left intentionally blank**

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date first written above.

Witnesses:

Martha LaVerghetta  
Signature

Martha LaVerghetta  
Print Name

Jeffrey S. Bolton  
Signature

Jeffrey S. Bolton  
Print Name

PALM BEACH COUNTY  
BY ITS DIRECTOR OF AIRPORTS

By: [Signature]  
Director

Witnesses:

Martha LaVerghetta  
Signature

Martha LaVerghetta  
Print Name

Jeffrey S. Bolton  
Signature

JEFFREY S. BOLTON  
Print Name

LESSEE:

By: [Signature]  
A. Kim Gartmann

Print Name

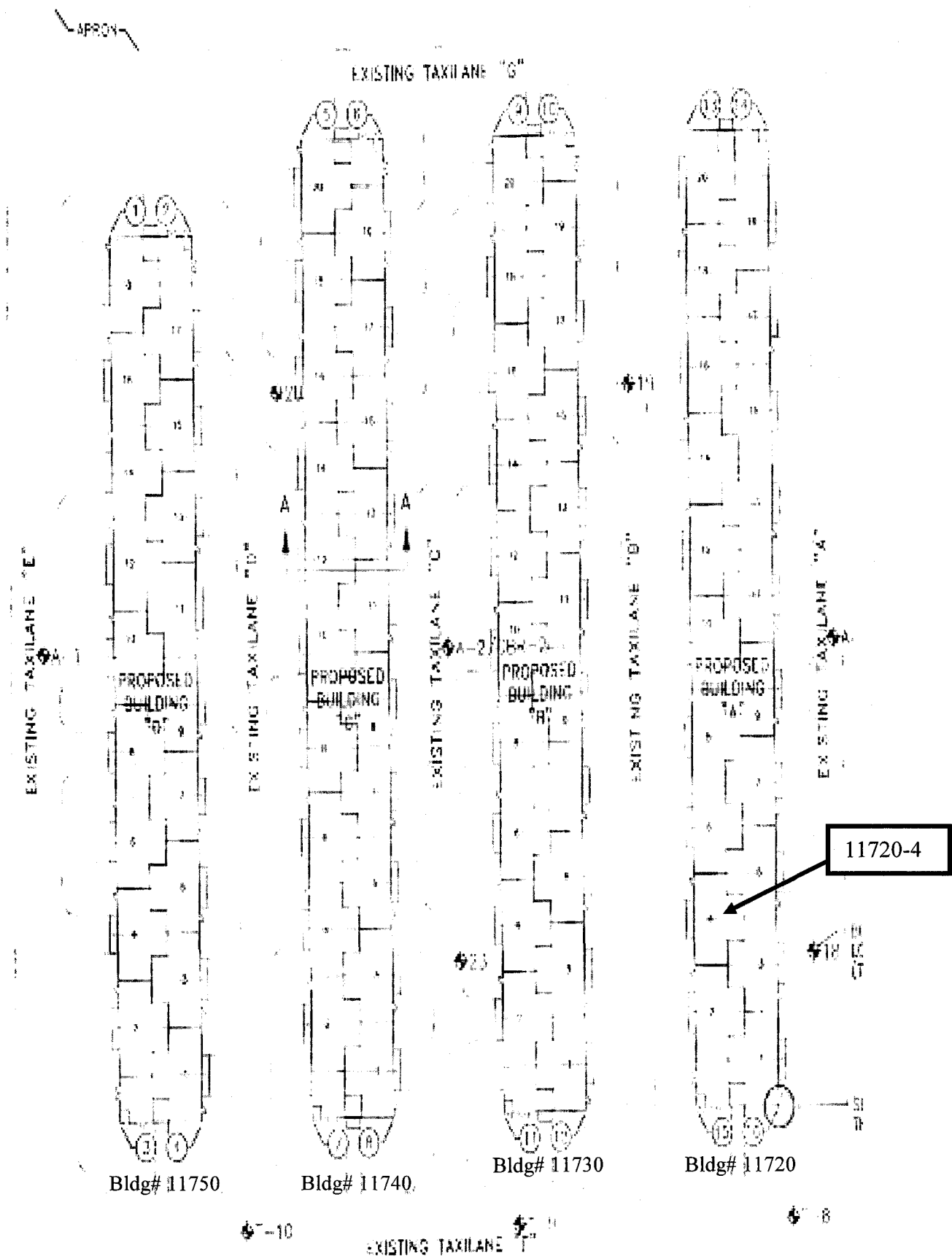
Title: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: Anne Delgent  
County Attorney

Exhibit "A"

Tenant: A. Kim Gartmann    Building Number: 11720    Unit Number: 4



## HANGAR LEASE AGREEMENT

This Lease, is made and entered into this NOV 18 2009, 20\_\_ (the "Effective Date") by and between Palm Beach County, a political subdivision of the State of Florida ("COUNTY"), and A. Kim Gartmann, whose address is 5400 Occidental Road, Santa Rosa, CA 95401 ("LESSEE") (COUNTY and LESSEE are sometimes referred to herein individually as a "Party" and collectively as the "Parties").

### WITNESSETH

**WHEREAS**, COUNTY, by and through its Department of Airports (the "Department"), owns and operates the North County General Aviation Airport (the "Airport") located in Palm Beach County, Florida; and

**WHEREAS**, COUNTY has certain property at the Airport which is available for lease; and

**WHEREAS**, LESSEE has indicated willingness and demonstrated the ability to lease the Airport property in accordance with the terms and conditions of this Lease.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the Parties expressly acknowledge, the Parties covenant and agree to the following terms and conditions.

1. Term. The term of this Lease shall be for a period of one (1) year commencing on the 21st day of November, 2009, (the "Commencement Date") and terminating on the 20th day of November, 2010. This Lease shall be automatically renewed at one (1) year intervals thereafter; provided, however, either party may elect to not renew this Lease upon providing no less than thirty (30) days advance written notice to the other party prior to the expiration of the then current term.

2. Premises. COUNTY hereby leases to LESSEE and LESSEE hereby rents from COUNTY that certain hangar identified as unit number 8, Building 11720, containing a total of 1,399 square feet, located at the Airport, all as more particularly described on Exhibit "A", attached hereto and made a part hereof (the "Premises").

3. Rental. LESSEE shall pay COUNTY as the initial annual rental for the Premises, the sum of Seven Thousand One Hundred Forty Dollars (\$7,140.00), payable in equal monthly installments of Five Hundred Ninety Five Dollars (\$595.00), plus any applicable taxes as may be required by law. Payment of rental by LESSEE to County shall commence on the Commencement Date. Rental shall be payable in advance, without demand and without any deduction, holdback or set off whatsoever, on or before the first day of each and every month throughout the term of this Lease, as adjusted in accordance with the provisions of Section 5 below. If the Commencement Date occurs on a day other than the first day of a month, LESSEE shall pay rent from the Commencement Date to the first day of the following month on a per diem basis [calculated on the basis of a thirty (30) day month], payable in advance on the Commencement Date. Any rent payment due hereunder for any other fractional month shall likewise be calculated and paid on such a per diem basis. Rental payable for each month during any renewal term shall be the monthly rental in effect for the prior year, as adjusted in accordance with the provisions of Section 5 below. Rental shall be made payable to Palm Beach County Board of Commissioners and shall be mailed or hand delivered to the following address:

Department of Airports  
Fiscal Department  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470

COUNTY may, at any time, elect to hire, utilize, or select an agent(s) to administer this Lease and to collect rent payments on behalf of COUNTY and the Department. COUNTY will provide thirty (30) days written notice to LESSEE prior to any change in payment procedure or the payment addresses. COUNTY may offer alternative methods of payment, including, but not limited to, payment by debit card, credit card, or similar method of payment. If LESSEE selects an alternative method of payment, LESSEE agrees to abide by any terms and conditions promulgated by COUNTY in connection with the abovementioned method of payment. LESSEE shall pay interest at the rate of one and one half percent (1.5%) per month on late payments, which shall accrue against the delinquent payment(s) from date due until the date payment is received by the Department. Notwithstanding the foregoing, COUNTY shall not be prevented from terminating this Lease for default in the payment of rentals or from enforcing any other provisions contained herein or implied by law.

4. Payment of Taxes. LESSEE shall pay any and all taxes and other costs lawfully assessed against its leasehold interest in the Premises, its improvements and its operations under this Lease. LESSEE shall have the right to contest the amount or validity of any tax or assessment payable by it by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending LESSEE's covenants to pay any such tax or assessment, unless the legal proceedings shall operate to prevent the collection of the tax or assessment. Upon termination of such legal proceedings, LESSEE shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

5. Adjustment of Rent. The amount of rentals due hereunder may be adjusted from time-to-time by the COUNTY. In such event, LESSEE shall be provided at least ninety (90) days advance written notice prior to the commencement of any new rental rate. Notwithstanding anything to the contrary contained in this Lease, the rental rate shall be maintained at all times to ensure compliance with the provisions Section 710 (rate covenant) of the Palm Beach County Airport System Revenue Bond Resolution, dated April 3, 1984, as amended, and supplemented (the "Bond Resolution"), which is hereby incorporated by reference and made a part hereof.

6. Security Deposit. LESSEE shall pay to COUNTY, prior to the Effective Date of this Lease, and shall maintain at all times during the term of this Lease, a refundable security deposit, in the form of a certified or cashier's check, in an amount equal to three (3) months rental due hereunder. The security deposit shall be held by the Department and will be refunded to LESSEE upon termination of this Lease provided that LESSEE is not in default of any of the provisions of this Lease; the Premises are left in good and serviceable condition, to be determined in the sole discretion of the Department; all rentals, fees, and taxes due are paid in full by LESSEE; and LESSEE has returned all Airport access cards and hangar keys to the Department. If there is a rental or fee deficiency or if the Premises require maintenance or repair in order to be returned to serviceable condition, or if any Airport access cards or hangar key are not returned to Department, the Department may apply the security deposit, or any part thereof, to the deficiency or to costs incurred by COUNTY, plus any applicable administrative overhead.

7. Additional Rent. Any and all sums of money or charges required to be paid by LESSEE under this Lease, other than the annual rent, shall be considered "Additional Rent," whether or not the same is specifically so designated, and COUNTY shall have the same rights to enforce due and timely payment by LESSEE of all Additional Rent as are available to COUNTY with regard to annual rent.

8. Description of Specific Privileges, Uses and Rights. The County hereby grants to LESSEE, the limited right to use the Premises for the following purposes, and for no other purposes whatsoever, all of which shall be subject to the terms, conditions, and covenants set forth in this Lease:

A. LESSEE shall use the Premises to store the following aircraft which are owned by or leased to LESSEE and registered with the Department in accordance with the provisions of this Lease (the "Registered Aircraft").

FAA Registration No. N2074C, N3947C, N9421G,  
N145UA, N903KC, N9421P

Make: Schweizer, Schweizer, Schweizer, Robinson,  
Robinson, Schweizer

Model: 269C-1, 269C-1, 269C, R22 Beta, R22 Beta,  
269C-1

LESSEE shall promptly register all aircraft being stored within the Premises with the Department, and shall promptly notify the County in writing of any changes in registration or aircraft. LESSEE shall not use the Premises for any commercial purpose, including, but not limited to, the sale of products or services of any kind, whether or not such transactions are engaged in for a profit. LESSEE shall not store or park aircraft within the Premises, which are not owned or leased by LESSEE and registered with the Department in accordance with the provisions of this Section.

B. LESSEE may perform only preventive maintenance on the Registered Aircraft, of the kind and to the extent permitted by Title 14, Part 43.3 Appendix A, paragraph (C) of the Code of Federal Regulations entitled "Preventive Maintenance", as may be amended from time to time. LESSEE shall not perform repairs or maintenance to its Aircraft on any ramp, apron, taxiway, runway or other public area of the Airport.

C. LESSEE agrees that use of the Premises shall be in accordance with federal, state and local laws and regulations including, but not limited to, the Palm Beach County Airport Rules and Regulations, Resolution No. R-98-220, as amended and as may be amended from time to time.

D. LESSEE's aircraft shall not be parked or positioned in such common use areas so as to block, limit or restrict the use of the ramps, aprons or taxiways by other Airport tenants or users.

E. LESSEE may place within the Premises a small desk, workbench, tool cabinet and necessary small hand tools required for work permitted under Section 8(B) above.

F. LESSEE may store parts and accessories within the Premises for the Registered Aircraft; provided, however, storage of any parts, accessories, hulls, or incomplete aircraft, which are not manufactured for use on, or cannot be readily adapted for use on the Registered Aircraft for the Premises is prohibited.

G. LESSEE may park one (1) operable automobile within the Premises, but only while the Registered Aircraft is in use.



H. LESSEE may place within the Premises one (1) hand-operated winch, and/or one (1) motorized towing vehicle to assist with maneuvering and hangaring of aircraft.

I. LESSEE may store not more than five (5) gallons of flammable fluid within the Premises, provided that any such storage shall be limited to NFPA-approved containers, or unopened original cans.

J. LESSEE shall not use the Premises to store furniture, boats, recreational vehicles, hang gliders, ultralights, inoperative or unregistered aircraft (except to the extent permitted under Section 8(F) and (G) above), utility trailers, or any other objects unrelated to the purposes for which the Premises have been leased.

K. LESSEE shall not perform repair service on automobiles or automotive equipment of any kind, other than an authorized motorized towing vehicle, from or at the Premises.

L. LESSEE shall not perform painting or "doping" operations of any kind within the Premises and shall not install or use compressors for any purpose; provided, however, LESSEE may use non-electric, non-combustible, air pressure tanks used to inflate aircraft landing gear tires within the Premises.

M. LESSEE shall install and maintain an appropriate fire extinguisher within the Premises at all times.

N. Subject to written approval of the Department, LESSEE may be permitted to use approved electrical appliances that have a combined maximum load of 5.0 amps or less. Such electrical appliances shall not be used on a continual basis or while the Registered Aircraft is not within the Premises or while the LESSEE is not actually working within the Premises. It shall be the responsibility of the LESSEE to request and obtain the Department's written approval of the installation and use of approved electrical appliances and failure to do so may result in termination of this Lease or other action deemed appropriate by the Department. In addition to any other remedy or action available to COUNTY, COUNTY shall have, and LESSEE hereby agrees that COUNTY shall have the right to enter onto the Premises and remove therefrom any and all electrical appliances or devices which COUNTY has not approved for installation and use in the Premises. COUNTY shall not be held liable for any such loss or damage suffered by the LESSEE as a result of such action by COUNTY unless such loss or damage results from solely from negligence of COUNTY, its officers, agents, or employees.

O. LESSEE shall not have open flames or weld within the Premises.

P. LESSEE shall keep hangar doors closed when the Registered Aircraft is not being stored within the Premises.

Q. No running water or washing of aircraft shall take place within the Premises, or any other Airport location except the COUNTY approved aircraft wash rack.

9. Description of General Privileges, Uses and Rights. In addition to the specific privileges granted in Section 8 above, COUNTY hereby grants to LESSEE the following general, nonexclusive privileges, uses, and rights on the Airport, all of which shall be subject to the terms, conditions, and covenants set forth in this Lease:

A. The general use, in common with others, of all public Airport facilities and improvements which are now or may hereafter be connected with or appurtenant to the Airport (including airfield access). For purposes of this Lease, "public Airport facilities" shall include all necessary roadways, sidewalks, or other public facilities appurtenant to the Airport, which are not specifically leased to or under the contractual control of others.

B. The right of ingress to and egress from the Premises over and across public roadways serving the Airport. Said right shall be subject to such laws, rules, regulations and orders as now or may hereafter have application at the Airport.

Except as expressly set forth in Sections 9 (A) and (B) above, nothing contained in this Lease shall be construed to grant to LESSEE the right to use any space or area improved or unimproved which is leased to a third party, or which COUNTY has not leased herein.

10. Condition of Premises. LESSEE acknowledges that COUNTY has made no representations or warranties of any nature whatsoever regarding the Premises including, without limitation, the physical and/or environmental condition of the Premises, or any improvements located thereon, or the value of such Premises or improvements, or the suitability of the Premises for LESSEE's intended use thereof.

11. Obligations of COUNTY.

A. Condition of Airport. Except as to the Premises and facilities leased to others by COUNTY, COUNTY shall maintain all public Airport facilities in good and adequate condition for their intended use to the extent required by law.

B. Utilities. COUNTY shall provide at no additional cost to LESSEE electrical power within the Premises for lighting and the operation of electrical appliances as approved by the Department pursuant to Section 8 above, if any.

12. Obligations of LESSEE.

A. Maintenance. LESSEE shall, at its sole cost and expense, maintain the Premises in a clean, safe and presentable condition consistent with good business practice, industry standards, and in accordance with all applicable laws, regulations, and rules of any applicable governmental entity. LESSEE shall repair all damages to the Premises and improvements caused by its employees, patrons, invitees, suppliers of services or furnishers of material, or any other persons whomsoever, and all damages caused by or resulting from or in any way arising out of LESSEE's operations thereon or LESSEE's use of the Premises. LESSEE hereby agrees that it shall abide by the decision of the Department with respect to any and all such maintenance or repair. Upon written notice by the Department to LESSEE, LESSEE shall perform the required maintenance or repair in accordance with the Department's decision. If LESSEE has not made a good faith effort, as determined by the Department, to begin to perform the required maintenance or repair within twenty (20) days after written notice and to diligently pursue the same to completion, COUNTY shall have the right to enter the Premises and perform the necessary maintenance or repair, and LESSEE hereby expressly agrees that it shall fully assume and be liable to COUNTY for payment of any costs incurred by COUNTY, plus a twenty-five percent (25%) administrative overhead. Such maintenance or repair cost, plus the administrative cost, shall be due and payable within thirty (30) days from the date of the Department's billing therefore.

B. Alterations, Changes or Additions to the Premises. LESSEE shall not make any improvements, alterations, additions or changes (hereinafter collectively referred to as "Alterations") to the Premises without the Department's prior written consent. Upon written notice by the Department, LESSEE shall remove any Alterations to the Premises, whether or not approved by the Department, and restore the Premises to the condition it was in as of the Commencement Date using materials of like kind and quality. LESSEE shall be responsible for all maintenance or repair to the Premises caused by or resulting from any Alterations made by LESSEE. LESSEE hereby agrees to abide by the decision of the Department with respect to any restoration, removal, maintenance or repair to the Premises caused by or resulting from any Alterations. If LESSEE has not made a good faith effort, as determined by the Department, to perform the required restoration, removal, maintenance or repair, COUNTY shall have the right to enter the Premises and perform the required restoration, removal, maintenance or repair. LESSEE shall pay all costs incurred by COUNTY for any restoration, removal, maintenance or repair, plus a twenty-five percent (25%) administrative overhead, within thirty (30) days of the Department's invoice.

C. Security. LESSEE acknowledges and accepts full responsibility for the security and protection of the Premises and any and all of LESSEE's property placed upon the Premises. LESSEE fully understands that the police security protection provided by COUNTY is limited to that provided to any other business situated in Palm Beach County by the Palm Beach County Sheriff's Office, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Premises and property thereon, shall be the sole responsibility of LESSEE and shall involve no cost to COUNTY. COUNTY shall have the right to review, change, alter, or revise any security policy or procedure at any time based on the COUNTY's responsibility to operate the Airport in a safe and secure manner, including the right to restrict access to the Airport, including the Premises, if required by the FAA or any agency of the Department of Homeland Security, including the TSA.

D. Vehicle Operations. LESSEE shall provide proof of Automobile Liability Insurance coverage insuring each vehicle operating within the Airport's Air Operations Area ("AOA"), in accordance with Section 14(C) below. LESSEE acknowledges that vehicle access to certain areas of the AOA, including, but not limited to, those areas designated as runways, taxiways and other restricted or limited areas as designated by the Department, requires prior approval by the Department. Conditions of approval of vehicle access within such areas of the AOA may include, but shall not be limited to, lighting and radio requirements for each vehicle, as well as proof of Automobile Liability Insurance coverage for each vehicle, in such amounts and coverage determined by the Department.

13. Indemnification. LESSEE agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney fees at trial and appellate levels) and causes of action of every kind and character against, or in which COUNTY is named or joined, arising out of this Lease or LESSEE's use or occupancy of the Premises, including, without limitation, those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder,

any agent or employee of any party hereto or of any party acquiring an interest hereunder, and any third or other party whomsoever, or any governmental agency, arising out of or incident to or in connection with LESSEE's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of LESSEE or any breach of the terms of this Lease; provided, however, LESSEE shall not be responsible to COUNTY for damages resulting out of bodily injury (including death) or damages to property which are judicially determined to be solely attributable to the negligence of COUNTY, its respective agents, servants, employees and officers. LESSEE further agrees to hold harmless and indemnify COUNTY for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or due to LESSEE's activities or operations or use of the Premises whether or not LESSEE was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving said activities. This indemnification shall be extended to include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of, or at the request of LESSEE. LESSEE recognizes the broad nature of this indemnification and hold-harmless clause, and acknowledges that COUNTY would not have entered into this Lease without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by COUNTY in support of this indemnification. The obligations arising under this Section shall survive the expiration or termination of this Lease.

14. Insurance. Without limiting LESSEE's obligation to indemnify COUNTY, as provided herein, LESSEE shall provide, pay for, and maintain in force at all times during the term of this Lease:

A. A policy of Aircraft Liability Insurance to protect against bodily injury liability and property damage liability in an amount of not less than Five Hundred Thousand Dollars (\$500,000) each occurrence.

B. A policy of General Liability Insurance to protect against bodily injury liability and property damage liability arising out of use of the leased Premises in an amount of not less than Five Hundred Thousand Dollars (\$500,000) each occurrence. Coverage must include not less than One Hundred Thousand Dollars (\$100,000) property damage liability for damage to the Premises. This requirement may be satisfied by endorsement to the Aircraft Liability Insurance.

C. LESSEE shall maintain a policy of Automobile Liability Insurance coverage insuring each vehicle operating within the AOA, other than those areas of the AOA designated as runways, taxiways and other restricted or limited areas as designated by the Department, with minimum limits of One Hundred Thousand Dollars (\$100,000) per person, Three Hundred Thousand Dollars (\$300,000) per accident for bodily injury, and Fifty Thousand Dollars (\$50,000) per accident for property damage. For vehicle operations within those areas of the AOA designated as runways, taxiways and other restricted or limited areas as designated by the Department, a policy of Automobile Liability Insurance coverage with higher minimum limits of coverage shall be provided in accordance with Section 12(D) above.

D. A certificate(s) or copy of pertinent pages from the policy(ies) evidencing all required insurance must be provided to COUNTY prior to the Effective Date of this Lease, and renewal certificate(s) or copies of pertinent pages from renewal policy(ies) must be provided throughout the term of this Lease. The certificate(s) or copy of pertinent policy(ies) must clearly indicate:

1. The coverages and limits provided include coverage for liability arising out of and damage to the Premises; and
2. Confirmation that the Aircraft Liability and General Liability includes "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL, 33406-1470" as an "additional insured" with respect to the Premises; and
3. Certificate(s) of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage; and
4. If the Named Insured on the Aircraft Liability Policy is other than LESSEE, and the Aircraft Liability Policy provides coverage for the Premises, that LESSEE is clearly identified as a Named Insured.

