



**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Capital Expenditures					
Rent Credit	<u>\$ 2,000</u>				
External Revenues	<u>(\$27,151)</u>	<u>(\$50,125)</u>	<u>(\$22,974)</u>		
Program Income (County)					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>	<b><u>(\$25,151)</u></b>	<b><u>(\$50,125)</u></b>	<b><u>(\$22,974)</u></b>		
No. ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included in Current Budget? Yes \_\_\_\_\_ No X  
 Budget Account No.: Fund 4100 Department 120 Unit 8452  
 RSource 4413 Reporting Category \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

The fiscal impact of this Agreement will be the receipt of rentals in the amount of \$100,250 offset by \$2,000 in rental credit (as shown above) over the initial two-year lease term. Additional revenue may be received if the renewal options are executed.

C. Departmental Fiscal Review: CM Simon

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

 _____ OFMB 2/13/13	 _____ Contract Dev. and Control 2-15-13
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**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney  
 2/19/13

**C. Other Department Review:**

\_\_\_\_\_  
 Department Director

**LEASE AGREEMENT**

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

**and**

**Bus One LLC**

**LEASE AGREEMENT**

**THIS LEASE AGREEMENT** (this "Lease") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and Bus One LLC, a Florida limited liability company, having its office and principal place of business at 8117 Bautista Way, Palm Beach Gardens, FL 33418 ("Tenant").

**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 (the "Airport"); and

**WHEREAS**, Tenant submitted a bid in response to Invitation For Bids, PB 13-2, issued on January 10, 2013, for the lease of certain real property managed by the Department on behalf of County.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants herein contained, and 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**

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

- 2.01 "Additional Insured" has the meaning set forth in Section 11.06.
- 2.02 "Additional Rent" has the meaning set forth in Section 5.09.
- 2.03 "Adjustment Date" has the meaning set forth in Section 5.04(A).
- 2.04 "Airport" means the Palm Beach International Airport located in Palm Beach County, Florida.
- 2.05 "Airport Rules and Regulations" means the Palm Beach County Airport Rules and Regulations adopted by Resolution No. R-98-220, as now or hereafter amended, and any successor ordinance or resolution regulating activities or operations on the Airport.
- 2.06 "Assignment" has the meaning set forth in Article 16.

- 2.07 "Bid" means the bid submitted by Tenant in response to the Invitation for Bids.
- 2.08 "Bond" has the meaning set forth in Section 5.06.
- 2.09 "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.
- 2.10 "Board" means the Board of County Commissioners of Palm Beach County, Florida.
- 2.11 "Commencement Date" has the meaning set forth in Article 3.
- 2.12 "Department" means the Palm Beach County Department of Airports.
- 2.13 "Director" means the Director or Acting Director of the Department of Airports.
- 2.14 "Derelict Vehicle" means a vehicle designed for use on the roadways that is in a wrecked, dismantled or partially dismantled condition, or which is discarded and in an inoperable condition.
- 2.15 "Effective Date" means the date that this Lease is approved by the Palm Beach County Board of County Commissioners and signed by all parties.
- 2.16 "FAA" means the Federal Aviation Administration.
- 2.17 "Environmental Laws" means any and all applicable federal, state, or local laws, statutes, ordinances, rules, regulations, or governmental restrictions regulating, relating to or imposing liability or standards of conduct concerning Hazardous Substances.
- 2.18 "Hazardous Substances" means any hazardous or toxic substance, material or waste of any kind or any other substance, which is regulated by any Environmental Law.
- 2.19 "Initial Leasehold Improvements" has the meaning set forth in Section 6.01(A).
- 2.20 "Initial Term" has the meaning set forth in Article 3.
- 2.21 "Invitation For Bids" means County's Invitation For Bids, PB 13-2, issued on January 10, 2013.
- 2.22 "Lease" means this Lease 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 Lease, refer to this Lease as a whole, unless context otherwise requires.
- 2.23 "Leased Premises" means the Warehouse Storage Space and Paved Parking Area as identified in Section 4.01, and as further depicted in Exhibit "A".

- 2.24 “Letter of Credit” has the meaning set forth in Section 5.06.
- 2.25 “Licensed Area” has the meaning set forth in Section 4.02.
- 2.26 “Paved Parking Area” has the meaning set forth in Section 4.01.
- 2.27 “Plans” have the meaning set forth in Section 6.01(B).
- 2.28 “Renewal Term” has the meaning set forth in Article 3.
- 2.29 “Response” means the document, including attachments and exhibits, submitted by Tenant in response to the Bid.
- 2.30 “Risk Management Department” means the Palm Beach County Risk Management Department.
- 2.31 “Security Deposit” has the meaning set forth in Section 5.06.
- 2.32 “Term” means the Initial Term and any Renewal Term.
- 2.33 “TSA” means the Transportation Security Administration or any successor agency responsible for airport security.
- 2.34 “Warehouse Storage Space” has the meaning set forth in Section 4.01.