COUNTY shall have the right to review and modify insurance requirements of this Lease from time to time, provided that COUNTY gives LESSEE ninety (90) days prior written notice of any such change.

15. Assignment by LESSEE. LESSEE shall not assign an interest in this Lease, or any part thereof, without the prior written consent of the Department, which consent may be granted or withheld at the Department's sole and absolute discretion for any reason or no reason at all. Any attempted assignment without Department approval shall be null and void. In the event the Department provides such consent, LESSEE shall have the right only to the extent permitted by the Department's consent to assign all or any portion of the Premises, provided that any such assignment shall be limited to only the same purposes as are permitted under this Lease. LESSEE is expressly prohibited from subleasing, mortgaging

or otherwise encumbering this Lease, or any part thereof. Any such sublease, mortgage or encumbrance shall be considered null and void and will be considered grounds for termination of this Lease.

16. Assignment by COUNTY. COUNTY may freely assign this Lease at any time without the consent of LESSEE, and COUNTY shall be released from all liability and obligation arising under this Lease upon such assignment. In the event of an assignment by COUNTY, LESSEE agrees that it shall recognize COUNTY's assignee as its new landlord under this Lease upon the effective date of such assignment. LESSEE acknowledges and agrees that this Lease shall be subject and subordinate to any future agreement entered into between COUNTY and its assignee related to the Premises, and shall be given only such effect as will not conflict with nor be inconsistent with terms and conditions of such agreement. LESSEE acknowledges and agrees that COUNTY may transfer any security deposit held by COUNTY pursuant to Section 6 above to COUNTY's assignee.

17. Signs and Improvements. No signs, emblems, or advertising shall be placed or erected on or in the Premises.

18. Disclaimer of Liability. COUNTY HEREBY DISCLAIMS, AND LESSEE HEREBY RELEASES COUNTY, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY LESSEE, ITS EMPLOYEES, AGENTS OR INVITEES DURING THE TERM OF THIS LEASE OR ANY EXTENSION HEREOF INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF LESSEE OR LESSEE'S INVITEES THAT MIGHT BE LOCATED OR STORED ON THE PREMISES, UNLESS SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY COUNTY'S NEGLIGENCE. THE PARTIES EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THE LEASING OF THE PREMISES PURSUANT TO THIS LEASE. LESSEE RELEASES COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY RELATING TO THIS LEASE. FURTHERMORE, LESSEE ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY SUCH INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS LEASE WAS AT ITS SOLE RISK. THE FOREGOING DISCLAIMER SHALL NOT BE CONSTRUED TO CONSTITUTE AN AGREEMENT BY LESSEE TO INDEMNIFY THE COUNTY FOR THE COUNTY'S NEGLIGENT, WILLFUL OR INTENTIONAL ACTS.

19. Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by LESSEE:

A. The vacating or abandonment of the Premises by LESSEE for a period of more than sixty (60) consecutive, calendar days.

B. The failure by LESSEE to make payment of rent or any other payment required to be made by LESSEE, as and when due, where such failure shall continue for a period of three (3) days after written notice from the Department to LESSEE.

C. The failure by LESSEE to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by LESSEE, other than described in paragraph B. above, where such failure shall continue for a period of fifteen (15) days after written notice from the Department; provided, however, that if the nature of LESSEE's default is such that more than fifteen (15) days are reasonably required for its cure, then LESSEE shall not be deemed to be in default if LESSEE has commenced such cure within such fifteen (15) day period and thereafter diligently pursues such cure to completion.

D. To the extent permitted by law, (i) the making by LESSEE or any guarantor hereof of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against LESSEE of a petition to have LESSEE adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against LESSEE, the same is dismissed within sixty (60) days]; (iii) the appointment of a trustee or receiver to take possession of substantially all of LESSEE's assets located at the Premises or of LESSEE's interest in this Lease, where possession is not restored to LESSEE within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of LESSEE's assets located at the Premises or of LESSEE's interest in this Lease, where such seizure is not discharged within thirty (30) days.

E. The discovery by COUNTY that any information given to COUNTY by LESSEE relating to this Lease was materially false.

F. A default by LESSEE of any other agreement or lease between COUNTY and LESSEE, which default has not been cured within the applicable cure period provided in such agreement or lease.

20. Remedies. In the event of any such material default or breach by LESSEE, COUNTY may, at any time thereafter, with or without notice or demand and without limiting any other right or remedy which

COUNTY may have under the law by reason of such default or breach, elect to exercise any one of the following remedies:

- A. Declare the entire rent for the balance of the Lease term, or any part thereof, due and payable forthwith, and bring an action for the recovery thereof.
- B. Terminate LESSEE's right to possession of the Premises by any lawful means and reenter and retake possession of the Premises for the account of LESSEE, in which case the rent and other sums due hereunder shall be accelerated and due in full and LESSEE shall be liable for the difference between the rent which is stipulated to be paid hereunder plus other sums as described herein and what COUNTY is able to recover from its good faith efforts to relet the Premises, which deficiency shall be paid by LESSEE. Upon such reletting, all rentals received by COUNTY shall be applied, first to the payment of any indebtedness other than rent due under this Lease from LESSEE; second, to the payment of any costs and expenses of such reletting, which shall include all damages incurred by COUNTY due to LESSEE's default including, but not limited to, the cost of recovering possession of the Premises including attorneys' fees, expenses relating to the renovation or alteration of the Premises, and real estate commissions paid by COUNTY relating to the unexpired term of this Lease; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be paid to LESSEE.
- C. Treat this Lease as terminated and reenter and retake possession of the Premises for the account of COUNTY, thereby terminating any further liability under this Lease on the part of LESSEE and COUNTY. Notwithstanding the foregoing, COUNTY shall have a cause of action to recover any rent remaining unpaid when COUNTY retakes possession of the Premises for the account of COUNTY.
- D. Stand by and do nothing, holding LESSEE liable for the rent as it comes due.
- E. Pursue any other remedy now or hereafter available to COUNTY under the laws and judicial decisions of the State of Florida.

Notwithstanding anything in this Lease to the contrary, upon the occurrence of a material default or breach of this Lease by LESSEE, COUNTY shall have the right to bring an action for damages. COUNTY further reserves all rights which the laws of the State of Florida confer upon a landlord against a Tenant in default.

21. Termination by LESSEE. LESSEE may terminate this Lease, if LESSEE is not in default of this Lease, by giving COUNTY sixty (60) days' advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:

- A. The issuance by any court of competent jurisdiction of an injunction in any way preventing the use of the Airport for Airport purposes or a substantial part of the Premises, which injunction remains in force for a period of at least ninety (90) days.
- B. The default by COUNTY in the performance of any covenant or agreement required to be performed by COUNTY and the failure of COUNTY to remedy such default for a period of ninety (90) days after receipt from LESSEE of written notice to remedy same; provided, however, that no notice of cancellation, as provided herein, shall be of any force or effect if COUNTY shall have remedied the default prior to receipt of LESSEE's notice of termination; or in the event the same cannot be cured within such ninety (90) day period and COUNTY has commenced such cure and thereafter diligently pursues the same until completion.
- C. The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control, or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict the operation of LESSEE, for a period of at least ninety (90) days.

In the event of termination as herein provided, the Parties shall be relieved of all obligations created hereunder except for those obligations accruing prior to termination of this Lease and those obligations that specifically survive termination of this Lease.

22. Surrender of Premises. LESSEE expressly agrees that it shall immediately surrender the Premises to COUNTY in good and fit condition upon expiration or termination of this Lease, depreciation and wear from ordinary use for the purpose for which the Premises were leased being excepted. All repairs and obligations that LESSEE is responsible for shall be completed by the earliest practical date prior to surrender. In the event LESSEE shall holdover, refuse, or fail to give up the possession of the Premises at the termination of this Lease, LESSEE shall be liable to COUNTY for any and all damages, and in addition thereto, LESSEE shall also be strictly liable to pay to COUNTY during the entire time period of such holdover, double rental, as provided for in section 83.06, Florida Statutes. LESSEE shall remove all of its personal property from the Premises prior to the expiration or earlier termination of this Lease. Any personal property of LESSEE, including, but not limited to aircraft, not removed shall, at the option of County, become the property of COUNTY.

23. Inspection. COUNTY, its agents and employees and any applicable Federal, State or local governmental entity having jurisdiction shall have the right to enter the Premises at any time for the purpose of inspecting the Premises for compliance with the provisions of this Lease and/or applicable laws. LESSEE agrees that COUNTY may take such action and to make such repairs or alterations as are, in the sole opinion of the COUNTY, desirable or necessary, and to take such materials into or out of the Premises for the safe and economical accomplishment of said purposes without in any way being deemed guilty of an actual or constructive eviction of the LESSEE.

24. Relationship of the Parties. LESSEE or any successor in interest to this Lease, is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and COUNTY shall in no way be responsible therefor.

25. Remedies Cumulative. The rights and remedies of the Parties with respect to any of the terms and conditions of this Lease shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the Parties.

26. Notice. All notices and elections (collectively, "notices") to be given or delivered by or to any Party hereunder shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service, or national overnight delivery service, telecopied or faxed, or alternatively shall be sent by United States Certified Mail, with Return-Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal delivery, courier services, or national overnight delivery service, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The Parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such Party:

COUNTY:

Department of Airports  
Palm Beach County  
Building 846, Palm Beach International Airport  
West Palm Beach, Florida 33406-1491

With a copy to:

Palm Beach County Attorney's Office  
Chief Deputy County Attorney  
301 North Olive Avenue, Suite 601  
West Palm Beach, FL 33401

LESSEE:

A. Kim Gartmann  
5400 Occidental Road  
Santa Rosa, CA 95401  
E-mail Address: [apskg@aol.com](mailto:apskg@aol.com)  
Fax: (707) 576-1286

Either Party may from time to time change the address to which notice under this Lease shall be given such party, upon three (3) days' prior written notice to the other party.

27. Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Premises are located, for public purposes for a period in excess of ninety (90) days, either party may terminate this Lease by providing written notice of such termination to the other Party and the Parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This Section shall not act or be construed as a waiver of any rights LESSEE may have against the United States as a result of such taking.

28. Federal Review. LESSEE acknowledges this Lease may be subject to review or inspection by the Federal Aviation Administration to determine satisfactory compliance with Federal law or grant assurances and this Lease shall be in full force and effect and binding upon the Parties pending such review or inspection by the Federal Aviation Administration, if applicable; provided, however, that upon such review or inspection the Parties agree to modify any of the terms of this Lease which shall be determined by the Federal Aviation Administration to be in violation of existing laws, regulations, grant assurances or other requirements.

29. County Tax Assessment Right. None of the terms, covenants and conditions of this Lease shall in any way be construed as a release or waiver on the part of the COUNTY, as a political subdivision of the State of Florida, or any of the public officials of the County of Palm Beach, of the rights to assess, levy, and collect any ad valorem, non ad valorem, license, personal, intangible, occupation, or other tax which shall be lawfully imposed on the Premises, the business or property of LESSEE.

30. Height Restriction. LESSEE expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such a height so as to comply with Title 14, Part 77 of the Code of Federal Regulations, as amended and as may be amended from time to time.

31. Right of Flight. COUNTY reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises together with the right to cause in said airspace such noise as may be inherent in the operations of aircraft now known or hereafter used, for navigation of or flight in the said airspace for landing on, taking off from, or operating on the Airport.

32. Operation of Airport. LESSEE expressly agrees for itself, its successors and assigns, to prevent any use of the Premises which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute an Airport hazard.

33. Release. LESSEE acknowledges that noise and/or vibration are inherent to the operation of Airport and hereby releases COUNTY from any and all liability relating to the same.

34. Non-discrimination. LESSEE for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (a) that no person on the grounds of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, marital status, age, or disability shall be excluded from participation in or denied the use of the Premises, (b) that in the construction of any improvements on, over, or under such Premises and the furnishing of services, no person on the grounds of race, creed, color, national origin, sex, sexual orientation, gender identity or expression, religion, marital status, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) that LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended from time to time. In the event of the breach of any of the foregoing non-discrimination covenants, COUNTY shall have the right to terminate this Lease and to reenter and repossess said Premises and the facilities hereon, and hold the same as if said Lease had never been made or issued. This cancellation provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed including exercise or expiration of appeal rights.

35. Damage or Destruction. LESSEE hereby assumes full responsibility for the condition of the Premises and character, acts and conduct of all persons admitted to the Premises by or with the actual or constructive consent of LESSEE or by or with the consent of any person acting for or on behalf of LESSEE. If the Premises, improvements, or any part thereof, are damaged in any way whatsoever by the act, default or negligence of LESSEE or its employees, officers, licensees, agents or invitees, LESSEE shall, at its sole cost and expense, restore the Premises to the condition existing prior to such damage. LESSEE shall commence such restoration within thirty (30) days and shall diligently pursue such restoration to completion. Such repairs, replacements or rebuilding shall be made by LESSEE in accordance with the construction requirements established by the Department. If LESSEE fails to restore the Premises as required above, COUNTY shall have the right to enter the Premises and perform the necessary restoration, and LESSEE hereby expressly agrees that it shall fully assume and be liable to COUNTY for payment of the costs incurred by COUNTY, plus twenty-five percent (25%) administrative overhead. Such restoration cost, plus the administrative cost, shall be due and payable within thirty (30) days from date of COUNTY's written notice.

36. Partial Destruction. If any of the improvements on the Premises are damaged or destroyed in part by fire or other casualty, COUNTY may terminate this Lease upon written notice to LESSEE within ninety (90) days after the date of any such damage or destruction or commence restoration of the Premises within a commercially reasonable period of time subject to the limitations set forth herein. In the event of restoration of the Premises by COUNTY pursuant to this paragraph, LESSEE's obligation to pay rental shall be abated proportionately on a square footage basis as to that portion of the Premises rendered unusable by reason of casualty commencing on the date of the casualty. Such abatement shall continue until thirty (30) days after notice by COUNTY to LESSEE that the Premises have been substantially repaired or restored. Notwithstanding any provision of this Lease to the contrary, COUNTY shall have no obligation under this Lease to restore the Premises in the event the casualty was the result of the act, default or negligence of LESSEE or its employees, officers, licensees, agents or invitees. In such event, LESSEE shall be obligated to restore the Premises in accordance with Section 35 above with no abatement in rental.

37. Total Casualty. In the event of a total casualty to the Premises which renders the Premises unusable, as reasonably determined by the Department, either party shall have the right to terminate this Lease within ninety (90) days of the date of the casualty by delivering a written notice of termination to the other party in accordance with the notice provisions in this Lease; provided, however, LESSEE shall not have the right to terminate in the event the casualty was the result of the act, default or negligence of LESSEE or LESSEE's employees, officers, licensees, agents or invitees. In such event, LESSEE shall be obligated to restore the Premises in accordance with Section 35 above with no abatement in rental. In the event neither party terminates this Lease pursuant to this Section 37 and COUNTY elects to restore the Premises, LESSEE's obligation to pay rental shall be abated until thirty (30) days after notice by COUNTY to LESSEE that the Premises have been substantially repaired or restored.

38. Waiver. LESSEE hereby waives any claim against COUNTY for damages or compensation in the event this Lease is terminated pursuant to Sections 36 or 37 above.

39. Limitations. Notwithstanding any provision of this Lease to the contrary, COUNTY shall have no obligation to repair, rebuild or restore LESSEE's personal property or fixtures or any improvements made by LESSEE to the Premises. In the event COUNTY elects to restore or rebuild the



Premises following a casualty, COUNTY'S obligation to restore, rebuild or restore the Premises pursuant to this Lease shall exist only to the extent of the insurance proceeds received by COUNTY as a result of such casualty. LESSEE shall not be entitled to and hereby waives any claims against COUNTY for any compensation or damage for any loss of use of the Premises, in whole or in part, or for any inconvenience or annoyance occasioned by any such damage, destruction, repair or restoration. In addition, COUNTY shall not be liable for any damage or inconvenience or interruption of the business of LESSEE occasioned by fire or other casualty.

40. COUNTY not Liable. COUNTY shall not be responsible or liable to LESSEE for any claims for compensation or any losses, damages or injury whatsoever sustained by LESSEE including, without limitation, those resulting from failure of any water supply, heat, air conditioning, electrical current, or sewerage or drainage facility, or caused by natural physical conditions on the Premises, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, hurricane, act of God or state of war, civilian commotion or riot, or any cause beyond the control of COUNTY. COUNTY shall have the right to limit or restrict LESSEE's access to all or portions of the Airport, including the Premises, prior to, during and after certain emergencies, including, but not limited to, severe weather events such as hurricanes or tropical storms, acts of terrorism, aircraft incursions and other similar emergencies. COUNTY shall have no liability whatsoever for limiting access to the Airport or Premises prior to, during or after an emergency. LESSEE shall cooperate with the Department to ensure the safety and security of the Airport and the Premises prior to, during and after an emergency event. All personal property placed on or moved onto the Premises shall be at the sole risk of LESSEE. COUNTY shall not be liable for any damage or loss of said personal property.

41. Compliance with Laws. Notwithstanding anything to the contrary herein, LESSEE shall not use or permit the use of the Premises or the Airport for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Premises or the Airport for COUNTY or LESSEE.

42. Waiver. The failure of COUNTY to insist on a strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that COUNTY may have for any subsequent breach, event of default, or nonperformance, and COUNTY's right to insist on strict performance of this Lease shall not be affected by any previous waiver or course of dealing.

43. Subordination to Bond Resolution. This Lease and all rights granted to LESSEE hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by COUNTY in the Bond Resolution, and COUNTY and LESSEE agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of COUNTY hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by LESSEE and COUNTY with the terms and provisions of this Lease and Bond Resolution.

44. Subordination to Federal Agreements. This Lease shall be subject and subordinate to all the terms and conditions of any instrument and documents under which COUNTY acquired the land or improvements thereon, of which the Premises are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. LESSEE understands and agrees that this Lease shall be subordinate to the provisions of any existing or future agreement between COUNTY and the United States of America, or any of its agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

45. Exclusive Rights. Notwithstanding anything contained in this Lease to the contrary, it is expressly understood and agreed that the rights granted under this Lease are nonexclusive, other than the exclusive right of use of the Premises, and that COUNTY may grant similar privileges to another lessee or other lessees on other parts of the Airport.

46. Public Entity Crimes. As provided in sections 287.132-133, Florida Statutes, as may be amended from time to time, by entering into this Lease or performing any work in furtherance hereof, LESSEE certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the Effective Date hereof. This notice is required by section 287.133(3)(a), Florida Statutes.

47. Governmental Authority. Nothing in this Lease shall be construed to waive or limit COUNTY's governmental authority as a political subdivision of the State of Florida to regulate LESSEE or its operations.

48. Rights Reserved to the COUNTY. All rights not specifically granted LESSEE by this Lease are reserved to the COUNTY.

49. Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision, clause or any portion thereof of this Lease shall have no effect upon the validity of any other part or portion hereof.

50. Paragraph Headings. The heading of the various articles and sections of this Lease are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Lease or any part or parts of this Lease.



51. Consent and Approval. In the event this Lease is silent as to the standard for any consent, approval, determination, or similar discretionary action, the standard shall be at the sole, absolute and unfettered discretion of COUNTY or the Department, rather than any implied standard of good faith, fairness or reasonableness. Wherever this Lease requires COUNTY's or the Department's consent or approval or permits COUNTY or the Department to act, such consent, approval or action may be given or performed by the Airport Director. If LESSEE requests the COUNTY or Department's consent or approval pursuant to any provision of this Lease and COUNTY or the Department fails or refuses to give such consent, LESSEE shall not be entitled to any damages as a result of such failure or refusal, whether or not unreasonable.

52. No Recording. Neither this Lease, nor any memorandum or short form hereof, shall be recorded in the Public Records of Palm Beach County, Florida.

53. Binding Effect. The terms, conditions and covenants of this Lease shall inure to the benefit of and be binding upon the Parties and their successors and assigns, if any. This provision shall not constitute a waiver of any conditions against assignment or subletting.

54. Performance. The Parties expressly agree that time is of the essence in this Lease and the failure by LESSEE to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of COUNTY, in addition to any other rights or remedies, relieve COUNTY of any obligation to accept such performance without liability.

55. No Broker. LESSEE warrants to COUNTY that no real estate broker or agent has been used or consulted in connection with the transaction contemplated by this Lease and agrees to indemnify and hold COUNTY harmless from all loss, cost, damage or expense (including reasonable attorneys' fees) incurred by COUNTY as a result of any claim arising out of the acts of LESSEE (or others on its behalf) for a commission, finder's fee or similar compensation made by any broker or agent who claims to have dealt with LESSEE. The terms of this section shall survive the expiration or earlier termination of this Lease.

56. Excusable Delay. Any Party in performing under this Lease shall use reasonable efforts to remedy the cause or causes of an excusable delay. Excusable delays are those delays due to force majeure, acts of God, fire, flood, earthquake, explosion, riot, sabotage, windstorm, or labor dispute, and shall toll the time to perform under this Lease.

57. Incorporation by References. Exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Lease by such reference.

58. Venue and Governing Law. To the extent allowed by law, the venue for any action arising from this Lease shall be in Palm Beach County, Florida. This Lease shall be governed by and in accordance with the laws of the State of Florida.

59. Negotiated Agreement. The Parties agree that they have had meaningful discussion and/or negotiation of the provisions, terms and conditions contained in this Lease. Therefore, doubtful or ambiguous provisions, of any, contained in this Lease shall not be construed against the Party who physically prepared this Lease.

60. Entirety of Agreement. The Parties agree that this Lease sets forth the entire agreement between the Parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Lease may be added to, modified, superseded or otherwise altered except by written instrument executed by the Parties.

61. Radon. 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 the County's public health unit.

**Remainder of page left intentionally blank**

IN WITNESS WHEREOF, the Parties have executed this Lease as of the date first written above.

Witnesses:

Martha LaVerghetta  
Signature

Martha LaVerghetta  
Print Name

Jeffrey S. Bolton  
Signature

Jeffrey S. Bolton  
Print Name

PALM BEACH COUNTY  
BY ITS DIRECTOR OF AIRPORTS

By: [Signature]  
Director

Witnesses:

Martha LaVerghetta  
Signature

Martha LaVerghetta  
Print Name

Jeffrey S. Bolton  
Signature

JEFFREY S. BOLTON  
Print Name

LESSEE:

By: [Signature]

A. Kim Gartmann  
Print Name

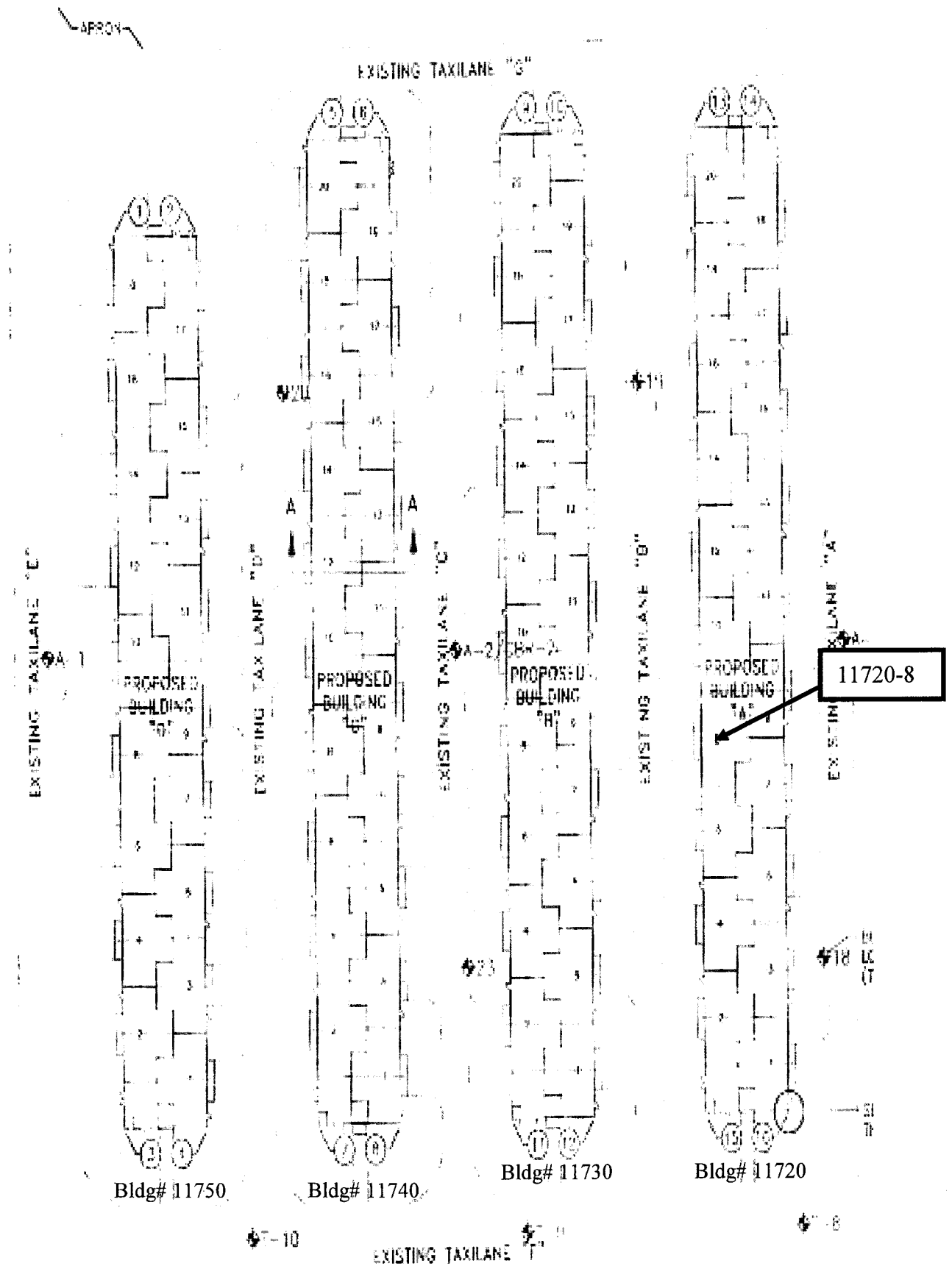
Title: \_\_\_\_\_

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: Anne Delgado  
County Attorney

Exhibit "A"

Tenant: A. Kim Gartmann Building Number: 11720 Unit Number: 8



**AGREEMENT COVERING THE OPERATION OF AIRCRAFT  
AT PALM BEACH INTERNATIONAL AIRPORT**

---

**Department of Airports  
Palm Beach International Airport  
Palm Beach County, Florida**

**Vision Airlines, Inc.**

AGREEMENT COVERING THE OPERATION OF AIRCRAFT  
AT PALM BEACH INTERNATIONAL AIRPORT

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AGREEMENT COVERING THE OPERATION OF AIRCRAFT  
AT  
PALM BEACH INTERNATIONAL AIRPORT

THIS AGREEMENT is made and entered into NOV 12 2009, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (hereinafter referred to as the "COUNTY"), and Vision Airlines, Inc., a Nevada corporation, having its office and principal place of business at 2705 Airport Drive, Las Vegas, NV 89032 (hereinafter referred to as the "AIRLINE").

**W I T N E S S E T H:**

WHEREAS, COUNTY, by and through its Department of Airports (hereinafter referred to as the "Department"), owns and operates Palm Beach International Airport, located in Palm Beach County, Florida (hereinafter referred to as the "Airport"); and

WHEREAS, AIRLINE owns and operates aircraft engaged in commercial aviation and hereby desires to operate its air transportation business at the Airport; and

WHEREAS, COUNTY is willing to grant AIRLINE the right to operate at the Airport and to grant AIRLINE certain privileges in connection therewith in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions.

ARTICLE I

TERM

This Agreement shall commence on the 1<sup>st</sup> day of September, 2009, and shall terminate on the 30<sup>th</sup> day of September, 2010, and shall automatically be extended on a year-to-year basis (October 1st through September 30th), unless either party hereto, with the Department acting on behalf of the COUNTY, shall advise, by at least thirty (30) days advance written notice, the other party of its desire or intent to amend or terminate this Agreement.

ARTICLE II

USE

AIRLINE shall have the non-exclusive privilege of landing, taking off, parking and other uses of designated landing areas, taxiways, ramps and Airport terminal facilities as may be required for AIRLINE's operation of its air transportation business at the Airport. Use of Airport terminal facilities shall be at such times and places as approved by the Department.

ARTICLE III  
FEES AND CHARGES

3.01 Fees and Charges.

A. AIRLINE shall pay to COUNTY, for the rights and privileges granted herein, the fees and charges as established by the COUNTY from time-to-time. AIRLINE hereby acknowledges receipt of a copy of the fees and charges in effect at the Airport as of the date of this Agreement. When such fees and charges are revised by the COUNTY, AIRLINE shall pay such revised fees and charges.

B. Fees and charges shall be reviewed annually and adjusted as necessary effective upon the first day of each new Fiscal Year of COUNTY, throughout the entire term hereof, and at any time that unaudited Airport financial data indicates that total fees and charges payable pursuant to the then current rate schedules are estimated and anticipated by Department to vary by more than ten percent (10%) from the total fees and charges that would be payable based upon the use of actual financial data to date for that Fiscal Year. "Fiscal Year" means the then current annual accounting period of COUNTY for its general accounting purposes which, at the time of entering into this Agreement, is the period of twelve (12) consecutive calendar months ending with the last day of September of each year.

C. Adjustments to fees and charges, pursuant to this Article III, shall apply without the necessity of formal amendment of this Agreement. A statement showing the calculation of the new rates for fees and charges shall be prepared by the Department and delivered to AIRLINE pursuant to Article XIII below. Upon delivery to AIRLINE by Department, said statement shall then be deemed part of this Agreement.

D. If adjustment of fees and charges is not completed by Department on or prior to the beginning of the new Fiscal Year, the fees and charges then in existence shall continue to be paid by AIRLINE until such adjustment is concluded. Upon conclusion of such adjustment calculations, any difference(s) between the actual fees and charges paid by AIRLINE through the date of said adjustment for the then current Fiscal Year and the fees and charges that would have been paid by AIRLINE using said adjusted rates shall be remitted to the party to whom it is due within thirty (30) days of Department's delivery of the revised statement of fees and charges.

3.02 Payment.

A. AIRLINE payments to COUNTY for the fees and charges due hereunder shall be paid in lawful money of the United States of America, by check payable to Palm Beach County, without set off, and shall be made at such places as Department may designate, which at the commencement date of this Agreement shall be as follows:

Department of Airports  
Accounting Section  
Palm Beach International Airport  
Building 846  
West Palm Beach, Florida 33406-1491

B. Payment for fees and charges based upon AIRLINE's monthly activity, including but not limited to (i) landing fees; (ii) law enforcement officer fees; (iii) Federal Inspection



Facility fees; (iv) Environmental Operating Fees; and (v) commuter operating area and apron fees, if applicable, shall be due without demand or invoicing on the tenth (10th) day following the month in which said activity occurred. Said fees and charges shall be deemed delinquent if payment is not received by the twentieth (20th) day following the month in which the activity occurred. Department agrees to provide invoices to AIRLINE for said fees and charges solely for the purpose of AIRLINE's information and documentation; provided, however, said invoice shall not be deemed to be evidence of the accuracy of the amount so invoiced, and further, shall not be deemed a waiver of any of COUNTY's rights hereunder.

C. Payment for other fees and charges due hereunder, including, but not limited to (i) baggage claim conveyors and devices; (ii) baggage claim area; (iii) employee parking charges; (iv) concourse areas and tug drives, if applicable; and (v) other miscellaneous charges, shall be due as of the date of Department's invoice. Said fees and charges shall be deemed delinquent if payment is not received within thirty (30) days of the date of invoice.

D. Department agrees to provide timely notice of any and all payment delinquencies; provided, however, interest at the rate of one and one-half percent (1½%) per month shall accrue against any and all delinquent payment(s) from the date due until the date payment is received by the Department. COUNTY agrees that said interest rate shall not be adjusted more often than annually. This provision shall not preclude COUNTY from terminating this Agreement as provided for herein for default in the payment of fees or charges, or from enforcing any other provisions contained herein or provided by law.

E. The acceptance by COUNTY of any AIRLINE payment shall not preclude COUNTY from verifying the accuracy of AIRLINE's reports on which AIRLINE's fees and charges are based as provided in this Article and shall not be deemed a waiver of interest penalty due, if any.

3.03 Partial Month Charges. In the event the commencement or termination date with respect to any of the particular rights, licenses, services, or privileges as herein provided falls on any date other than the first or last day of a calendar month, the applicable fees and charges for that month shall be paid for said month on a prorata basis according to the number of days during which said particular rights, licenses, services, or privileges were enjoyed during that month.

3.04 Information to be Supplied by AIRLINE.

A. Not later than the first (1st) business day following the ninth (9th) calendar day after the end of each calendar month, AIRLINE shall file with Department written reports on forms provided by Department for activity conducted by AIRLINE at the Airport during said month.

B. In the event AIRLINE fails to provide the written report(s) specified in Paragraph 3.04 (A) hereinabove, within the time specified herein, or if the data set forth on said written report(s) submitted to Department is questionable, the Department may, based on previous reports or other information available to Department, estimate AIRLINE's activity for said month and issue invoices based thereon. AIRLINE shall be liable to COUNTY for any deficiencies in payments based upon such estimates. If such estimates result in an overpayment

by AIRLINE, COUNTY shall remit or at COUNTY's option credit such overpayment to AIRLINE. Said invoice shall be deemed delinquent if payment is not received by the twentieth (20th) day following the month in which such estimated activity occurred.

3.05 Audit.

A. AIRLINE shall maintain and keep books, ledgers, accounts, or other records, accurately recording the total number of Revenue and Non-Revenue Landings at the Airport, the Maximum Gross Landed Weight of each aircraft, total number of passengers enplaned and deplaned at the Airport, and all other traffic and activity statistics to be recorded or reported hereunder. Such books, ledgers, accounts, and records shall be made available in Palm Beach County for a period of three (3) years subsequent to the activities reported therein.

B. COUNTY or its duly authorized representative(s) may examine any and all such books, ledgers, accounts and records during all reasonable business hours, in AIRLINE's offices or such other place as mutually agreed to between AIRLINE and Department. Upon COUNTY's written request for examination of such books, ledgers, accounts and records, AIRLINE shall produce such items in Palm Beach County within ten (10) business days or pay all reasonable expenses, including but not limited to transportation, food, and lodging for COUNTY's internal auditor or his/her representative(s) to audit said books and records outside Palm Beach County.

C. The cost of said audit, with the exception of the aforementioned transportation, food and lodging expenses, shall be borne by COUNTY; provided however, that the full cost of said audit shall be borne by AIRLINE if either or both of the following conditions exist:

- (1) The audit reveals an underpayment of more than five percent (5%) of the fees and charges which are based on monthly activity, due hereunder, as determined by said audit;
- (2) AIRLINE has failed to maintain true and complete books, records, accounts, and supportive source documents in accordance with Article 3.04 hereinabove.

D. Any underpayment of amounts due COUNTY disclosed as a result of said audit, including interest computed from the original due date of each such amount due shall be paid to COUNTY within thirty (30) consecutive calendar days of the date of Department's invoicing therefor. Such payment by AIRLINE shall not abrogate AIRLINE's right to contest the validity of said underpayments. Any overpayments made by AIRLINE shall be promptly remitted or at Department's option credited to AIRLINE.

3.06 Contract Security.

A. Prior to the commencement of operations by AIRLINE, AIRLINE shall provide COUNTY, and shall keep in full force and effect throughout the entire term of this Agreement, a Clean Irrevocable Letter of Credit or Surety Bond ("Contract Security") in the amount of One Thousand Five Hundred dollars (\$1,500.00) or an amount equal to the Department's estimate of three (3) months' fees and charges payable by AIRLINE pursuant to this Article III, whichever is greater. Such Contract Security shall guarantee the faithful performance by AIRLINE of its obligations under this Agreement and the payment of all fees and charges due hereunder. In addition, said Contract Security shall be in such form and with such company licensed to do business in the State of Florida as shall be reasonably acceptable to COUNTY. In the event that

any such Contract Security shall be for a period of less than the full period required by this Agreement, or if such Contract Security may be cancelled, AIRLINE shall provide a renewal or replacement Contract Security for the period following the expiration or cancellation of such Contract Security previously provided at least sixty (60) days prior to the date on which such previous Contract Security expires or at least sixty (60) days prior to the effective date of such cancellation.

B. Department may adjust the amount of said Contract Security required hereunder, annually during the term of this Agreement or any renewal thereof; provided, however, that Department shall have the right to adjust the amount of said Contract Security at any time, if and when AIRLINE changes its operating schedule, including the type of aircraft operated, or if COUNTY revises the fees and charges pursuant to Article 3.01 hereinabove. In such event, AIRLINE shall submit such adjusted Contract Security within thirty (30) days of receipt of Department's notice thereof.

C. Failure to maintain Contract Security as required herein shall constitute a material default by AIRLINE and shall be grounds for immediate termination of this Agreement.

#### ARTICLE IV INDEMNIFICATION

AIRLINE shall protect, defend, and hold COUNTY and its officers, employees and agents completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to reasonable attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to AIRLINE's conduct of its business under this Agreement and/or in its use or occupancy of the Airport or the negligent or willful acts or omissions of AIRLINE's officers, agents, employees, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused by the sole negligence or willful misconduct of the COUNTY, its officers, agents or employees. Nothing herein shall be deemed to abrogate AIRLINE's Common Law or Statutory rights to contribution from COUNTY for liability legally established as attributable to COUNTY's negligence. Each party shall give to the other reasonable notice of any such claims or actions. The provisions of this Article shall survive the expiration or early termination of this Agreement.

#### ARTICLE V INSURANCE

5.01 Policies. Notwithstanding AIRLINE's obligation to indemnify COUNTY as set forth in this Agreement, AIRLINE shall maintain the following insurance policies during the term of this Agreement.

A. In addition to such insurance as may be required by law and regulation, AIRLINE, at its sole cost and expense, shall at a minimum, maintain in full force and effect throughout the term of this Agreement the following types and amounts of insurance:

- (1) Aircraft Liability in respect of all aircraft owned, leased or operated by the AIRLINE for bodily injury (including death) and property damage liability in a Combined Single Limit Amount of not less than \$25,000,000 per occurrence.
- (2) Automobile Liability covering all Owned, Hired, and Non-Owned Vehicles used on the Airport in an amount of not less than \$1,000,000 Combined Single Limit per occurrence for Bodily Injury (including death) and Property Damage Liability; provided however, that if the scope and conduct of the AIRLINE's operations under this Agreement require vehicle access to areas designated for the parking and maneuvering of aircraft (ramp area) said liability insurance shall be in an amount not less than \$5,000,000 Combined Single Limit per occurrence for Bodily Injury (including death) and Property Damage Liability. Notwithstanding the foregoing, if the scope and conduct of the AIRLINE's operations under this Agreement do not involve the operation, ownership or use of any vehicle, then this requirement shall be waived.
- (3) Comprehensive or Commercial General Liability. Coverage shall be underwritten by a company or companies, acceptable to COUNTY, in its reasonable discretion. Required coverage must have limits of not less than \$5,000,000 Combined Single Limit per occurrence for Personal Injury, Bodily Injury (including death) and Property Damage Liability and shall include, but not be limited to Premises and Operations, Product and Completed Operations and Contractual.
- (4) Occurrence form general liability insurance is highly preferred; however, in the event that AIRLINE is only able to secure Claims-Made general liability insurance, the following special conditions apply:
  - a. Any Certificate of Insurance issued to the COUNTY must clearly indicate whether the Claims-Made Commercial General Liability or similar form applies. Further it must indicate if the limits are aggregated. In the event aggregate limits are applicable, the COUNTY requires that the AIRLINE's aggregate amount of insurance be no less than three times the basic limit of liability required in Paragraphs 5.01 (A.1.) through (A.3.), hereinabove, for each accident or occurrence.
  - b. Should coverage be afforded on a Claims-Made basis, the AIRLINE shall be obligated by virtue of this Agreement to maintain insurance coverage in effect with no less limits of liability nor any more restrictive terms and/or conditions for a period of not less than thirty-six (36) months from the termination of the Agreement. The retroactive date shall be no later than the commencement date of this Agreement and shall be maintained for all subsequently required policies.

B. A signed Certificate or Certificates of Insurance, evidencing that required insurance coverage(s) has been procured by AIRLINE in the types and amount(s) required hereunder, shall be transmitted to COUNTY prior to execution of this Agreement by both parties. Said certificate(s) shall clearly state Palm Beach County, a Political Subdivision of the State of Florida, as an Additional Insured to the extent of AIRLINE's obligations assumed hereunder. Further, said Certificate of Insurance shall unequivocally provide thirty (30) days written notice to COUNTY prior to any adverse material change, cancellation, or non-renewal of coverage thereunder. Said liability insurance must be acceptable to and approved by COUNTY, in its reasonable discretion, as to form and types of coverage. AIRLINE's failure to

maintain current all insurance policies required pursuant to this Agreement, shall constitute a material default by AIRLINE and shall be grounds for immediate termination of this Agreement.

C. AIRLINE's policy(ies) of insurance shall provide that, in the event of bankruptcy or insolvency of AIRLINE, the insurance company shall not be relieved of performance of its obligations under the policy for any acts or conditions caused or created by AIRLINE or for which AIRLINE is in any way responsible or liable.

D. All insurance policies required hereunder may be written to include a reasonable deductible. Limits on said deductible amounts shall be subject to the reasonable approval of the COUNTY's Risk Management Department.

E. Notwithstanding anything to the contrary herein, COUNTY through its Risk Management Department, may allow insurance coverage required herein through AIRLINE's self-insurance plan. Any request for approval of AIRLINE's self-insurance plan must be approved in advance, in writing, by the COUNTY's Risk Management Department.

F. Notwithstanding the foregoing, COUNTY, by and through its Risk Management Department, in cooperation with the Department, reserves the right to periodically review any and all policies of insurance and to reasonably adjust the limits of coverage required hereunder from time to time throughout the term of this Agreement. In such event, COUNTY shall provide AIRLINE written notice of such adjusted limits and AIRLINE shall comply within thirty (30) days of receipt thereof.

G. AIRLINE shall not knowingly use or permit the use of the Airport for any illegal or improper purposes, and further notwithstanding anything to the contrary herein, AIRLINE shall not knowingly use or permit the use of the Airport for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Airport for the COUNTY or AIRLINE. In the event AIRLINE knowingly performs or allows any act, or failure to act, that shall cause an increase in the premiums for insurance for the Airport, or any part thereof, then AIRLINE shall immediately upon demand by COUNTY pay the amount of such increase. If any AIRLINE act or failure to act shall cause cancellation of any policy, then AIRLINE shall immediately, upon notification by COUNTY, take such action as is necessary to cause reinstatement of said insurance.

5.02 Waiver of Subrogation. COUNTY and AIRLINE hereby mutually waive any and all rights of recovery against the other party arising out of damage or destruction of the Airport terminal facilities or any other property from causes included under any property insurance policies to the extent such damage or destruction is covered by the proceeds of such policies but only to the extent that the insurance policies then in force permit such waiver.

## ARTICLE VI

### ASSIGNMENT BY AIRLINE

AIRLINE shall not in any manner assign, transfer, mortgage, pledge, encumber, hypothecate or otherwise convey an interest in this Agreement without the prior written consent

of COUNTY. Such consent shall not be unreasonably withheld. The foregoing shall not prevent the assignment of this Agreement to any corporation with which AIRLINE may merge or consolidate; provided however, such successor corporation, not later than thirty (30) days prior to the date of such merger, consolidation or succession, shall provide written acknowledgment by a duly authorized corporate officer to COUNTY that it has assumed all obligations of AIRLINE and will fully honor all terms and conditions set forth in this Agreement, and further will provide such documentation as COUNTY requires in its reasonable discretion.

## ARTICLE VII

### GOVERNMENT INCLUSION

7.01 Non-discrimination. AIRLINE for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (1) that no person on the grounds of race, creed, color, national origin, sex, gender identity or expression, age or handicap shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of services of AIRLINE, and (2) that AIRLINE shall use the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. In the event of breach of any of the above non-discrimination covenants, COUNTY shall have the right to terminate this Agreement and hold the same as if said Agreement had never been made or issued. This provision shall not be effective until the procedures of Title 49, CFR, Part 21 are followed and completed, including exercise or expiration of appeal rights.

7.02 Minority Business Enterprise/Affirmative Action. AIRLINE acknowledges that the provisions of 49 CFR, Part 23, Minority Business Enterprises (MBE), and 14 CFR, Part 152, Affirmative Action Employment Programs, may be applicable to the activities of AIRLINE under the terms of this Agreement, unless exempted by said regulations, and hereby agrees, if such provisions are applicable, to comply with all requirements of the Department, the Federal Aviation Administration, and the U.S. Department of Transportation, in reference thereto. These requirements may include, but not be limited to, the compliance with MBE and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, the submission of various reports, and including, if directed by the Department, the contracting of specified percentages of goods and service contracts to Minority Business Enterprises. Failure to comply with these requirements, if applicable, shall be grounds for default and cancellation of this Agreement. Any cancellation pursuant to this Article 7.02 shall not be effective until the procedures specified in said Federal regulations and such other procedures that are established by COUNTY are completed, including exercise or expiration of any appeal rights.

7.03 Rights Non-Exclusive. Notwithstanding anything herein contained, the rights, privileges and licenses granted under this Agreement are "non-exclusive" and COUNTY reserves the right to grant same to others.

7.04 COUNTY Tax Assessment Right. None of the terms, covenants and conditions of this Agreement shall in any way be construed as a release or waiver on the part of the COUNTY, as a political subdivision of the State of Florida, or any of public officials of the County of Palm Beach, of the right to assess, levy, and collect any license, personal, intangible, occupation, or other tax of general application which shall be lawfully imposed on the business or property of the AIRLINE.