**ARTICLE 3**  
**TERM**

The term of this Lease shall commence on March 15, 2013, (the “Commencement Date”) and terminate on March 14, 2015 (the “Initial Term”), unless sooner terminated pursuant to the terms of this Lease. Provided Tenant is not in default of any of the terms and conditions of this Lease, this Lease shall be automatically renewed for three (3) additional one (1) year intervals thereafter (the “Renewal Term”); provided, however, either party, with the Department acting on behalf of County, may elect to not renew this Lease upon providing no less than ninety (90) days advance written notice to the other party prior to the expiration of the then current Term. Each Renewal Term shall be upon the same terms and conditions set forth herein, except there shall be one (1) fewer Renewal Term. Notwithstanding the foregoing, either party may terminate this Lease for convenience upon ninety (90) 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 Lease.

**ARTICLE 4**  
**PREMISES AND PRIVILEGES**

4.01 Description of Leased Premises. County hereby demises and leases to Tenant, and Tenant rents from County the following areas (collectively, the "Leased Premises") which shall be subject to the terms, conditions and covenants set forth herein:

(A) Approximately 8,192 square feet of warehouse storage area, identified as Building 1146-A, located on a portion of the site identified as Parcel "R-1" as further identified in Exhibit "A" attached hereto (the "Warehouse Storage Space"); and

(B) Approximately 5,000 square feet of paved vehicle parking area north of the Warehouse Storage Space, within a portion of the site identified as Parcel "R-2" in Exhibit "A" attached hereto (the "Paved Parking Area"). County shall have the right to determine the location and configuration of the Paved Parking Area, which may be modified at any time by County upon written notice to Tenant.

4.02 Licensed Areas and Specific Privileges, Uses and Rights. County hereby grants to Tenant a non-exclusive, revocable license to use the vehicle parking areas, immediately adjacent to the Warehouse Storage Space, within the site identified as Parcel "R-1" in Exhibit "A" attached hereto (the "Licensed Area"), for employee and visitor parking and deliveries and for no other purpose whatsoever. Overnight parking or the storage of vehicles, equipment or materials in the Licensed Area shall be prohibited at all times.

4.03 This Lease may be amended to increase the Leased Premises to include additional Paved Parking Area, to the extent such space is available, upon mutual agreement of the parties. The Director may execute an amendment to this Lease on behalf of County pursuant to this paragraph.

4.04 Description of Specific Privileges, Uses and Rights. Tenant shall have the right to use the Leased Premises solely and exclusively for the passive storage of Tenant's vehicles and equipment in connection with Tenant's transportation operations.

4.05 Prohibited Uses, Products and Services. Tenant agrees the Leased Premises shall be utilized solely for the uses permitted herein and for no other purpose whatsoever. Tenant shall not provide any products or services not specifically authorized by this Lease or the Department, including, but not limited to, the following products and services:

- (A) Paid parking;
- (B) Manufacturing operations of any kind;
- (C) Retail operations of any kind;

- (D) Parking or storage of unattended vehicles for more than two (2) hours, except for the personal vehicles of employees currently working on the Leased Premises, and vehicles and equipment owned, leased or operated by Tenant and stored on the Leased Premises in support of Tenant's transportation operations;
- (E) Valet, shuttle, or taxi/sedan/limousine services, including administration or support activities for such services; and
- (F) Any use prohibited by law.

4.06 Restrictions on Privileges, Uses and Rights.

- (A) The rights granted hereunder are expressly limited to the improvement, maintenance, and operation of the Leased Premises pursuant to the terms and conditions of this Lease, and nothing herein shall be construed to give Tenant any exclusive rights to operate a particular business, or to sell or distribute any particular product(s) or service(s). Tenant covenants and agrees that the Leased Premises shall be utilized solely for the uses permitted in this Lease and for no other purpose whatsoever.
- (B) Parking of boats, motor homes or inoperable vehicles and the stockpiling or storage of inoperable equipment, machinery and containers on the Leased Premises is strictly prohibited.
- (C) All storage and dumpsters must be screened or concealed from public view, and storage shall be limited to the storage incidental to Tenant's overall operation on the Leased Premises.
- (D) Persons, including, but not limited to Tenant's employees, shall not loiter or remain overnight on the Leased Premises or elsewhere at the Airport. The foregoing will not preclude Tenant's personnel from being present on the Leased Premises while on-duty.