## ARTICLE VIII

### LAWS, REGULATIONS, PERMITS, TAXES AND COMPLIANCE

#### 8.01 Rules and Regulations.

A. AIRLINE expressly covenants, warrants, guarantees, and agrees that throughout the term of this Agreement, AIRLINE shall at all times be and shall remain in full and complete compliance with all applicable statutes, regulations, rules, rulings, orders, or ordinances of any kind or nature without limitation, as the same may be supplemented or amended, of any or all Federal, State, Municipal, or local governmental bodies now or hereafter having jurisdiction over AIRLINE, AIRLINE's operations conducted under this Agreement or over those persons and entities performing any work or services on behalf of AIRLINE or at AIRLINE's expressed or implied request. AIRLINE further covenants, warrants, guarantees and agrees that it shall comply with all ordinances of COUNTY, including but not limited to the "Rules and Regulations of the Department of Airports, of Palm Beach County, Florida" (Currently set forth in Resolution R-98-220 as may be amended, supplemented or otherwise superseded by the Board of County Commissioners) all operational orders issued thereunder, and any and all other laws, ordinances, regulations, rules, and orders of any governmental entity which may be applicable to AIRLINE or in any way to AIRLINE's business operations under this Agreement, as said laws, ordinances, regulations, rules, and orders now exist, or are hereafter amended, promulgated or otherwise imposed on AIRLINE by law. COUNTY and AIRLINE agree that nothing in this Agreement shall affect or impair AIRLINE's right to legally challenge any such statute, regulation, rule, ruling, order or ordinance, and providing that AIRLINE remains in compliance with all such statutes, regulations, rules, rulings, orders or ordinances during said legal challenge, AIRLINE shall not be held in default of this Agreement during or on account of AIRLINE's legal challenge to any such statute, regulation, rule, ruling, order or ordinance.

B. Any new rules, regulations, orders or restrictions enacted by COUNTY during the term of this Agreement shall not be inconsistent with the terms, provisions, rights and privileges granted hereunder, unless enacted in compliance with the lawful rules, regulations, ordinances, laws or orders of other governmental authorities having jurisdiction over the operation of the Airport.

C. COUNTY has enacted certain regulations and may, in the future, enact other regulations, for the purpose of minimizing, abating, and mitigating noise resulting from the operation of the Airport. COUNTY asserts the authority, as Airport proprietor, to enact such regulations, including, but not limited to, imposition of noise-related fees and charges and restrictions upon the types of aircraft and numbers and time of aircraft operations. AIRLINE may contest the validity of such regulations under the Constitution, laws, regulations, and grant agreements of the United States and/or the State of Florida. COUNTY and AIRLINE agree that nothing in this Agreement shall be deemed to impair or in any way affect COUNTY's right as Airport proprietor, to the extent of such right, to enact such regulations for this purpose, as long as such regulations are otherwise valid under applicable law, or to affect or impair AIRLINE's right to challenge any such regulations on any ground other than as a breach or impairment of this Agreement.

D. COUNTY agrees that upon receipt of a written request from AIRLINE, COUNTY shall provide AIRLINE with COUNTY regulations, rules, rulings, orders, ordinances (and amendments thereto) which affect AIRLINE or its performance hereunder.

8.02 Permits and Licenses. AIRLINE expressly covenants, warrants and agrees that it shall, at its sole cost and expense, be strictly liable and responsible for obtaining, paying for, maintaining current, and fully complying with any and all permits, licenses, and other governmental authorizations, however designated, as may be required at any time throughout the entire term of this Agreement by any Federal, State, or local governmental entity or any Court of Law having jurisdiction over AIRLINE or AIRLINE's operations and activities, and for any and all operations conducted hereunder, by AIRLINE. Upon the written request of Department, AIRLINE shall provide to Department copies of and access to the originals of any and all such permits and licenses.

8.03 Safety and Fire Regulations. Airline shall conduct its operations and activities under this Agreement in compliance with all safety regulations of the Department and applicable Federal, State, and local laws. AIRLINE shall procure and maintain such fire prevention and extinguishing devices as required by COUNTY and shall at all times be familiar and comply with the fire regulations and orders of COUNTY and the fire control agency with jurisdiction at the Airport, as same may now exist or hereafter come into being. AIRLINE agrees, for itself and any employee, contractor, or other person working for or on behalf of AIRLINE, to exercise due care at all times.

8.04 Payment of Taxes. AIRLINE shall pay any and all taxes and other costs lawfully assessed against its operations under this Agreement. Nothing herein shall be construed to deny or limit AIRLINE's right to contest in good faith the amount or validity of any tax or assessment payable by it by appropriate legal proceedings.

8.05 Compliance By Other Airport Users. COUNTY shall, whenever possible, make reasonable efforts to obtain uniform compliance with its rules and regulations; however, COUNTY shall not be liable to AIRLINE for any violation or non-observance of such rules and regulations by any Airport user, tenant, concessionaire or air transportation company or their officers, agents, or employees.



ARTICLE IX  
GENERAL PROVISIONS

9.01 Relationship of Parties. AIRLINE is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and COUNTY shall in no way be responsible therefor.

9.02 County Not Liable. COUNTY shall not be responsible or liable to AIRLINE for any claims for compensation for any losses, damages, or injury sustained by AIRLINE resulting from failure of any water supply, heat, air conditioning, electrical power, or sewerage or drainage facility, or caused by natural physical conditions on the Airport, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, act of God, or state of war, civilian commotion or riot, or any cause beyond the control of COUNTY. COUNTY shall not be liable for any damage to, or loss of personal property, except to the extent that said damage or loss resulted from the negligence or willful misconduct of COUNTY, its officers, agents or employees.

9.03 Quiet Enjoyment. COUNTY covenants that so long as AIRLINE timely pays all fees and charges due hereunder, and fully and faithfully performs all of its obligations as provided herein, and otherwise is not in default of any of the terms and conditions of this Agreement, AIRLINE shall peacefully and quietly have, hold and enjoy the privileges granted herein, free from any unauthorized interference by COUNTY during the term hereof.

ARTICLE X  
AGENT FOR SERVICE

It is expressly understood and agreed that if AIRLINE is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation not licensed to do business in Florida, then in any such event, AIRLINE shall appoint an agent for the purpose of service of process, in any court action between AIRLINE and COUNTY, arising out of or based upon this Agreement. AIRLINE shall immediately notify COUNTY, in writing, of the name and address of said agent. The service shall be made as provided by the laws of the State of Florida for service upon a non-resident. It is further expressly agreed, covenanted, and stipulated that, as an alternative method of service of process, should AIRLINE fail to appoint said agent, or fail to notify COUNTY of the name and address of said agent as aforesaid, AIRLINE may be personally served with such process out of this State by the registered mailing of such complaint and process to AIRLINE at the address set forth in Article XIII hereinbelow.

ARTICLE XI  
NO INDIVIDUAL LIABILITY

No member, officer, agent, director, or employee of COUNTY shall be charged personally, or held contractually liable by or to AIRLINE, under the terms or provisions of this Agreement, or because of any breach thereof, or because of its or their execution or attempted execution.

ARTICLE XII  
TERMINATION AND CANCELLATION OF AGREEMENT

12.01 Termination. This Agreement shall automatically terminate and expire as set forth in Article I hereof, unless canceled sooner as provided for herein.

12.02 COUNTY's Right of Cancellation. In addition to other cancellation or termination rights contained in this Agreement, COUNTY may, to the extent allowed by law, cancel this Agreement by giving AIRLINE thirty (30) days advance written notice, to be served as hereinafter provided, upon the happening of any one of the following events:

- A. The filing by AIRLINE of a voluntary petition for bankruptcy.
- B. The institution of proceedings in bankruptcy against AIRLINE and adjudication of AIRLINE as a bankrupt pursuant to said proceeding.
- C. The taking of AIRLINE's assets by a Court of competent jurisdiction of AIRLINE, pursuant to proceedings brought under the provision of any federal reorganizational act and said proceeding is not dismissed, discontinued or vacated within thirty (30) days.
- D. The appointment of a receiver of AIRLINE's assets.
- E. The divestiture of AIRLINE's estate herein by operation of law.
- F. AIRLINE shall voluntarily discontinue its operations at the Airport for a period of thirty (30) days unless otherwise approved by Department, in advance, in writing.
- G. The conduct of any business or performance of any acts at the Airport not specifically authorized herein or within other validly executed Agreements between AIRLINE and COUNTY and said business or acts do not cease within thirty (30) days of receipt of written notice by Department to cease said business or acts.
- H. Default in the performance of any of the covenants and conditions required herein (except Contract Security, and insurance requirements as hereinbefore set forth, and payment of fees and charges as hereinafter set forth) and said default is not cured within thirty (30) days of receipt of written notice by Department to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by AIRLINE of written demand from Department to do so, AIRLINE fails to commence the remedying of such default within said thirty (30) days following such written notice, or having so commenced, shall fail thereafter to continue with diligence the curing thereof. AIRLINE shall have the burden of proof to demonstrate (i) that the default cannot be cured within thirty (30) days; (ii) that it is proceeding with diligence to

cure said default; and (iii) that such default will be cured within a reasonable period of time.

In any of the aforesaid events, cancellation shall be effective upon the date specified in Department's written notice to AIRLINE and, upon said date, AIRLINE shall be deemed to have no further rights hereunder.

12.03 Cancellation for Default in Payments. If AIRLINE fails to pay the whole or any part of the fees and charges due hereunder and continues to fail to pay said amounts in full within ten (10) days from Department's transmittal to AIRLINE of a written past due statement therefor, such occurrence shall also be a material default under this Agreement, and COUNTY may, at its option, immediately cancel this Agreement thereafter by written notice thereof. In such event, AIRLINE shall be deemed to have no further rights hereunder.

12.04 Cancellation by Airline. AIRLINE may cancel this Agreement, if AIRLINE is not in default of a material provision of this Agreement (including, but not limited to, its payments to COUNTY hereunder) by giving COUNTY thirty (30) days advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:

- A. COUNTY fails after receipt of written notice from AIRLINE to keep, perform or observe any term, covenant or condition herein contained to be kept, performed, or observed by COUNTY and such failure continues for thirty (30) days or if by its nature such default cannot be cured within such thirty (30) day period, if COUNTY shall not commence to cure or remove such default within said thirty (30) days and/or continue diligently to cure or remove the same as promptly as reasonably practicable.
- B. COUNTY closes Airport to flights in general or to the flights of AIRLINE, for reasons other than weather, acts of God or other reasons beyond its control, and fails to reopen Airport to such flights within thirty (30) days from such closure.
- C. The Airport is permanently closed as an air carrier airport by act of any Federal, state or local government agency having competent jurisdiction, or AIRLINE is unable to use Airport for a period of at least thirty (30) days due to any law or any order, rule or regulation of any governmental authority having jurisdiction over the operations of the Airport, or any court of competent jurisdiction issues an injunction preventing COUNTY and AIRLINE from using Airport for airport purposes, and such injunction remains in force for a period of at least thirty (30) days.
- D. The United States Government or any authorized agency of the same (by executive order or otherwise) assumes the operation, control or use of the Airport and its facilities in such a manner as to substantially restrict AIRLINE from conducting its operations, if such restriction be continued for a period of thirty (30) days or more; provided, however, that flow restrictions or capacity restraints of any type imposed by the FAA as part of its air traffic management plans at the Airport shall not be construed as being one of the aforementioned restrictions.

### ARTICLE XIII

#### NOTICE

Any notice given under the provisions of this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail, postage prepaid

TO COUNTY:

Department of Airports  
Palm Beach County  
846 Palm Beach International Airport  
West Palm Beach, Florida 33406-1491

TO AIRLINE:

Vision Airlines, Inc.  
Attn: Legal Department  
2705 Airport Drive  
Las Vegas, NV 89032

or to such other respective addresses as the parties may designate to each other in writing from time to time. Notice by certified or registered mail shall be deemed given three (3) days after the date that such notice is deposited in a United States Post Office.

### ARTICLE XIV

#### SUBORDINATION

14.01 Subordination to Bond Resolution. This Agreement and all rights granted to AIRLINE hereunder are expressly subordinated and subject to the lien and provisions of the pledges, transfers, hypothecations, or assignment made by COUNTY to secure Bonds and to the terms and conditions of the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984, as amended and supplemented (the "Bond Resolution"), and COUNTY and AIRLINE agree that to the extent required by Law or by the Bond Resolution, the holders of the Bonds or any Trustee may exercise any and all rights of COUNTY hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by AIRLINE and COUNTY with the terms and provisions of this Agreement and the Bond Resolution.

14.02 Subordination to Federal Agreements. This Agreement and all provisions hereof shall be subject and subordinate to all the terms and conditions of any instruments and documents under which COUNTY acquired the Airport and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. AIRLINE understands and agrees that this Agreement shall be subordinate to the provisions of any and all existing or future agreements between COUNTY and the United States government, or other governmental authority relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of Federal funds or other governmental authority funds for the development of the Airport.

ARTICLE XV  
REMEDIES CUMULATIVE

COUNTY's rights and remedies with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of COUNTY.

ARTICLE XVI  
WAIVERS

The failure of COUNTY to insist on a strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that COUNTY may have for any subsequent breach, default, or non-performance by AIRLINE, and COUNTY's right to insist on strict performance of this Agreement shall not be affected by any previous waiver or course of dealing. The acceptance by COUNTY of payments of fees and charges from AIRLINE for any period or periods after a default of any of the terms, covenants, and conditions herein contained shall not be deemed a waiver of any right on the part of the COUNTY for failure by AIRLINE to so perform, keep or observe any and all terms, covenants and conditions of this Agreement.

ARTICLE XVII  
COUNTY'S GOVERNMENTAL AUTHORITY

Nothing in this Agreement shall be construed to limit COUNTY, as a political subdivision of the State of Florida, in its regulation of the Airport and its tenants or their operations under its governmental authority.

ARTICLE XVIII  
RIGHTS RESERVED TO COUNTY

All rights not specifically granted to AIRLINE by this Agreement are reserved to COUNTY.

ARTICLE XIX  
INVALIDITY OF CLAUSES

The invalidity of any portion, article, paragraph, provision, clause, or any portion thereof of this Agreement shall have no affect upon the validity of any other part or portion hereof, and shall not materially prejudice either COUNTY or AIRLINE in their respective rights and obligations set forth in the valid articles, paragraphs, provisions, clauses and any portions thereof of this Agreement.

ARTICLE XX

VENUE

To the extent allowed by law, the venue for any action arising from this Agreement shall be in Palm Beach County, Florida.

ARTICLE XXI

GOVERNING LAW

This Agreement shall be governed by and in accordance with the laws of the State of Florida.

ARTICLE XXII

(Intentionally left blank)

ARTICLE XXIII

PARAGRAPH HEADINGS

The headings of the various articles and sections of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define, limit, augment, or describe the scope, context, or intent of this Agreement or any part or parts of this Agreement.

ARTICLE XXIV

BINDING EFFECT

The terms, conditions, and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns, if any. This provision shall not constitute a waiver of any conditions against assignment.

ARTICLE XXV

PERFORMANCE

The parties expressly agree that time is of the essence in this Agreement and the failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

ARTICLE XXVI  
FORCE MAJEURE

Except as otherwise provided in this Agreement, neither COUNTY nor AIRLINE shall be deemed to be in default hereunder if either party is prevented from performing any of the obligations, other than the payment of fees and charges hereunder, by reason of strikes, boycotts, labor disputes, embargoes, shortages of energy or materials, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellion, or sabotage, or any other circumstances for which it is not responsible or which are not within its control.

ARTICLE XXVII  
PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this Lease or performing any work in furtherance hereof, LESSEE certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE XXVIII  
ENTIRETY OF AGREEMENT

The parties agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. Except as otherwise provided in this Agreement, none of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered except by written instrument executed by the parties hereto.

*(Remainder of page intentionally left blank.)*

IN WITNESS WHEREOF, the COUNTY has caused this **Agreement Covering the Operation of Aircraft at Palm Beach International Airport** to be signed by the County Administrator or the Director of the Department of Airports, pursuant to the authority granted by said Board, and the AIRLINE, Steven Acor, has caused these presents to be signed in its corporate name by its duly authorized officer, the **Chief Operating Officer** acting on behalf of said AIRLINE, and the seal of said AIRLINE to be affixed hereto and attested by the Secretary of said AIRLINE, the day and year first written above.

WITNESS:

PALM BEACH COUNTY, FLORIDA

Connie Shoffner  
Witness Signature  
Connie Shoffner  
(typed or printed)

By: [Signature]  
Director - Department of Airports

WITNESS:

AIRLINE:

[Signature]  
Witness Signature  
Steven Acor  
(Steven Acor)

By: Steven Acor

Title: Chief Operating Officer

[Signature]  
Witness Signature  
Jody Feazel  
(Jody Feazel)

(Corporate Seal)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Anne Wilgand  
County Attorney



**PALM BEACH INTERNATIONAL AIRPORT  
AUTOMOBILE TRANSPORT OPERATOR PERMIT**

**THIS AUTOMOBILE TRANSPORT OPERATOR PERMIT** (this "Permit") is made and entered into this 30 day of NOVEMBER 2009, by and between Palm Beach County ("County"), a political subdivision of the State of Florida, and Triple Express, Inc., a Delaware corporation, d/b/a Connecticut Auto Transport, Inc. ("Permittee"), having its office and principal place of business at 2307 SW Poma Drive, Palm City, FL 34990.

**W I T N E S S E T H:**

**WHEREAS**, County, by and through its Department of Airports (the "Department"), owns and operates Palm Beach International Airport ("Airport"), located in Palm Beach County, Florida; and

**WHEREAS**, Resolution No. 2009- 1960, adopted by the Palm Beach County Board of County Commissioners on NOVEMBER 17, 2009, authorizes the Department to issue this Permit; and

**WHEREAS**, County, as the owner and operator of the Airport, has the power and authority to regulate the use of the Airport roadways to ensure the traveling public has access to an orderly ground transportation system and to ensure efficient use of the limited capacity of the Airport roadways; and

**WHEREAS**, Permittee has applied for a permit to engage in automobile transport operations on the Airport; and

**WHEREAS**, Permittee engages in automobile shipping and transport activities that include the pick-up and delivery of automobiles and other vehicles at the Airport.

**NOW, THEREFORE**, in consideration of the promises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

**ARTICLE 1**  
**RECITALS**

The foregoing recitals are true and correct and are hereby incorporated herein by reference.

**ARTICLE 2**  
**DEFINITIONS**

- 2.01 “Airport” means the Palm Beach International Airport.
- 2.02 “Automobile Transport Operation” means the commercial practice of shipping, transfer or transport of cars, trucks, motorcycles and other vehicles owned by others, to or from the Airport. “Automobile Transport Operations” do not include towing operations and similar activities to retrieve disabled, derelict or unauthorized vehicles from the Airport, and whose primary operation is to transport such vehicles to another location for repair or impound.
- 2.03 “Automobile Transport Operator” means a person, company or entity engaged in Automobile Transport Operations.
- 2.04 “Bond Resolution” means the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof.
- 2.05 “Commencement Date” has the meaning set forth in Article 3.
- 2.06 “Department” means the Palm Beach County Department of Airports.
- 2.07 “Director” means the Director of the Department, or his designee.
- 2.08 “FAA” means the Federal Aviation Administration or any successor agency.
- 2.09 “Permit” means this Permit and all exhibits attached hereto, which are incorporated herein by this reference. Words such as “herein,” “hereafter,” “hereof,” “hereby” and “hereunder” when used with reference to this Permit, refer to this Permit as a whole, unless context otherwise requires.
- 2.10 “Permit Fee” has the meaning set forth in Section 5.02.
- 2.11 “Permit Year” means the twelve (12) month period, beginning on October 1 and ending on September 30 and each twelve (12) month period thereafter, until the termination of this Permit.
- 2.12 “Permittee” means Triple Express, Inc., d/b/a Connecticut Auto Transport, Inc., and includes any company, owner-operator, independent contractor, or individual operating Automobile Transport Operations by, through, under, or in cooperation with the Permittee on an occasional, supplemental or incidental basis, and previously registered with the Department (“Subcontractor”). The Department reserves the right to require a Subcontractor to obtain its own permit if the Department, in its sole and absolute discretion, determines that the nature, frequency or volume of a Subcontractor’s Automobile Transport Operations is more than supplemental or incidental to Permittee’s Automobile Transport Operations as a whole.

- 2.13 “Term” means the Initial Term and any Renewal Term(s).
- 2.14 “Terminal” means the passenger terminal building located at the Airport.
- 2.15 “Transport Vehicle” means any vehicle, including, but not limited to, a truck, tractor-trailer, flatbed or tow truck, with or without a trailer, owned by, or under the contractual control of, Permittee, and registered with the Department, used to transport or tow vehicles between the Airport and off-airport location(s).
- 2.16 “TSA” means the Transportation Security Administration or any successor agency.

### **ARTICLE 3**

#### **TERM**

This Permit shall be effective on the 17 day of NOVEMBER, 2009, (the “Commencement Date”) and shall terminate on September 30<sup>th</sup>, 2010, except as otherwise provided for herein (the “Initial Term”). Provided that Permittee is not in violation of the terms and conditions of this Permit and has paid all applicable fees, this Permit shall automatically renew on a yearly basis (October 1<sup>st</sup> through September 30<sup>th</sup>) (the “Renewal Term”), unless either party hereto, with the Department acting on behalf of County, shall advise the other party at any time by at least thirty (30) days’ advance written notice of its intent to terminate this Permit.

### **ARTICLE 4**

#### **PRIVILEGES AND OBLIGATIONS**

- 4.01 Privileges. Subject to the terms and conditions of this Permit, Permittee is authorized by this non-exclusive Permit to conduct Automobile Transport Operations at the Airport, including the non-exclusive right to operate its Transport Vehicles on the Airport’s access roadways and other paved areas as authorized by the Department, by the most direct authorized route. Transport Vehicles shall not be operated on the Airport’s Terminal access roadways and parking garages, and other areas prohibited by the Department. Automobile Transport Operations at the Airport shall be limited to the transportation of only those vehicles owned by customers who have made prior, written, arrangements for the shipping, transfer or transport of the customer’s vehicle between the Airport and an off-airport location(s).
- 4.02 Operational Standards.
- A. Permittee shall operate on the Airport in a clean, orderly and safe fashion. Permittee shall keep its Transport Vehicles clean and well maintained. Permittee shall operate only those Transport Vehicles owned by, or under the contractual control of, Permittee, and registered with the Department.

- B. Permittee shall load and unload vehicles on its Transport Vehicles only in those areas designated by the Department. Permittee shall load and unload its Transport Vehicles as quickly and efficiently as possible under the circumstances to ensure the availability of the designated areas for use by other Airport users. Transport Vehicles shall not be permitted to park overnight or for extended periods, or to loiter on the Airport. Transport Vehicle drivers shall remain in the Transport Vehicle except to load or unload vehicles, or to deliver or retrieve vehicles to or from a parking area to a staging area designated by the Department.
  - C. Permittee shall cause its drivers, agents, and other employees to conduct themselves at all times in a courteous manner towards the public and to provide prompt, efficient, and safe service. Permittee shall not allow its drivers, agents, or other employees to engage in open or public disputes or conflicts tending to be incompatible with the best interests of the public at the Airport. The Department shall have the right to resolve all such disputes or conflicts, and its determinations shall be binding upon Permittee.
  - D. In addition to terms, conditions and limitations of this Permit, Automobile Transport Operations shall be subject to such reasonable temporary or permanent operational restrictions, limitations and requirements as may be imposed by the Department from time to time, at the Department's sole and absolute discretion, and which shall be effective upon written notice to Permittee.
- 4.03 Solicitation. Permittee shall not allow its drivers, agents, or other employees to solicit business in any manner whatsoever on the Airport, including, but not limited to, solicitation of passengers or customers and solicitation of employees on the Airport for Automobile Transport Operation services. All services shall be provided on a pre-arranged basis only.
- 4.04 Business Operations. Permittee shall not conduct any Automobile Transport Operations or operate any Transport Vehicles, or conduct any other business on the Airport, except as expressly authorized by this Permit, without first entering into an agreement with County. Permittee shall not maintain an office on the Airport as a subtenant or subcontractor of any Airport tenant, unless otherwise approved by the Department.
- 4.05 Advertising. Permittee shall not solicit business on the Airport other than indirectly by advertising through the Airport's Advertising Concessionaire. Permittee may contract for, at its sole cost and expense, advertising space from the Airport's Advertising Concessionaire. Advertising fees and charges remitted to the Airport's Advertising Concessionaire shall be in addition to the Permit Fees payable hereunder.
- 4.06 Customer Identification. Upon request by an authorized representative of the Department, Permittee's drivers, agents or other employees shall provide said representative with the names of its pre-reserved customers and other information applicable to the reservation(s), including the vehicle description and its parking location.

- 4.07 Airport Decal. Upon issuance of this Permit, and upon annual renewal of this Permit as provided in Article 3 above, the Department may issue to Permittee one (1) windshield decal per Transport Vehicle intended to be used by Permittee on the Airport. Permittee shall affix one (1) decal to the windshield of each of its Transport Vehicles as demonstrable proof that Permittee is afforded the privileges of this Permit. Permittee shall pay a non-refundable decal issuance fee of Ten Dollars (\$10.00) to the Department for each decal issued. Permittee shall not operate any Transport Vehicle on the Airport without properly displaying the required decal and may be required to remove any Transport Vehicle that is not in compliance with the requirements of this Permit. The Department may limit the number of Transport Vehicles operating on the Airport.
- 4.08 Vehicle Identification. Permittee shall not use marks, logos or symbols similar to those used to identify the Airport on any Transport Vehicles. Permittee shall not use the name "Palm Beach International Airport" or "Palm Beach Airport" or any variation thereof that will likely cause confusion with the name of the Airport on any Transport Vehicles. All Transport Vehicle markings shall be professionally painted or affixed as a decal.
- 4.09 Vehicle Inspection. By accepting this Permit, Permittee hereby consents to the inspection of its Transport Vehicles operating under this Permit by County and its authorized representatives as to size, engine exhaust, radio communication, passenger access, registration, driver's license, license tag and Permit, and other matters pertaining to the efficient and safe operation of the vehicles at the Airport, including, but not limited to, the cargo or contents of vehicles being transported.
- 4.10 Gate Access Card. The Department may require each of Permittee's Transport Vehicles to possess a gate access card, issued by Department of Airports' Security Office, upon payment of activation fees and deposits established by the Department of Airports' Security Office. Permittee acknowledges and agrees that fees and charges payable hereunder may be modified from time to time by the Department of Airports' Security Office and Permittee shall be responsible for payment of such modified fees without formal amendment to this Permit.
- 4.11 Non-Exclusive Rights. The privileges granted under this Permit are non-exclusive, and the County reserves the right to grant similar privileges to other Permittees or users of Airport facilities. No greater privileges with respect to the use of the Airport or any part thereon are granted or intended to be granted to the Permittee by this Permit, other than the privileges expressly and specifically granted herein.
- 4.12 Access. For security reasons or as required by the TSA or the Palm Beach County Sheriff's Department, the Department may at any time deny Permittee access on the Airport, or direct Permittee's Transport Vehicles to take alternate routes on the Airport.

**ARTICLE 5**  
**PERMIT FEES**

- 5.01 Application Fee. Permittee shall pay a non-refundable application fee of Two Hundred Fifty Dollars (\$250.00) with submission of Permittee's application for this Permit. In the event this Permit expires or is otherwise terminated, Permittee shall be required to pay an additional application fee at the then current rate. Permittee acknowledges and agrees that the fees and charges payable hereunder may be modified from time to time and that Permittee shall be responsible for payment of such modified fees without formal amendment to this Permit.
- 5.02 Annual Permit Fee. Permittee shall pay County, for the Permit issued herein, a non-refundable annual permit fee, for the Initial Term and for each Renewal Term, in the amount of One Thousand Dollars (\$1,000.00) (the "Permit Fee"), together with applicable sales taxes thereon. The Permit Fee shall be payable in advance, without demand and without any deduction, holdback or set off whatsoever, on or before the Commencement Date, and on or before October 1 prior to each Renewal Term throughout the Term of this Permit. The Permit Fee shall be made payable to the Palm Beach County Board of County Commissioners and shall be mailed or hand delivered to the Palm Beach County Department of Airports, ATTN: Fiscal Department, 846 Palm Beach International Airport, West Palm Beach, Florida, 33406-1470. The Permit Fee shall be in addition to parking fees and charges incurred as the result of parking a customer's vehicle in the County's parking lots.
- 5.03 Activity Statement. Upon written request by Department, Permittee shall submit to Department, an activity statement certified by an authorized officer of Permittee, in a form and detail satisfactory to Department, which includes the quantity and revenue associated with the transport of vehicles to, or from the Airport during the reporting period specified in the Department's written notice.
- 5.04 Adjustment of Permit Fees. Permittee acknowledges and agrees that Department may modify the amount of Permit Fees, or establish new fees and charges during the Term of this Permit, upon thirty (30) days written notice by County to Permittee, without formal amendment to this Permit.
- 5.05 Permit Recoupment Fee. The fees levied in this Permit are fees imposed on Permittee and not on Permittee's customers. Accordingly, Permittee may not separately charge or collect from its customers, any amount that purports to be a fee, surcharge, tax or any other charge imposed on the customer by County or the Department. Permittee may elect to charge and collect separately a fee to recoup the amounts due County, so long as this fee is not labeled or referred to, nor held out as an "airport fee," "airport tax" or the like. Permittee shall be entitled to charge and collect a fee to recoup from its customers only in accordance with the requirements of this Section 5.05.

**ARTICLE 6**  
**INSURANCE**

Permittee shall, at its sole expense, maintain in full force and effect at all times during the Term of this Permit the insurance limits, coverages and endorsements as set forth in Exhibit "A" attached hereto and made a part hereof. The liabilities and obligations assumed by Permittee under this Permit shall not be in any manner limited or qualified by the requirements set forth in Exhibit "A" or County's review and acceptance of any policies of insurance.

**ARTICLE 7**  
**RELATIONSHIP OF THE PARTIES**

Permittee is and shall be deemed to be an independent contractor and operator and shall be solely responsible to all parties for its respective acts or omissions. County shall in no way be liable or responsible therefor.

**ARTICLE 8**  
**INDEMNIFICATION**

Permittee shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines or damages (including attorney fees at trial and appellate levels), and causes of action of every kind and character against, or in which County is named or joined, arising out of this Permit or Permittee's use of the Airport, including without limitation those arising because of any damage to property or the environment or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder, and any third or other party whomsoever, or any governmental agency, arising out of, incident to or in connection with Permittee's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of Permittee or any breach of the terms of this Permit. Provided, however, Permittee shall not be responsible to County for damages resulting out of damages to property or bodily injury (including death) that are judicially determined to be solely attributable to the negligence of County, its respective employees or agents. Permittee shall also hold harmless and indemnify County for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or because of Permittee's activities or operations or use of the Airport whether or not Permittee was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving the activities. This indemnification shall include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of or at the request of Permittee. Permittee recognizes the broad nature of this indemnification and hold-harmless provision, acknowledges that County would not enter into this Permit without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with laws of the State of Florida. The obligations arising under this Article 8 shall survive the expiration or termination of this Permit.

**ARTICLE 9**  
**ASSIGNMENT**

Permittee shall not in any manner assign, transfer or otherwise convey an interest in this Permit. Any such attempt shall be null and void.

**ARTICLE 10**  
**TERMINATION OF PERMIT, DEFAULT AND REMEDIES**

- 10.01 Termination. This Permit shall terminate as provided for in Article 3.
- 10.02 Default. The occurrence of any one or more of the following events shall constitute a violation of this Permit by Permittee:
- A. Permittee's failure to make payment of any fees or charges required to be made by Permittee under this Permit, as and when due.
  - B. The failure by Permittee to observe or perform any of the covenants, conditions or provisions of this Permit to be observed or performed by Permittee.
  - C. The discovery by the Department that any information given by Permittee to County relating to this Permit was materially false.
- 10.03 Remedies. In the event Permittee is in violation of this Permit, County, with the Department acting on behalf of County, may immediately terminate this Permit by giving Permittee written notice to this effect. Upon such termination, Permittee shall immediately cease its operations on the Airport. Such termination shall be without prejudice to any of County's remedies for arrearages, payments due herein, or any other damages or remedies whatsoever.
- 10.04 Termination for Convenience. Either party may terminate this Permit for convenience upon five (5) days prior written notice to the other party, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations accruing prior to the date of such termination and those obligations which expressly survive termination of this Permit.
- 10.05 County's Right to Terminate. This Permit is issued upon the terms and conditions required by County for all Permittees on the Airport that engage in the activities permitted herein. Upon ten (10) days' prior written notice, County may, at any time, terminate this Permit and at County's option issue a new Permit to Permittee upon such modified terms and conditions as County shall uniformly apply to all other similarly situated Permittees.



**ARTICLE 11**  
**LAWS, PERMITS AND LICENSES, AND SAFETY REGULATIONS**

- 11.01 Compliance with Law. Throughout the Term of this Permit, Permittee shall be and remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature without limitation, as now or hereafter amended, including, but not limited to, FAA Advisory Circulars and Airport Rules and Regulations (County Resolution No. R-98-220), as now or hereafter amended.
- 11.02 Permits and Licenses. Permittee shall at its sole cost and expense be strictly liable and responsible for obtaining, paying for, fully complying with, and maintaining current any and all permits, licenses or other governmental authorizations, however designated, as may be required at any time throughout the Term of this Permit by any Federal, State or local governmental entity or any court of law having jurisdiction over Permittee or Permittee's operations and activities, for any activity or operation conducted by Permittee on the Airport. Upon written request by the Department, Permittee shall provide to the Department certified copies of any and all permits and licenses that the Department may request.
- 11.03 Safety Regulations. Permittee shall conduct its activities and operations under this Permit in a safe manner and in compliance with all safety regulations of the Department and with safety standards imposed by applicable Federal, State and local laws and regulations. Permittee shall also require the observance thereof by all employees, agents and invitees. Permittee shall procure and maintain such fire prevention and extinguishing devices as required by County and by law and shall at all times be familiar and comply with the fire regulations and orders of County and the fire control agency with jurisdiction over the Airport. Neither Permittee, nor employee, agent, or any person working for or on behalf of Permittee, shall require any personnel engaged in the performance of Permittee's operations to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to individual safety or health, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations, and orders relative to occupational safety and health.
- 11.04 FAA and TSA Regulations. Permittee shall observe all security regulations and other requirements of any agency of the Federal government, including, but not limited to, the FAA and TSA, as such regulations or requirements have been or may be amended including, without limitation, Title 14, Part 139 and Title 49, Part 1500 of the Code of Federal Regulations. Permittee shall comply with such rules and regulations as may be reasonably prescribed by County and take such steps as may be necessary or directed by County to ensure that its employees observe these requirements. Permittee shall conduct background checks of its employees to the extent required by any Federal, State or local law or if, to the extent permitted by law, required by County. County shall have the right to order the removal or replacement of any employee of Permittee on the Airport that County has reasonably determined may present a risk to public safety or to the security of the Airport. If

as a result of the acts or omissions of Permittee, County incurs any fines and/or penalties imposed by the FAA or TSA; any expense in enforcing the regulations of the FAA or TSA or the rules or regulations of County; or any expense in enforcing the Airport Security Program, then Permittee agrees to pay to County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorneys fees and all costs incurred by County in enforcing this provision. Permittee further shall rectify any security deficiency or other deficiency as may be determined by County, the FAA or TSA. If Permittee fails to remedy any such deficiency, County may do so at the cost and expense of Permittee. Permittee acknowledges and agrees that County may take whatever action is necessary to rectify any security deficiency or any other deficiency identified by County, the FAA or TSA.

## **ARTICLE 12**

### **DISCLAIMER OF LIABILITY**

COUNTY HEREBY DISCLAIMS, AND PERMITTEE HEREBY RELEASES COUNTY, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY PERMITTEE, ITS EMPLOYEES, AGENTS, OR INVITEES DURING THE TERM OF THIS PERMIT INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE, OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF PERMITTEE OR PERMITTEE'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE AIRPORT, UNLESS SUCH LOSS, DAMAGE, OR INJURY IS JUDICIALLY DETERMINED TO HAVE BEEN CAUSED BY COUNTY'S SOLE NEGLIGENCE. THE PARTIES EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THE ASSIGNMENT OF THE AIRPORT TO PERMITTEE PURSUANT TO THIS PERMIT. PERMITTEE ACKNOWLEDGES AND AGREES THAT COUNTY SHALL HAVE NO LIABILITY WHATSOEVER AND PERMITTEE COVENANTS AND AGREES TO HOLD HARMLESS COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY RELATING TO THIS PERMIT. FURTHERMORE, PERMITTEE ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY SUCH INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS PERMIT, WAS AT ITS SOLE RISK.

## **ARTICLE 13**

### **NOTICES**

All notices and elections (collectively, "notices") to be given or delivered by or to any party hereunder, shall be in writing and shall be (as elected by the party giving such notice) hand delivered by messenger, courier service or overnight mail, telecopied or faxed (provided in each case a receipt is obtained), or alternatively shall be sent by United States Certified Mail, with Return Receipt Requested. The effective date of any notice shall be the date of delivery of the notice if by personal

delivery, courier services or overnight mail, or on the date of transmission with confirmed answer back if by telecopier or fax if transmitted before 5PM on a business day and on the next business day if transmitted after 5PM or on a non-business day, or if mailed, upon the date which the return receipt is signed or delivery is refused or the notice designated by the postal authorities as non-deliverable, as the case may be. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

(a) If to the County at:

Palm Beach County Department of Airports  
846 Palm Beach International Airport  
West Palm Beach, FL 33406-1470  
Attn: Deputy Director, Airports Business Affairs  
Fax: (561) 471-7427

(b) If to Permittee at:

Triple Express, Inc.  
d/b/a Connecticut Auto Transport, Inc.  
2307 SW Poma Drive  
Palm City, FL 34990  
Fax: 772-287-4798

Either party may change the address to which notices under this Permit shall be given, upon three (3) days' prior written notice to the other party. Permittee shall maintain a current address, telephone number, and name of a contact person with the Department.

#### **ARTICLE 14** **NON-DISCRIMINATION**

Permittee hereby agrees and covenants: (a) that no person on the grounds of race, creed, color, national origin, sex, gender identity or expression, age, or handicap shall be excluded from participation in or denied the use of Permittee's services, (b) that in the furnishing of services, no person on the grounds of race, creed, color, national origin, sex, sex, gender identity or expression, age, or handicap shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (c) that Permittee shall use the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulation, Department of Transportation, Subtitle A, Office of Secretary, Part 21, Non-Discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations have been or may be amended. In the event of the breach of any of the foregoing non-discrimination covenants, County shall have the right to terminate this Permit. This cancellation provision shall not be effective until the procedures of Title 49, Code of Federal Regulation, Part 21, are followed and completed including exercise or expiration of appeal rights.

**ARTICLE 15**  
**MISCELLANEOUS**

- 15.01 County Not Liable. County shall not be responsible or liable to Permittee for any claims for compensation or any losses, damages or injury sustained by Permittee resulting from: (a) cessation for any reason of air carrier operations on the Airport, or (b) diversion of passenger traffic to any other facility. County shall not be responsible or liable to Permittee for any claims for compensation or any losses, damages or injury whatsoever sustained by Permittee including, but not limited to, those resulting from an act of God, state of war, terrorism, civilian commotion or riot or any cause beyond the control of County.
- 15.02 Authorized Uses Only. Notwithstanding anything to the contrary herein, Permittee shall not use or permit the use of the Airport for any illegal or improper purpose or for any purpose that would invalidate any insurance policies mentioned herein, existing now or hereafter. Permittee shall not use or permit the use of the Airport in any manner that would interfere with or adversely affect the operation or maintenance of the Airport, or would otherwise constitute a hazard.
- 15.03 Waivers. County's failure to insist on a strict performance of any of the agreements, terms, covenants and conditions herein shall not be deemed a waiver of any rights or remedies that County may have for any subsequent breach, default, or non-performance. County's right to insist on strict performance of this Permit shall not be affected by any previous waiver or course of dealing.
- 15.04 Subordination to Bond Resolution. This Permit and all rights granted to Permittee herein are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution. County and Permittee agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives shall exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by County and Permittee with the terms and provisions of this Permit and Bond Resolution.
- 15.05 Subordination to State/Federal Agreements. This Permit shall be subject and subordinate to all the terms and conditions of any instrument and documents under which the County acquired the Airport or improvements thereon, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Permittee understands and agrees that this Permit shall be subordinate to the provisions of any existing or future agreement between County and the United States of America, the State of Florida or any of their respective agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.
- 15.06 County's Governmental Authority. Nothing in this Permit shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Permittee or its operations.

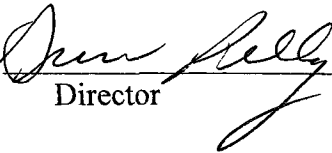
- 15.07 Consent or Action. In the event this Permit is silent as to the standard for any consent, approval, determination, or similar discretionary action, the standard shall be at the sole, absolute and unfettered discretion of the County or the Department, rather than any implied standard of good faith, fairness or reasonableness. Wherever this Permit requires the County or Department's consent or approval or permits the County or the Department to act, such consent, approval or action may be given or performed by the Airport Director. If Permittee requests the County or Department's consent or approval pursuant to any provision of this Permit and County or the Department fails or refuses to give such consent, Permittee shall not be entitled to any damages as a result of such failure or refusal, whether or not unreasonable.
- 15.08 County's Right to Develop. County reserves the right to develop or improve the Airport and any and all part thereof as it sees fit, regardless of the desires or views of Permittee and without interference or hindrance.
- 15.09 Rights Reserved to County. All rights not specifically granted Permittee by this Permit are reserved to County.
- 15.10 Invalidity of Clauses. The invalidity of any portion, article, paragraph, provision, clause, or any portion thereof of this Permit shall have no affect upon the validity of any other part or portion hereof.
- 15.11 Venue. To the extent allowed by law, the venue for any action arising from this Permit shall be in Palm Beach County, Florida.
- 15.12 Governing Law. This Permit shall be governed by and in accordance with the laws of the State of Florida.
- 15.13 Remedies Cumulative. The rights and remedies of the parties with respect to any of the terms and conditions of this Permit shall be cumulative and not exclusive, and shall be in addition to all other rights and remedies of the parties.
- 15.14 Paragraph Headings. The headings of the various articles and sections of this Permit are for convenience and ease of reference only, and shall not be construed to define, limit, augment or describe the scope, context or intent of this Permit or any part(s) of this Permit.
- 15.15 Performance. The parties expressly agree that time is of the essence in this Permit and the failure by Permittee to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of County without liability, in addition to any other rights or remedies, relieve County of any obligation to accept such performance.

- 15.16 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes, by entering into this Permit or performing any work in furtherance hereof, Permittee certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date. This notice is required by Section 287.133(3)(a), Florida Statutes.
- 15.17 Entirety of Permit. The parties agree that this Permit sets forth the entire understanding between the parties and that there are no other promises or understandings apart from those stated herein. None of the provisions, terms and conditions contained in this Permit may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.
- 15.18 Survival. Upon termination or expiration of this Permit, Permittee shall remain liable for all obligations and liabilities that have accrued prior to the date of termination or expiration. Notwithstanding any provision of this Permit to the contrary, no obligation that accrued but has not been satisfied under any prior agreement between the parties, shall terminate or be considered cancelled upon execution of this Permit. Rather, such obligation shall continue as if it had accrued under this Permit until the obligation is satisfied.

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IN WITNESS WHEREOF, the parties hereto have duly executed this Permit as of the day and year first above written.

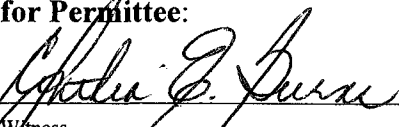
PALM BEACH COUNTY,  
a political subdivision of the State of Florida,  
by its Department of Airports

By:   
Director

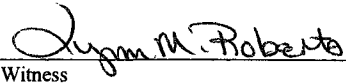
APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Anne Delgent  
Assistant County Attorney

Signed, sealed and delivered in  
the presence of two witnesses  
for Permittee:

  
Witness  
CYNTHIA B. BUCKERS


Typed or printed name

  
Witness

LYNN M. ROBERTS  
Typed or printed name

PERMITTEE

Triple Express, Inc., a Delaware corporation  
d/b/a Connecticut Auto Transport, Inc.

By:   
Peter R. Naylor, President  
Typed or printed name

(Seal)

**EXHIBIT "A"**  
**INSURANCE REQUIREMENTS**

- A. Commercial General Liability Insurance. Permittee shall maintain in full force and effect throughout the Term of this Permit Commercial General Liability Insurance at a limit of liability of not less than One Million and 00/100 Dollars (\$1,000,000) each occurrence. Coverage shall not contain any endorsement(s) excluding or limiting Premises/Operations, Damage to Rented Property, Personal Injury, Product/Completed Operations, Contractual Liability, Severability of Interests or Cross Liability. Coverage shall be provided on a primary basis.
- B. Business Automobile Insurance. Permittee shall maintain in full force and effect throughout the Term of this Permit automobile liability insurance covering all owned, hired, and non-owned vehicles, with a combined single limit per occurrence for bodily injury (including death) and property damage liability of not less than One Million and 00/100 Dollars (\$1,000,000).
- C. Worker's Compensation and Employer's Liability Insurance. Permittee shall maintain worker's compensation and employer's liability insurance in accordance with applicable law. This coverage shall be provided on a primary basis.
- D. Additional Insured Endorsement. Permittee shall endorse County as an additional insured on the Permittee's general liability and automobile liability insurance policies. The additional insured endorsement shall provide coverage on a primary basis and shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406."
- E. Certificate of Insurance. Permittee shall submit to County a certificate of insurance evidencing limits, coverages and endorsements required herein. The certificate of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. If Permittee's insurance coverage ceases during the Term of this Permit, Permittee shall submit a new certificate of insurance evidencing replacement coverage thirty (30) days prior to the expiration of such insurance.
- F. Waiver of Subrogation. Permittee hereby waives its right of subrogation for each of the insurance policies required by this Exhibit "A" during the Term of this Permit. When mandated by the insurer or should an insurance policy condition not allow a pre-loss agreement to waive subrogation without an endorsement, Permittee shall notify its insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. Notwithstanding the foregoing, this waiver of subrogation requirement shall not apply to any policy that includes a condition prohibiting such an endorsement or that voids coverage should Permittee enter into such an agreement on a pre-loss basis.



- G. Deductibles, Coinsurance and Self-Insured Retention. Permittee shall be fully and solely responsible for any deductible, coinsurance penalty or self-insured retention, including any losses, damages or expenses not covered due to an exhaustion of limits or failure to comply with an insurance policy.
- H. Rights of Review and Rejection. Palm Beach County's Risk Management Department ("Risk Management") may review, modify, reject or accept any required insurance policies, including, but not limited to, limits, coverages and endorsements required by this Exhibit "A". Risk Management may also reject any insurer or self-insurance plan providing coverage or intending to do so because of poor financial condition or failure to operate legally. In such event, County shall provide Permittee a written notice of rejection, and Permittee shall acknowledge said rejection within thirty (30) days of receipt of the notice.
- I. No Representation of Coverage Adequacy. Permittee acknowledges that the limits, coverages and endorsements stated in and required by this Exhibit "A" are intended to minimize liability for County. Permittee shall not rely upon the insurance requirements set forth in this Exhibit "A" when determining the appropriate types, extent or limits of insurance coverage to protect Permittee against loss.

**GENERAL AERONAUTICAL SERVICES AGREEMENT**

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**Department of Airports**

**Palm Beach International Airport**

**Palm Beach County, Florida**

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**Rivera Aircraft Detailing, LLC**

## **GENERAL AERONAUTICAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into DEC 03 2009 by and between PALM BEACH COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "COUNTY"), and Rivera Aircraft Detailing, LLC, having its office and principal place of business at 4616 Toga Way, Greenacres, FL 33463, (hereinafter referred to as "SERVICE PROVIDER").

### **WITNESSETH:**

WHEREAS, COUNTY, by and through its Department of Airports (hereinafter referred to as the "Department"), owns and operates Palm Beach International Airport, located in Palm Beach County, Florida (hereinafter referred to as the "Airport"); and

WHEREAS, SERVICE PROVIDER has entered into various service agreements with certain air carriers operating at the Airport; and

WHEREAS, SERVICE PROVIDER desires to provide certain general aeronautical support services to the air carriers operating at the Airport or other Airport tenants, on a non-exclusive basis, in common with others authorized to do so.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants herein contained, and for such other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and condition.

### **ARTICLE I** **TERM OF AGREEMENT**

The term of this Agreement shall commence on the 1st day of December, 2009, (the "Commencement Date") and expire on the 30th day of September, 2010, (the "Initial Term"). This Agreement shall be automatically renewed on a year-to-year basis (October 1st through September 30th) thereafter upon the expiration of the then current term (the "Renewal Term"); provided that: (i) SERVICE PROVIDER has paid all fees and charges pursuant to this Agreement; (ii) this Agreement has not been terminated by either party; (iii) SERVICE PROVIDER is not in default of this Agreement ; and (iv) neither party has provided a notice to the other party, with the Department acting on behalf of COUNTY, by at least ninety (90) days advance written notice, of its desire or intent to terminate or not renew this Agreement.. (The Initial Term and each Renewal Term are collectively referred to herein as the "Term").

### **ARTICLE II** **PRIVILEGES AND AUTHORIZED SERVICES**

2.01 Description of General Privileges, Uses and Rights. COUNTY hereby grants to SERVICE PROVIDER, the following non-exclusive general privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants hereinafter set forth herein:

- A. The general use, in common with others, of all public Airport facilities and improvements which are now or may hereafter be connected with or appurtenant to said Airport, (including airfield access) to be used by SERVICE PROVIDER in connection with its

operations hereunder. For the purpose of this Agreement "public Airport facilities" shall include all necessary roadways, sidewalks, or other public facilities appurtenant to said Airport, not specifically leased to or under the contractual control of others.

- B. The right of ingress to and egress from the Airport premises over and across public roadways serving the Airport for SERVICE PROVIDER, its agents and employees, patrons and invitees, suppliers of service and furnishers of material, if any. Said right shall be subject to such laws, rules, regulations and orders as now or may hereafter have application at the Airport.

Nothing contained in this Section 2.01 shall be construed to grant to SERVICE PROVIDER the right to use any space or area improved or unimproved which is leased to a third party.

2.02 Authorized Aeronautical Services. COUNTY hereby authorizes SERVICE PROVIDER to provide, on a non-exclusive basis, under written contract with commercial airlines or Airport tenants serving the Airport and having validly executed agreements with COUNTY, the following aeronautical support services:

- A. Aircraft Ramp Service
- B. Aircraft and Equipment Maintenance Service
- C. Aircraft Interior Cleaning and Waste Disposal Service
- D. Porter Assistance Service
- E. Baggage Delivery Service
- F. Airline Ticketing and Boarding Service

2.03 Definitions of Services. For purposes of this Agreement, items (A) through (F) listed in Section 2.02 above, shall be defined as follows:

- A. Aircraft Ramp Service:

Guiding aircraft in and out of Airport non-exclusive of common-use aircraft loading and unloading positions, designated by the Department; placing in position and operating passenger, baggage and cargo loading and unloading devices, as required for the safe and efficient loading and unloading of passengers, baggage and cargo to and from aircraft; performing such loading and unloading; providing utility services to aircraft; towing aircraft; delivering aircraft cargo, baggage and mail to and from aircraft to locations on the Airport; fueling of aircraft.

- B. Aircraft and Equipment Maintenance Service:

Repair and maintenance of aircraft; repair, fueling and maintenance of ramp equipment. Such maintenance service shall be limited to areas approved in advance in writing by the Department.

- C. Aircraft Interior Cleaning and Waste Disposal Service:

Providing personnel, equipment and material to clean the interior of Aircraft as specified by contractual agreement with scheduled air carriers.

- D. Porter Assistance Service:

Handling and transportation, through the use of porters, of baggage and other articles of the passengers of contracting air carriers or aircraft operators, upon request of the passenger, in public access areas of the Main Terminal Building (Building 1000) and the Port of Entry Building (Building 120), as designated and approved by the Department.

Notwithstanding the foregoing, upon substantial completion of the new Federal Inspection Services (FIS) Facility within the Main Terminal Building, the Authorized Aeronautical Service provided for herein shall be limited to public access areas of the Main Terminal Building (Building 1000) as provided for herein.

E. Baggage Delivery Service:

Handling and transportation between the Airport and the Airline passenger's location of delayed, misplaced, or misrouted baggage or other articles of the passengers of contracting air carriers or aircraft operators.

F. Airline Ticketing and Boarding Service:

The non-exclusive use of ticket counter position(s), baggage make-up areas, baggage claim areas and devices, passenger hold rooms and gate areas, including furnishings and fixtures, passenger loading bridges and all appurtenant equipment typically utilized by commercial air carriers in the processing of passengers, all on a per use basis, for the sole purpose of ticketing, checking-in, boarding and unboarding of air passengers and their baggage.

### **ARTICLE III** **PAYMENTS AND REPORTS**

3.01 Service Fee and Facility Usage Charges. For the rights and privileges defined in Section 2.03 (A) through (E) herein, SERVICE PROVIDER shall pay to COUNTY a Service Fee of seven percent (7%) of all Gross Revenues as defined herein, derived from the provision of services permitted herein, excluding sales taxes or similar excise taxes paid by SERVICE PROVIDER. For purposes of this Agreement, Gross Revenues shall be defined as all revenues paid or payable to SERVICE PROVIDER for the provision of those certain authorized Aeronautical Services listed in Section 2.03 (A) through (E) above. Further, Gross Revenues shall not include any revenues derived from providing said services to those certain commercial air carriers which are signatory to the appropriate Agreement with COUNTY, a list of such air carriers as shall be provided to SERVICE PROVIDER by the Department from time to time.

For those certain services as defined in Section 2.03 (F) above, SERVICE PROVIDER shall pay to COUNTY reasonable and non-discriminatory fees and facility usage charges as specifically defined in the then current Exhibit "E" to the Airline/Airport Use and Lease Agreement, between COUNTY and those certain air carriers operating at the Airport under the terms and conditions of said Agreement, a copy of said Exhibit "E" incorporated herein by reference and made a part hereof.

3.02 Reports. Within fifteen (15) days after the close of each calendar month throughout the Term, SERVICE PROVIDER shall submit to the Department, in a form and in detail satisfactory to Department, a detailed statement of Gross Revenues derived from services described in Section 2.03 (A) through (E) above, including the services rendered, fees charged, and the Service Fees applicable thereto for the preceding calendar month. For services provided pursuant to Section 2.03 (F) above, SERVICE PROVIDER shall submit to the Department, in a form and detail as prescribed by the Department, a statement of facility usage in connection with services provided. Said facility usage statement, and statement of Gross Revenues shall be accompanied by payment of the amount of Service Fees and facility usage charges reflected

therein. Said statements shall be signed by a responsible accounting officer of SERVICE PROVIDER, who shall certify the accuracy of said Gross Revenues and facility usage.

3.03 Unpaid Service Fees. In the event SERVICE PROVIDER fails to make timely payment of any Service Fees due and payable in accordance with the terms of this Agreement, then interest at the rate of one and one half percent (1.5%) per month shall accrue against the delinquent payment(s) from date due until the date payment is received by Department. Notwithstanding the foregoing, COUNTY shall not be prevented from terminating this Agreement for default in the payment of Service Fees or from enforcing any other provisions of this Agreement.

3.04 Audit Requirement. At the close of each of SERVICE PROVIDER's fiscal years during the Term, SERVICE PROVIDER shall cause an audit to be completed of its accounting transactions relating to its operations under this Agreement for such fiscal year by an independent Certified Public Accountant, not a regular employee of SERVICE PROVIDER, acceptable to COUNTY. A report of each said audit shall be delivered to COUNTY within ninety (90) calendar days of the close of such fiscal year, unless an extension of such time period is approved by the Department, in advance, in writing. The first such audit report shall commence as of the Commencement Date and the last said audit report shall cover through SERVICE PROVIDER's last day of operation pursuant to this Agreement. Any adjustment due will be determined by the parties, and payment remitted to the party to whom it is due within thirty (30) calendar days from receipt and acceptance of said audit report by Department. Delivery of an audit report containing a qualified opinion, an adverse opinion, or a disclaimer of opinion as defined in the Statements on Auditing Standards, or as same may from time to time be amended or superseded, issued by the Auditing Standards Board of the American Institute of Certified Public Accountants, or any successor Board or Agency thereto, shall be deemed to be a material breach of this Agreement.

3.05 Fee Payment and Reporting Address. SERVICE PROVIDER shall submit all reports and pay all Service Fees required by this Article III by mail or in person to:

Palm Beach County Department of Airports  
Accounting Section  
Building 846  
Palm Beach International Airport  
West Palm Beach, Florida 33406-1491

3.06 Accounting Records. SERVICE PROVIDER shall maintain during the Term all books of account and records customarily used in this type of operation, in accordance with Generally Accepted Accounting Practices (GAAP). COUNTY, at all times, throughout the Term and for up to three (3) years following termination, shall have the right to audit and examine during normal working hours all such records and books of account relating to SERVICE PROVIDER's operations hereunder, provided that SERVICE PROVIDER shall not be required to retain such books of account and records for more than three (3) years after the end of each year of this Agreement. Upon COUNTY's request for examination of such books of account and records and should said books of account and records be kept at locations other than the Airport, SERVICE PROVIDER shall arrange for them to be brought to a location convenient to the auditors for COUNTY in order for COUNTY to conduct the audits and inspections as set forth in this Article III. If, as a result of said audit, COUNTY determines that SERVICE

PROVIDER has understated the monthly Service Fees due to COUNTY by five percent (5%) or more, the entire expense to COUNTY of said audit shall be assumed by and be the sole responsibility of SERVICE PROVIDER. All additional Service Fees due COUNTY and reasonable expenses associated with said audit (if any) shall forthwith be paid by SERVICE PROVIDER to COUNTY, with interest thereon calculated in accordance with Section 3.03 hereof.

3.07 Contracts With Airlines. Prior to exercising its rights and privileges hereunder, SERVICE PROVIDER shall provide to Department copies of any and all contracts entered into with commercial airlines serving the Airport, including any modifications and cancellations of same.

#### **ARTICLE IV** **OBLIGATIONS OF COUNTY**

4.01 Maintenance Responsibility. Except facilities, as may be leased to SERVICE PROVIDER or leased to others by COUNTY, COUNTY shall maintain all public Airport facilities, as defined in Section 2.01 A hereof, in good and adequate condition for their intended use to the extent required by law.

#### **ARTICLE V** **OBLIGATIONS OF SERVICE PROVIDER**

5.01 Operational Requirements. SERVICE PROVIDER shall at all times comply with the following requirements:

- A. A copy of this Agreement shall become a part of all service contracts entered into at the Airport by SERVICE PROVIDER, and shall be attached thereto by SERVICE PROVIDER so that the other contracting parties are aware of the rights, duties and responsibilities of SERVICE PROVIDER.
- B. SERVICE PROVIDER shall at its sole cost and expense maintain all facilities owned or provided by COUNTY at the Airport for use by SERVICE PROVIDER in carrying out the services permitted under this Agreement, in a safe and presentable condition consistent with good business practice and in accordance with all applicable laws, regulations and rules of any government agency. SERVICE PROVIDER shall repair all damages to said Airport premises caused by its employees, patrons, invitees, suppliers of service or furnishers of material, or any other persons whomsoever, and all damages caused by or resulting from or in any way arising out of SERVICE PROVIDER's operations thereon. SERVICE PROVIDER hereby agrees that it shall abide by the decision of the Department with respect to any and all maintenance requirements. Department shall be the sole judge of SERVICE PROVIDER's performance under this Section 5.01, as to the quality of maintenance. Upon written notice by the Department to SERVICE PROVIDER, SERVICE PROVIDER shall perform the required maintenance in accordance with the Department's decision. If SERVICE PROVIDER has not made a good faith effort, as determined by the Department, to begin to perform said maintenance within ten (10) days written notice, and to diligently pursue the same to completion, Department shall have the right to perform the necessary maintenance, and SERVICE PROVIDER hereby expressly agrees that it shall fully assume and be liable to Department for payment of the costs therefor. Such maintenance costs shall be due and payable within thirty (30) days from date of Department's billing therefor.
- C. SERVICE PROVIDER shall not provide the Porter Assistance Service authorized hereunder within the U.S. Customs facilities located at the Port of Entry Building without the specific prior written approval of the Department.

5.02 Service Standards. SERVICE PROVIDER shall only provide aeronautical services as specifically granted to SERVICE PROVIDER hereunder which are of a first class manner, consistent with good business practice and at least equal to those provided at comparable commercial airports, and shall at all times observe and comply with the following standards:

- A. SERVICE PROVIDER shall hire and assign a full-time manager or managers, qualified and experienced in the management and control of the services authorized to be performed herein. Said manager(s) shall be delegated sufficient authority to ensure proper performance of the terms and conditions contained herein. SERVICE PROVIDER shall also provide at least two twenty-four (24) hour telephone numbers to enable the Department to contact said manager or supervisory personnel whenever necessary. SERVICE PROVIDER shall be responsible to inform the Department of any change in name and/or number.
- B. SERVICE PROVIDER shall properly control its employees. Said employees shall present a clean and neat appearance at all times, discharge their duties in a courteous and efficient manner, be suitably uniformed, and wear appropriate identification.
- C. SERVICE PROVIDER's employees shall at all times be under the control and supervision of SERVICE PROVIDER, including during slack periods, between job assignments, and during break periods and lunch. Employee breaks shall be taken only in locations approved or designated by the Department in advance in writing.
- D. SERVICE PROVIDER's employees shall not solicit or request tips or gratuities, directly or indirectly. SERVICE PROVIDER's employees shall dispose of found property in accordance with approved procedures. The Department reserves the right to withdraw its security pass from any employee of SERVICE PROVIDER who fails to follow guidelines in this Agreement.
- E. SERVICE PROVIDER shall obtain and provide to all personnel with authorized access to the airfield operations area and other restricted areas as designated by the Department from time to time, identification badging as required to comply with the security program established by the Department as mandated by Part 107 of the Federal Aviation Regulations and shall furnish the Department with the names and additional pertinent data of such persons. SERVICE PROVIDER shall furnish the Department with a list of all employee changes on or before the first day of each and every calendar month.
- F. SERVICE PROVIDER shall properly train all its employees in safe driving procedures in accordance with Department's policy before they are allowed to work on the Airport operating area.
- G. SERVICE PROVIDER shall not disturb any Airport tenant(s) or user(s).
- H. SERVICE PROVIDER shall furnish good, prompt and efficient service adequate to meet all the demands for its service at the Airport, and furnish said service on a fair, equal, and non discriminatory basis to all users thereof. SERVICE PROVIDER shall charge fair, reasonable, and nondiscriminatory prices for each unit of service.

## **ARTICLE VI** **INSURANCE**

SERVICE PROVIDER agrees to maintain, on a primary basis and at its sole expense, at all times during the Term, the insurance coverages and limits set forth in Exhibit "A" (the "Insurance Requirements"), attached hereto and incorporated herein.



**ARTICLE VII**  
**RELATIONSHIP OF THE PARTIES**

SERVICE PROVIDER is and shall be deemed to be an independent contractor and operator, responsible to all parties for its respective acts or omissions, and COUNTY shall in no way be responsible therefor.

**ARTICLE VIII**  
**INDEMNIFICATION**

SERVICE PROVIDER agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney fees at trial and appellate levels)) and causes of action of every kind and character against or from COUNTY by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder, any agent or employee of any party hereto or of any party acquiring an interest hereunder, and any third or other party whomsoever, or any governmental agency, arising out of or incident to or in connection with SERVICE PROVIDER's performance under this Agreement, the condition of the Airport premises, SERVICE PROVIDER's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of SERVICE PROVIDER or any breach of the terms of this Agreement; provided however SERVICE PROVIDER shall not be responsible to COUNTY for damages resulting out of bodily injury or damages to property which SERVICE PROVIDER judicially determined to be solely attributable to the sole negligence of COUNTY, its respective agents, servants, employees and officers. SERVICE PROVIDER further agrees to hold harmless and indemnify COUNTY for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or due to SERVICE PROVIDER's activities or operations on the Airport, whether or not SERVICE PROVIDER was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving said activities. Said indemnification shall be extended to include all deliverers, suppliers, furnishers of material, or anyone acting for or on behalf of, or at the request of SERVICE PROVIDER. SERVICE PROVIDER recognizes the broad nature of this indemnification and hold harmless clause, and voluntarily makes this covenant and expressly acknowledges the receipt of ten dollars (\$10.00) and such other good and valuable consideration provided by COUNTY in support of this indemnification in accordance with laws of the State of Florida. This clause shall survive the termination of this Agreement.

**ARTICLE IX**  
**TERMINATION OF AGREEMENT, CANCELLATION,**  
**ASSIGNMENT AND TRANSFER**

9.01 Termination. This Agreement shall automatically terminate and expire at the end of the Term, as set forth in Article I hereof.

9.02 COUNTY's Right of Cancellation.

A. COUNTY may, to the extent allowed by law, cancel this Agreement by giving SERVICE PROVIDER thirty (30) days advance written notice, to be served as hereinafter provided, upon the happening of any one of the following events:

1. The filing by SERVICE PROVIDER of a voluntary petition for bankruptcy.
2. The institution of proceedings in bankruptcy against SERVICE PROVIDER and adjudication of SERVICE PROVIDER as a bankrupt pursuant to said proceeding.
3. The taking by a Court of jurisdiction of SERVICE PROVIDER and its assets pursuant to proceedings brought under the provision of any federal reorganizational act and said proceeding is not dismissed, discontinued or vacated within thirty (30) days.
4. The appointment of a receiver of SERVICE PROVIDER's assets and the receivership shall not be set aside within thirty (30) days after such appointment.
5. The divestiture of SERVICE PROVIDER's estate herein by operation of law.
6. The abandonment by SERVICE PROVIDER of its business operations thereon.
7. The conduct of any business or performance of any acts not specifically authorized herein and said business or acts do not cease within thirty (30) days of receipt of written notice by COUNTY to cease said business or acts.
8. The failure by SERVICE PROVIDER to observe or perform any of the covenants, conditions or provisions of this Agreement to be observed or performed by SERVICE PROVIDER, where such failure continues for a period of fifteen (15) days after written notice thereof from COUNTY to SERVICE PROVIDER. Nothing contained in this paragraph shall be deemed to alter or affect the cure period for performance of any covenant, condition or provision for which a specific time period is provided in this Agreement. Notwithstanding any provision of this Agreement, SERVICE PROVIDER acknowledges and agrees that the Department may require SERVICE PROVIDER to immediately cease any activity, which could result in an airport hazard or endanger safety of any other Airport user, as reasonably determined by the Department. Default in the performance of any of the covenants and conditions required herein (except Insurance requirements as hereinbefore set forth; and payment of fees as hereinafter set forth) to be kept and performed by SERVICE PROVIDER and said default is not cured within thirty (30) days of receipt of written notice by COUNTY to do so, or if by reason of the nature of such default, the same cannot be remedied within thirty (30) days following receipt by SERVICE PROVIDER of written demand from COUNTY to do so, SERVICE PROVIDER fails to commence the remedying of such default within said thirty (30) days following such written notice, or having so commenced, shall fail thereafter to continue with diligence the curing thereof (with SERVICE PROVIDER having the burden of proof to demonstrate (a) that the default cannot be cured within thirty (30) days, and (b) that it is proceeding with diligence to cure said default, and that such default will be cured within a reasonable period of time).
9. A default by SERVICE PROVIDER, as a party to any agreement between COUNTY and SERVICE PROVIDER.

B. In any of the aforesaid events, cancellation shall be effective upon the date specified in COUNTY's written notice to SERVICE PROVIDER, and, upon said date, SERVICE PROVIDER shall be deemed to have no further rights hereunder.

9.03 Cancellation for Default in Payment of Fees. If SERVICE PROVIDER fails to pay the whole or any part of the fees and charges due hereunder for a period of fifteen (15) consecutive calendar days after such payments become due, and continues to fail to pay said amounts in full within ten (10) consecutive calendar days from date of written notice of demand to SERVICE PROVIDER from COUNTY, COUNTY may, at its option, immediately cancel this Agreement, by written notice thereof, and said Agreement shall automatically be terminated as of the date of said written notice.

9.04 Cancellation by SERVICE PROVIDER. SERVICE PROVIDER may cancel this Agreement, if SERVICE PROVIDER is not in default of this Agreement (including, but not limited to, its payment to COUNTY hereunder) by giving COUNTY sixty (60) days advance written notice to be served as hereinafter provided, upon or after the happening of any one of the following events:

- A. Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport for airport purposes, and the remaining in force of such injunction for a period of at least ninety (90) days.
- B. The default by COUNTY in the performance of any covenant or agreement herein required to be performed by COUNTY and the failure of COUNTY to remedy such default for a period of ninety (90) days after receipt from SERVICE PROVIDER of written notice to remedy same; provided, however, that no notice of cancellation, as provided herein, shall be of any force or effect if COUNTY shall have remedied the default prior to receipt of SERVICE PROVIDER's notice of cancellation.
- C. The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict SERVICE PROVIDER, for a period of at least ninety (90) days, from operating thereon.

9.05 Assignment, Transfer and Subcontracting. SERVICE PROVIDER shall not, in any manner, assign, transfer, mortgage, pledge, encumber or otherwise convey an interest in this Agreement, nor contract the services permitted herein or any part thereof, without the prior written consent of COUNTY in the form of a resolution adopted by the Board of County Commissioners. Such consent can be withheld for any reason or for no reason at all. Any such attempted assignment, transfer or sub-contract without COUNTY approval shall be null and void. In the event COUNTY consents in writing as aforesaid, SERVICE PROVIDER shall have the right to the extent permitted by COUNTY's consent to subcontract or assign all or any portion of the permitted services, provided that any such subcontract or assignment shall be limited to only the same purposes as are permitted under this Agreement. Any such subcontract or assignment shall be subject to the same conditions, obligations and terms as set forth herein and SERVICE PROVIDER shall be fully responsible for the observance by its subcontractors of the terms and covenants contained in this Agreement. Notwithstanding anything herein to the contrary, in the event of an approved subcontract, SERVICE PROVIDER shall remain primarily

liable to COUNTY for fulfilling all obligations, terms and conditions of this Agreement, throughout its entire term.

## **ARTICLE X** **SIGNS**

No signs, posters, or similar devices shall be erected, displayed, or maintained by SERVICE PROVIDER in the view of the general public in, on or about the Airport premises without the prior written approval of Department. Any such signs not approved shall be immediately removed at the sole cost and expense of SERVICE PROVIDER, upon written notification thereof by Department.

## **ARTICLE XI** **LAWS, REGULATIONS, PERMITS AND TAXES**

### 11.01 General.

A. SERVICE PROVIDER expressly covenants, warrants, guarantees and agrees that throughout the Term, SERVICE PROVIDER shall at all times be and shall remain in full and complete compliance with all applicable statutes, regulations, rules, rulings, orders, ordinances and/or directives of any kind or nature without limitation, as same may be amended, of any and/or all Federal, State, Municipal and/or local governmental bodies now or hereafter having jurisdiction over SERVICE PROVIDER, SERVICE PROVIDER's operations conducted under this Agreement on the Airport premises and/or over those persons and entities performing any work or services on behalf of SERVICE PROVIDER or at SERVICE PROVIDER's actual or constructive request. SERVICE PROVIDER further covenants, warrants, guarantees and agrees that it shall comply with all ordinances of COUNTY, including but not limited to the "Rules and Regulations of the Department of Airports," (Ordinance No. 70-1 as amended, and as may be amended), of Palm Beach County, Florida, all operational orders issued thereunder, and any and all other laws, ordinances, regulations, rules and orders of any governmental entity which may be applicable to SERVICE PROVIDER or in any way to SERVICE PROVIDER's business operations under this Agreement as said laws, ordinances, regulations, rules and orders now exist, or are hereafter amended, promulgated or otherwise imposed on SERVICE PROVIDER by law.

B. SERVICE PROVIDER expressly covenants, warrants and agrees that it shall require its appropriate managers, supervisors and employees to attend such training and instructional programs as the Department may, from time to time require, in connection with policies and procedures related to certification of the Airport under Part 139 of the Federal Aviation Regulations or the Rules and Regulations of the Department.

11.02 Permits and Licenses General. SERVICE PROVIDER expressly covenants, warrants and agrees that it shall, at its sole cost and expense, be strictly liable and responsible for obtaining, paying for, and maintaining current, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required at any time throughout the entire Term by any Federal, State, or local governmental entity or any Court of Law having jurisdiction over SERVICE PROVIDER or SERVICE PROVIDER's operations and activities, for any activity of SERVICE PROVIDER conducted on the Airport and for any and all operations conducted by SERVICE PROVIDER including

ensuring that all legal requirements, permits and licenses necessary for or resulting, directly or indirectly, from SERVICE PROVIDER's operations and activities on the Airport have been obtained and are in full legal compliance. Upon the written request of the Department, SERVICE PROVIDER shall provide to the Department certified copies of any and all permits and licenses which the Department may request.

11.03 Air and Safety Regulations. SERVICE PROVIDER covenants, warrants, guarantees and agrees that it shall conduct its operations and activities under this Agreement in a safe manner, shall comply with all safety regulations of the Department and with safety standards imposed by applicable Federal, State and local laws and regulations and shall require the observance thereof by all employees, contractors, business invitees and all other persons transacting business with or for SERVICE PROVIDER resulting from, or in any way related to, the conduct of SERVICE PROVIDER's business on the Airport. SERVICE PROVIDER shall procure and maintain such fire prevention and extinguishing devices as required by COUNTY and shall at all times be familiar and comply with the fire regulations and orders of COUNTY and the fire control agency with jurisdiction at the Airport, as same may now exist or hereafter come into being. SERVICE PROVIDER understands that any equipment, vehicles, tanks or improvements now existing or hereinafter placed upon the Airport may not have been cleaned or may contain a residue of volatile or flammable products. SERVICE PROVIDER agrees, for itself and any employee, contractor or other person working for or on behalf of SERVICE PROVIDER, to observe due care at all times as required by its knowledge herein and of circumstances. SERVICE PROVIDER hereby agrees that neither SERVICE PROVIDER, nor any employee or contractor or any person working for or on behalf of SERVICE PROVIDER, shall require any personnel engaged in the performance of SERVICE PROVIDER's operations to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her health or safety, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations and orders relative to occupational safety and health.

11.04 Environmental and Natural Resource Laws, Regulations and Permits.

A. Notwithstanding any other provision of this Agreement to the contrary, SERVICE PROVIDER hereby expressly covenants, warrants, guarantees and represents to COUNTY, upon which COUNTY expressly relies, that SERVICE PROVIDER is knowledgeable of any and all federal, state and local governmental laws, ordinances, regulations, orders and rules, without limitation, which govern or which in any way, apply to the direct or indirect results and impacts to the environment and natural resources due to, or in any way resulting from, the conduct by SERVICE PROVIDER of its operations pursuant to this Agreement or upon the Premises. SERVICE PROVIDER agrees that it shall comply with all applicable federal, state and local laws, regulations and ordinances protecting the environment and natural resources, as now existing or hereafter adopted or amended, including, but not limited to, the Federal Clean Water Act, Safe Drinking Water Act, Clean Air Act, Resource Conservation Recovery Act, and Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("Superfund").

B. SERVICE PROVIDER acknowledges and understands that its operations performed pursuant to this Agreement may involve the generation, processing, handling, storing, transporting and disposal of certain hazardous and/or toxic materials which are, or may be, subject to regulation by federal, state or local laws, ordinances, regulations, rules, orders or other governmental rules and requirements.

C. SERVICE PROVIDER expressly covenants, warrants, guarantees and represents to COUNTY, upon which COUNTY expressly relies, that SERVICE PROVIDER is knowledgeable of all such governmental laws and regulations governing hazardous and/or toxic waste, ground water contamination, air and water pollution, oil spills, sanitary and industrial waste, pollutants, cooling water and industrial storm water drainage. SERVICE PROVIDER further expressly covenants, warrants, guarantees and represents that it is fully qualified to handle and dispose of any and all such hazardous and/or toxic waste materials, and all other pollutants and contaminants, in a manner which is both safe and in full compliance with any and all applicable federal, state and local laws and regulations.

D. SERVICE PROVIDER hereby expressly assumes and accepts full responsibility and liability for compliance with all such governmental laws and regulations in the handling and disposal of any and all hazardous waste and/or toxic materials, and all pollutants or contaminants of any kind, resulting from or arising out of SERVICE PROVIDER's operations conducted on the Airport, and SERVICE PROVIDER shall, prior to commencement of any such operations pursuant to this Agreement, secure any and all permits, and properly make all necessary notifications as may be required by any and all governmental agencies having jurisdiction over parties or the subject matter thereof. SERVICE PROVIDER further represents, warrants, guarantees and covenants to COUNTY, upon which COUNTY hereby expressly relies, that SERVICE PROVIDER, its employees, agents, contractors, and those persons that are required to be so trained working for, or on behalf of, SERVICE PROVIDER have been fully and properly trained in the handling of all such hazardous and toxic waste materials, and other pollutants and contaminants, and that such training, at a minimum, complies with any and all applicable federal, state and local laws, ordinances, regulations, rulings, orders and standards, as now or hereafter amended.

E. SERVICE PROVIDER shall provide to COUNTY satisfactory documentary evidence of all such requisite legal permits and notifications, as hereinabove required and as may be further required, upon request, from time to time by COUNTY.

If SERVICE PROVIDER is deemed to be a generator of hazardous waste, as defined by State, Federal or local law:

F. SERVICE PROVIDER shall obtain an EPA identification number and the appropriate generator permit and shall comply with all requirements imposed upon a generator of hazardous waste including, but not limited to, ensuring that the appropriate transportation and disposal of such materials are conducted in full compliance with the law; Provisions shall be made by SERVICE PROVIDER to have an accurate inventory list (including quantities) of all such hazardous, toxic, and other contaminated or polluted materials, whether stored, disposed of, or recycled, available at all times on the Premises for inspection at any time by COUNTY;

G. SERVICE PROVIDER shall notify the Palm Beach County Solid Waste Authority, Palm Beach County Environmental Resources Management Department, and such other agencies as COUNTY may from time to time designate, of all hazardous waste activities so that SERVICE PROVIDER shall be included as a County Generator of such waste; and SERVICE PROVIDER agrees that an emergency coordinator and phone number shall be furnished to the Department, Risk Management Department - Safety Division, and to all appropriate governmental entities having jurisdiction thereof in case of any spill, leak, or other emergency situation involving hazardous, toxic, flammable, and/or other pollutant/contaminated materials.

H. Violation of any part of the foregoing provisions or disposition by SERVICE PROVIDER of any sanitary waste, pollutants, contaminants, hazardous waste, industrial cooling water, sewage or any other materials in violation of the provisions of this Section 11.04 shall be deemed to be a default under this Agreement and shall be grounds for termination of this Agreement unless cured within ten (10) days of notice from the Department or as expeditiously as possible if the default cannot be completely cured within the ten (10) day period. SERVICE PROVIDER shall be strictly liable for, and hereby expressly assumes all responsibility for all citations, fines, environmental controls and monitoring, clean-up and disposal, restoration and corrective measures resulting from or in any way connected with the improper use, handling, storage, and/or disposal of all pollutants or contaminated materials, as same are defined by law, by SERVICE PROVIDER or by SERVICE PROVIDER's employees, invitees, suppliers of service or furnishers of materials or any other person whomsoever, regardless of whether or not a default notice has been issued and notwithstanding any other obligations imposed upon SERVICE PROVIDER pursuant to the terms of this Agreement. All such remedies of COUNTY with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive expiration or termination of this Agreement.

I. SERVICE PROVIDER agrees to protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against any and all claims, liability, expenses, losses, costs fines and damages (including reasonable attorney fees at trial and appellate levels), arising from, resulting out of or in any way caused by or connected to SERVICE PROVIDER's failure to comply with any and all applicable federal, state and local laws, ordinances, regulations, rulings, orders and standards, now or hereafter promulgated for the purpose of protecting the environment or natural resources. SERVICE PROVIDER understands that this indemnification is in addition to and is a supplement of SERVICE PROVIDER's indemnification agreement set forth in Article 18 of this Agreement. SERVICE PROVIDER acknowledges the broad nature of this indemnification and hold-harmless clause and that COUNTY would not enter into this Agreement without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by COUNTY in support of this indemnification in accordance with laws of the State of Florida. The obligations arising under this Section 11.04 (H) shall survive the expiration or termination of this Agreement.

11.05 Payment of Taxes. SERVICE PROVIDER shall pay any and all taxes and other costs as may be lawfully assessed against its interest in the Airport premises, including but

not limited to its operations under this Agreement. SERVICE PROVIDER shall have the right to contest the amount or validity of any tax or assessment payable by its appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending SERVICE PROVIDER's covenants to pay any such tax or assessment, unless the legal proceedings shall operate to prevent the collection of the tax or assessment. Upon termination of such legal proceedings, SERVICE PROVIDER shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

## **ARTICLE XII** **DISCLAIMER OF LIABILITY**

COUNTY HEREBY DISCLAIMS, AND SERVICE PROVIDER HEREBY RELEASES COUNTY, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY SERVICE PROVIDER, ITS EMPLOYEES, AGENTS OR INVITEES DURING THE TERM OF THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF SERVICE PROVIDER OR SERVICE PROVIDER'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE AIRPORT, UNLESS SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY COUNTY'S SOLE NEGLIGENCE. THE PARTIES HERETO EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THE PROVISION OF SERVICES PERMITTED UNDER THIS AGREEMENT.

## **ARTICLE XIII** **REMEDIES CUMULATIVE**

The rights and remedies of parties hereto with respect to any of the terms and conditions of this Agreement shall be cumulative and not exclusive and shall be in addition to all other rights and remedies of the parties.

## **ARTICLE XIV** **GOVERNMENTAL RESTRICTIONS**

14.01 Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over either the entire facilities of the Airport or the portion wherein SERVICE PROVIDER is authorized to operate pursuant to this Agreement, for public purposes, then this Agreement shall thereupon terminate and COUNTY shall be released and fully discharged from any and all liability hereunder.



14.02 Federal Review. This Agreement is subject to any applicable review by the Federal Aviation Administration to determine satisfactory compliance with federal law, and said Agreement shall be in full force and effect and binding upon both parties pending review and approval by said Federal Aviation Administration not to be in violation of existing laws, regulations or other requirements.

14.03 COUNTY Tax Assessment Right. None of the terms, covenants and conditions of this Agreement shall in any way be construed as a release or waiver on the part of COUNTY, as a political subdivision of the State of Florida, or any of the public officials of Palm Beach County, of the right to assess, levy and collect any license, personal, intangible, occupation or any other tax which shall be lawfully imposed on the business or property of SERVICE PROVIDER.

14.04 Right of Flight. COUNTY reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property previously described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used, for navigation of or flight in the said airspace and for landing on, taking off from or operating on the Airport.

14.05 Operation of Airport. SERVICE PROVIDER expressly agrees for itself, its successors and assigns, to prevent any use of Airport property which would interfere with or adversely affect the operation or maintenance of the Airport, or otherwise constitute an Airport hazard.

## **ARTICLE XV** **NO DISCRIMINATION**

15.01 Non-discrimination. SERVICE PROVIDER for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (a) that in the furnishing of services permitted herein, no person on the grounds of race, color, age, religion, sex, gender identity or expression, or natural origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (b) SERVICE PROVIDER shall operate in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. In the event of the breach of any of the foregoing non-discrimination covenants, COUNTY shall have the right to terminate this Agreement and all privileges and rights granted to SERVICE PROVIDER hereunder. This cancellation provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed including exercise or expiration of appeal rights.

15.02 Disadvantaged Business Enterprise/Affirmative Action. SERVICE PROVIDER acknowledges that the provisions of 49 CFR Part 26, Disadvantaged Business Enterprise (DBE), and 14 CFR Part 152, Affirmative Action Employment Programs, may become applicable to the activities of SERVICE PROVIDER under the terms of this Agreement, unless exempted by said regulations, and hereby agrees at such time to comply with all

requirements of the Department, the Federal Aviation Administration and the U.S. Department of Transportation in reference thereto. These requirements may include, but not be limited to, the compliance with DBE and/or Employment Affirmative Action participation goals, the keeping of certain records of good faith compliance efforts, which would be subject to review by the various agencies, and the submission of various reports, and including, if directed by the Department, the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises. Failure to comply with these requirements shall be grounds for default and cancellation of this Agreement. Any cancellations pursuant to this Article XV shall not be effective until the procedures specified in said Federal regulations or established by COUNTY are completed, including exercise or expiration of appeal rights.

#### **ARTICLE XVI** **NON-EXCLUSIVE AGREEMENT**

SERVICE PROVIDER expressly understands and agrees that the rights and privileges granted under this Agreement are nonexclusive, and COUNTY herein reserves the right to grant similar rights and privileges to others at the Airport.

#### **ARTICLE XVII** **COUNTY NOT LIABLE**

COUNTY shall not be responsible or liable to SERVICE PROVIDER for any claims for compensation or any losses, damages or injury sustained by SERVICE PROVIDER resulting from (a) cessation for any reason of air carrier operations at the Terminal, or (b) diversion of passenger traffic to any other facility. COUNTY shall not be responsible nor liable to SERVICE PROVIDER for any claims for compensation or any losses, damages, or injury sustained by SERVICE PROVIDER resulting from failure of any water supply, electrical current, sewerage or drainage facility, or caused by natural physical conditions on the Airport, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, hurricane, act of God or state of war, civilian commotion or riot, or any cause beyond the control of COUNTY. All personal property placed on or moved onto the Airport shall be at the sole risk of SERVICE PROVIDER or owner thereof and SERVICE PROVIDER expressly acknowledges and agrees that COUNTY shall not be liable for any damage to or loss of said personal property.

#### **ARTICLE XVIII** **AUTHORIZED USES ONLY**

Notwithstanding anything to the contrary herein, SERVICE PROVIDER will not use or permit the use of the Airport premises for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on Airport premises for COUNTY or SERVICE PROVIDER.

#### **ARTICLE XIX** **WAIVERS**

The failure of either party to insist on strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that

such party may have for any subsequent breach, default, or non-performance, and such party's right to insist on strict performance of this Agreement shall not be affected by any previous waiver or course of dealing.

## **ARTICLE XX** **SUBORDINATION**

20.01 Subordination to Bond Resolution. This Agreement and all rights granted to SERVICE PROVIDER hereunder are expressly subordinated and subject to the lien and provisions of the pledges, transfer, hypothecation or assignment made by COUNTY in the Palm Beach County Airport System Revenue Bond Resolution, dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof (the "Bond Resolution"), and COUNTY and SERVICE PROVIDER agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representatives may exercise any and all rights of COUNTY hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by SERVICE PROVIDER and COUNTY with the terms and provisions of this Agreement and the Bond Resolution.

20.02 Subordination to Federal Agreements. This Agreement shall be subject and subordinate to all the terms and conditions of any instruments and documents under which COUNTY acquired the land or improvements thereon and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. SERVICE PROVIDER understands and agrees that this Agreement shall be subordinate to the provisions of any existing or future agreement between COUNTY and the United States of America, or any of its agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal Funds for the development of the Airport.

## **ARTICLE XXI** **CONSENT AND APPROVAL**

Nothing in this Agreement shall be construed to waive or limit COUNTY's governmental authority as a political subdivision of the State of Florida to regulate SERVICE PROVIDER or its operations.

## **ARTICLE XXII** **RIGHTS RESERVED TO COUNTY**

All rights not specifically granted SERVICE PROVIDER by this Agreement are reserved to COUNTY.

## **ARTICLE XXIII** **INVALIDITY OF CLAUSES**

The invalidity of any portion, article, paragraph, provision, clause or any portion thereof of this Agreement shall have no affect upon the validity of any other part or portion hereof.

**ARTICLE XXIV**  
**VENUE**

To the extent allowed by law the venue for any action arising from this Agreement shall be in Palm Beach County, Florida.

**ARTICLE XXV**  
**GOVERNING LAW**

This Agreement shall be governed by and in accordance with the laws of the State of Florida.

**ARTICLE XXVI**  
(Intentionally left blank)

**ARTICLE XXVII**  
**INSPECTIONS**

The authorized employees and representatives of COUNTY and any applicable Federal, State, and local governmental entity having jurisdiction hereof shall have the right of access to the Airport premises at all reasonable times for the purposes of inspection for compliance with the provisions of the Agreement and the services permitted herein.

**ARTICLE XXVIII**  
**NOTICE**

Any notice given under the provisions of this Agreement shall be in writing and shall be delivered personally or sent by certified or registered mail, postage prepaid to:

To COUNTY:

Department of Airports  
Palm Beach County  
Building 846, Palm Beach International Airport  
West Palm Beach, Florida 33406-1491

To SERVICE PROVIDER:

Rivera Aircraft Detailing, LLC  
Attn: Mr. John Rivera  
4616 Toga Way  
Greenacres, FL 33463  
Fax: (561) 966-5913  
Email: [jjrivera@hotmail.com](mailto:jjrivera@hotmail.com)

or to such other respective addresses as the parties may designate to each other in writing from time to time. Notice by certified or registered mail, shall be deemed given on the date that such notice is deposited in a United States Post Office.

**ARTICLE XXIX**  
**PARAGRAPH HEADINGS**

The headings of the various articles and sections of this Agreement, and its Table of Contents, are for convenience and ease of reference only, and shall not be construed to define,

limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

**ARTICLE XXX**  
**BINDING EFFECT**

The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns, if any. This provision shall not constitute a waiver of any prohibitions against or limitations regarding assignment or transfer.

**ARTICLE XXXI**  
**PERFORMANCE**

The parties expressly agree that time is of the essence in this Agreement and the failure by SERVICE PROVIDER to complete performance within the time specified, or within a reasonable time if no time is specified herein, shall, at the option of COUNTY without liability, in addition to any other of COUNTY's rights or remedies, relieve COUNTY of any obligation to accept such performance.

**ARTICLE XXXII**  
**PUBLIC ENTITY CRIMES**

As provided in Section 287.132-133, Florida Statutes, by entering into this Agreement or performing any work in furtherance hereof, SERVICE PROVIDER certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the effective date hereof. This notice is required by Section 287.133(3)(a), Florida Statutes.

**ARTICLE XXXIII**  
**ENTIRETY OF AGREEMENT**

The parties agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered except by written instrument executed by the parties hereto.

IN WITNESS WHEREOF, COUNTY has caused this Agreement to be signed by the County Administrator or the Director of the Department of Airports pursuant to the authority granted by said Board, and SERVICE PROVIDER, Rivera Aircraft Detailing, LLC, has caused these presents to be signed in its corporate name by its duly authorized officer, and the seal of said SERVICE PROVIDER to be affixed hereto, the day and year first written above.

WITNESS:

Connie Shoffner  
Connie Shoffner

PALM BEACH COUNTY, FLORIDA

By: Don Kelly  
Director - Department of Airports

ATTEST:

SERVICE PROVIDER:

Rivera Aircraft Detailing, LLC  
4616 Toga Way  
Greenacres, FL 33463

By: M. Primm  
Secretary

By: M. Primm  
John Rivera  
-Typed Name of Corporate Officer-

Title: Manager/Member

(Corporate Seal)

Signed, sealed and delivered in the presence of two witnesses for SERVICE PROVIDER:

Martha LaVerghetta  
Witness Signature

Martha LaVerghetta  
(typed or printed)

Debra Reese  
Witness Signature

Debra Reese  
(typed or printed)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Anne Helgand  
County Attorney

**EXHIBIT "A"**  
**INSURANCE REQUIREMENTS**

A. Commercial General Liability. SERVICE PROVIDER shall maintain Commercial General Liability Insurance at a limit of liability of not less than One Million Dollars (\$1,000,000) each occurrence. Coverage shall not contain any endorsement(s) excluding or limiting Premises/Operations, Damage to Rented Property, Personal Injury, Product/Completed Operations, Contractual Liability, Severability of Interests or Cross Liability. Coverage shall be provided on a primary basis.

B. Business Automobile Liability. SERVICE PROVIDER shall maintain Business Automobile Liability Insurance at a limit of liability of not less than One Million Dollars (\$1,000,000) each occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event the SERVICE PROVIDER does not own automobiles, SERVICE PROVIDER shall maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy. Coverage shall be provided on a primary basis.

C. Worker's Compensation Insurance & Employers Liability. SERVICE PROVIDER shall maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440. Coverage shall be provided on a primary basis.

D. Additional Insured. SERVICE PROVIDER shall provide the Department with a certificate, or certificates, of insurance, evidencing limits, coverages and endorsements as required herein. SERVICE PROVIDER shall endorse COUNTY as an Additional Insured with a **"CG026 Additional Insured - Designated Person or Organization"** endorsement to the Commercial General Liability policy. The additional insured endorsement shall read: **"Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents, c/o Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406."** Coverage shall be provided on a primary basis. All certificates of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage is cancelled or is not renewed during the Term, SERVICE PROVIDER shall provide COUNTY a new certificate of insurance or certificates of insurance evidencing replacement coverage no later than thirty (30) days prior to the expiration or cancellation of the coverage. The certificate holder=s name and address shall read **"Palm Beach County Board of County Commissioners c/o Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406."**

E. Deductibles, Coinsurance & Self-Insured Retention. SERVICE PROVIDER shall be fully and solely responsible for any deductible, coinsurance penalty, or self-insured retention; including any losses, damages, or expenses not covered due to an exhaustion of limits or failure to comply with the policy.

F. Waiver of Subrogation. By entering into this Agreement, SERVICE PROVIDER agrees to a Waiver of Subrogation for each policy required herein. When required by the insurer, or should a policy condition not permit SERVICE PROVIDER to enter into any pre-loss agreement to waive subrogation without an endorsement, then SERVICE PROVIDER agrees to notify the insurer.

G. Right to Review or Adjust Insurance. The COUNTY's Risk Management Department may review, modify, reject or accept any required policies of insurance, including, but not limited to, limits, coverages or endorsements, required by herein from time to time throughout the Term. COUNTY may also reject any insurer or self-insurance plan providing coverage because of poor financial condition or failure to operate legally. In such event, COUNTY shall provide SERVICE PROVIDER a written notice of rejection, and SERVICE PROVIDER shall comply within thirty (30) days of receipt of the notice.

H. No Representation of Coverage Adequacy. SERVICE PROVIDER acknowledges the limits, coverages and endorsements required herein are intended to minimize liability for COUNTY. SERVICE PROVIDER agrees that it will not rely upon the requirements herein when assessing the extent or determining appropriate types or limits of insurance coverage to protect SERVICE PROVIDER against any loss exposures, whether as a result of this Agreement or otherwise.



**FIRST AMENDMENT TO AIRLINE–AIRPORT USE AND LEASE AGREEMENT  
BETWEEN PALM BEACH COUNTY AND AIRTRAN AIRWAYS, INC.**

**THIS FIRST AMENDMENT TO THE AIRLINE–AIRPORT USE AND LEASE AGREEMENT** (this “Amendment”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between Palm Beach County, a political subdivision of the State of Florida (“COUNTY”), and Airtran Airways, Inc., a Delaware corporation, having its offices and principal place of business at 9955 AirTran Blvd., Orlando, Florida 32827 (“AIRLINE”).

**WITNESSETH:**

**WHEREAS**, COUNTY, by and through its Department of Airports (the “Department”), owns and operates the Palm Beach International Airport, located in Palm Beach County, Florida; and

**WHEREAS**, pursuant to the Airline-Airport Use and Lease Agreement between COUNTY and AIRLINE dated February 6, 2007 (R-2007-0137) (the “Agreement”), AIRLINE leases various Airport Terminal facilities and equipment in connection with its operations as a commercial air carrier; and

**WHEREAS**, the Director of the Department has been delegated the authority to execute certain amendments to the Agreement pursuant to County Resolution No. 2006-1906; and

**WHEREAS**, the parties desire to amend the Agreement as provided for herein.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants herein contained, and for other good and valuable consideration, the receipt of which the parties hereby expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions:

1. The foregoing recitals are true and correct and are hereby incorporated herein by reference and made a part hereof. Terms not defined herein shall have the meaning ascribed to them in the Agreement.

2. The parties agree that effective August 20, 2009, Exhibit “B” to the Agreement shall be replaced with the Exhibit “B” to this Amendment; provided, however, the Baggage Service Office shall not be considered to be added to the Airline Premises until September 11, 2009.

3. The parties also agree, that effective August 20, 2009, Exhibit “D” to the Agreement shall be replaced with the Exhibit “D” to this Amendment.

4. Exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Amendment by such reference.

5. Except as specifically modified herein, all of the terms and conditions of the Agreement shall remain unmodified and in full force and effect and are hereby ratified and confirmed by the parties hereto.

6. This Amendment shall become effective when signed by both the parties hereto.

*(Remainder of page intentionally left blank)*

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Amendment as of the day and year first above written

Signed, sealed and delivered in the presence of two (2) witnesses for COUNTY:

Connie Shoffner  
Signature  
Connie Shoffner  
Print Name

Jeff S Bolton  
Signature  
Jeffrey S. Bolton  
Print Name

**PALM BEACH COUNTY, a political subdivision of the State of Florida**

BY: [Signature]  
Director, Department of Airports

**APPROVED AS TO FORM & LEGAL SUFFICIENCY:**

Anne Helgert  
County Attorney

Signed, sealed and delivered in the presence of two (2) witnesses for AIRLINE:

DETH ZORENKO  
Signature  
DETH ZORENKO  
Print Name

Jennifer Ariles  
Signature  
Jennifer Ariles  
Print Name

**AIRLINE:**

By: [Signature]  
Lora Blinde  
Typed or printed name of Corporate Officer

Title: Sup HR Administrator

(Seal)

**EXHIBIT “B”**

EXHIBIT "B" to Airline Operating and Lease Agreement  
**AirTran Airways**

EXCLUSIVE & PREFERENTIAL USE PREMISES (Terminal Areas)  
First Level Plan – Palm Beach International Airport

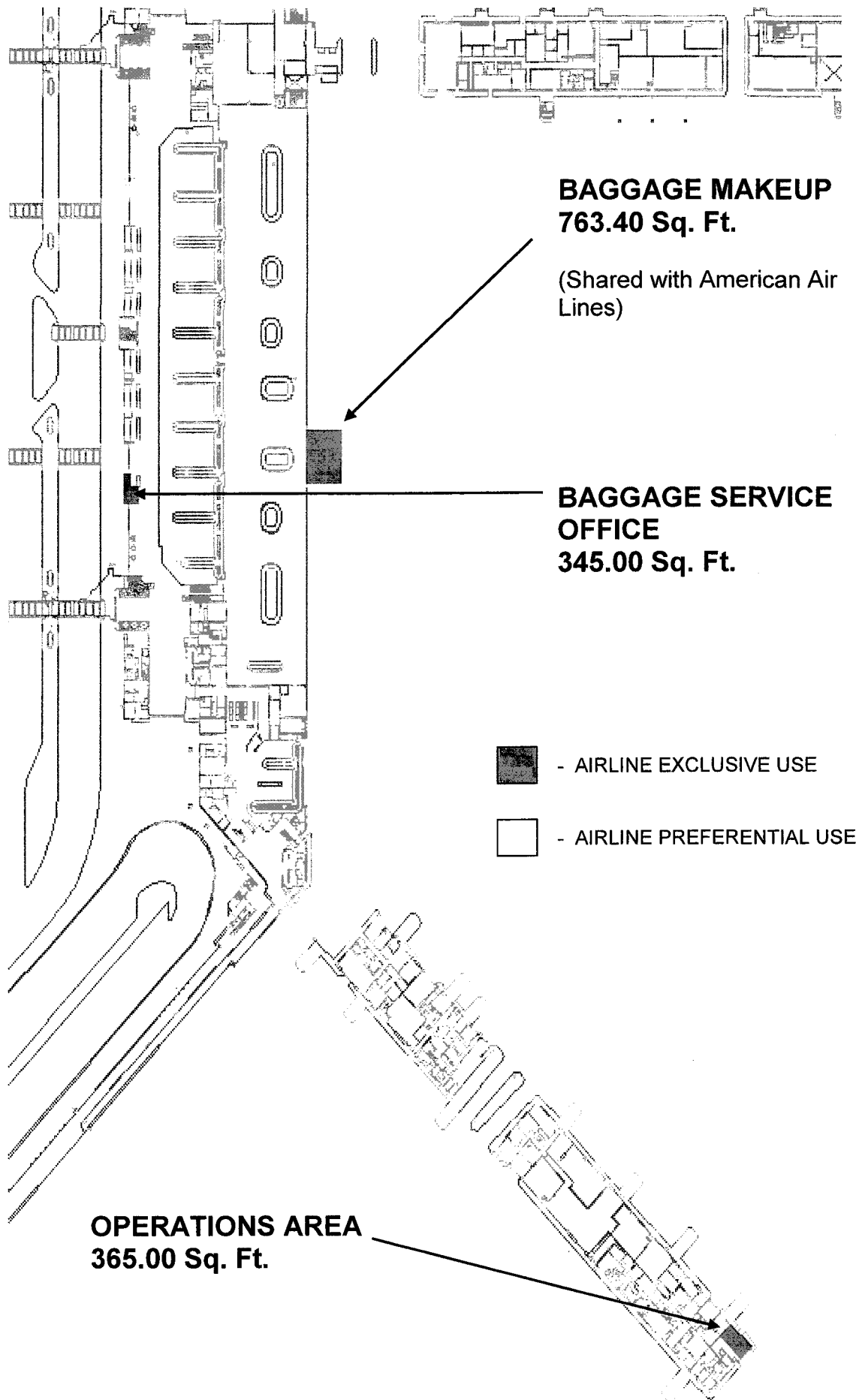


EXHIBIT "B" to Airline Operating and Lease Agreement  
**AirTran Airways**

EXCLUSIVE & PREFERENTIAL USE PREMISES (Terminal Areas)  
Second Level Plan – Palm Beach International Airport

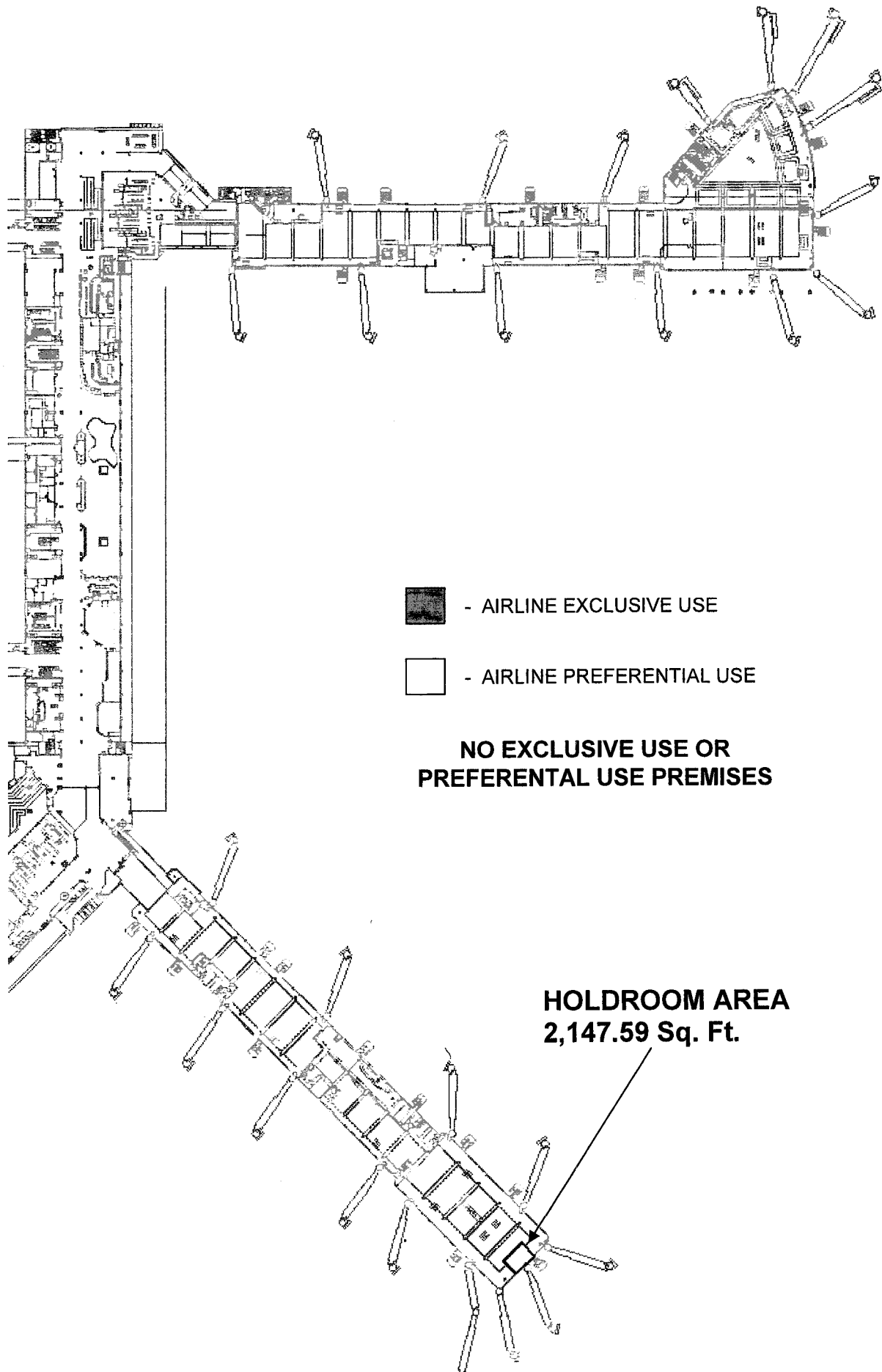
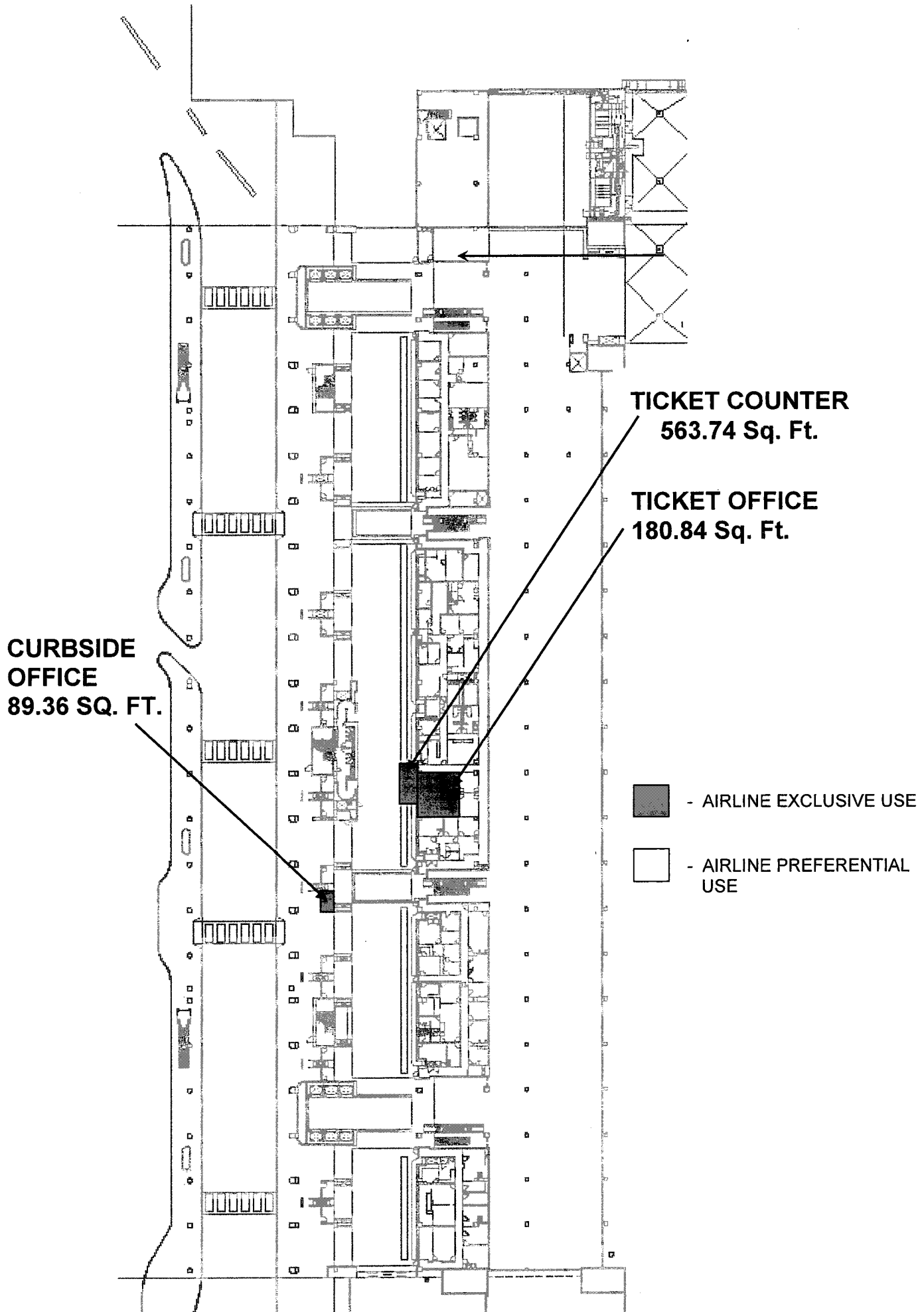


EXHIBIT "B" to Airline Operating and Lease Agreement  
**AirTran Airways**

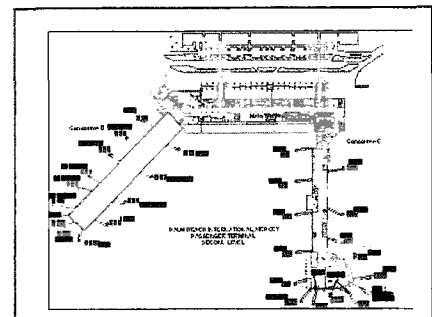
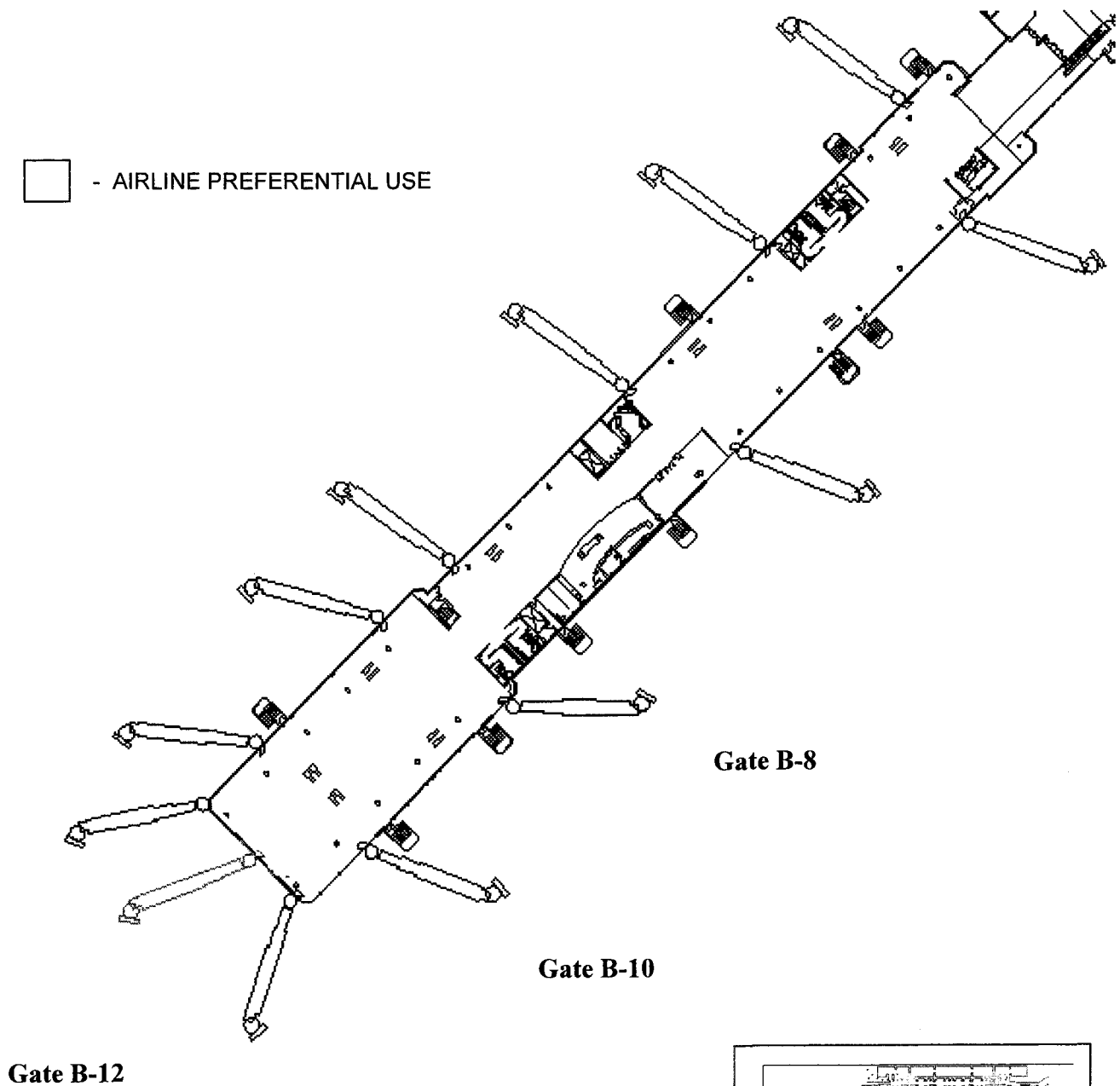
EXCLUSIVE & PREFERENTIAL USE PREMISES (Terminal Areas)  
Third Level Plan – Palm Beach International Airport



**EXHIBIT "D"**

EXHIBIT "D" to Airline-Airport Use and Lease Agreement  
**AIRTRAN AIRWAYS**

PREFERENTIAL USE PREMISES (Aircraft Parking Apron)  
Concourse B – Palm Beach International Airport



Effective August 20, 2009