4.07 Condition and Use of the Leased Premises. Tenant expressly acknowledges that it has inspected and accepts the Leased Premises in its "AS IS CONDITION" and "WITH ALL FAULTS," together with all defects, latent and patent, if any. Tenant further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Leased Premises including, but not limited to, the physical and/or environmental condition of the Leased Premises or any improvements located thereon; the value of the Leased Premises or improvements; the zoning of the Leased Premises; title to the Leased Premises; the suitability of the Leased Premises or any improvements for Tenant's intended use; or Tenant's legal ability to use the Leased Premises for Tenant's intended use.



**ARTICLE 5**  
**RENTAL, FEES, CHARGES AND SECURITY DEPOSIT**

5.01 Rental. Tenant shall pay to County the following initial annual rental amounts payable in equal monthly installments, together with applicable sales tax thereon:

- (A) Rental for the Warehouse Storage Space. For the 8,192 square feet of Warehouse Storage Space, Tenant shall pay rental in the amount of Five Dollars and Sixty Cents (\$5.60) per square foot, for a total of Forty-Five Thousand Eight Hundred Seventy-Five Dollars and Twenty Cents (\$45,875.20) annually; and
- (B) Rental for the Paved Parking Area. For the 5,000 square feet of Paved Parking Area, Tenant shall pay rental in the amount of Eight-Five Cents (\$0.85) per square foot, for a total of Four Thousand Two Hundred Fifty Dollars (\$4,250.00) annually.

5.02 Rental Credit. Tenant shall be entitled to receive a credit in the total amount of Two Thousand Dollars (\$2,000.00), representing a lump-sum credit for a portion of Tenant's cost to construct the Initial Leasehold Improvements. Such credit shall be applied commencing on the Commencement Date, by reducing Tenant's monthly rental amount for the Warehouse Storage Space in equal monthly installments of Five Hundred Dollars (\$500.00) per month until the total amount of such credit has been applied. There shall be no proration or adjustment if either party terminates this Lease for convenience, as provided in Article 3, or in the event this Lease is terminated due to a default by Tenant as provided in Section 15.02. Notwithstanding the foregoing, provided Tenant is not in default of the Lease, Tenant shall be entitled to reimburse the balance of any remaining rental credit in the event County terminates this Lease solely for convenience.

5.03 Commencement Date and Time of Payment. Payment of rental by Tenant to County shall commence on the Commencement Date. Rental shall be payable in equal monthly installments, in advance, without demand and without any deduction, holdback or set off whatsoever, by the first day of each and every month throughout the Term and any extension thereof. All sums due hereunder shall be delivered to the Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406, or at such other address as may be directed by the Department from time to time.

5.04 Adjustment of Rentals.

- (A) On October 1, 2016, and each three (3) year anniversary thereof (the "Adjustment Date"), the then current rental rates shall be adjusted in accordance with the provisions of this paragraph. The new rental rates shall be determined by an appraisal obtained by County, which shall set forth the fair market rental rates. The appraisal shall be performed, at County's sole cost and expense, by a qualified appraiser selected by County. County shall notify Tenant in writing of the fair market rental of the Leased Premises as established by the appraisal, which shall become the new rental rates for the Leased Premises. Tenant shall commence paying the new rental rates on the Adjustment Date. The new rental

rates shall not be less than the rental rates for the prior period. This Lease shall automatically be considered as amended to reflect the new rental rates, without formal amendment hereto, upon County's written notification of the establishment of the new rental rates applicable to the Leased Premises.

- (B) Notwithstanding the foregoing, the rental payable hereunder shall not exceed an amount that would be obtained by multiplying the rental established as of the Effective Date by a fraction, the numerator of which shall be the "Consumer Price Index" (as hereinafter defined) figure for May of the calendar year in which such adjustment is to become effective and the denominator of which shall be the Consumer Price Index figure for April of the calendar year in which this Lease became effective.
- (C) For the purposes hereof, the "Consumer Price Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers, United States city average, all items (1982 - 1984 = 100), not seasonally adjusted, or any successor thereto as promulgated by the Bureau of Labor Statistics of the United States Department of Labor. In the event that the Consumer Price Index ceases to use the 1982 - 1984 average of one hundred (100) as the standard reference index base period, the then current standard reference index base period shall be utilized. In the event the Consumer Price Index (or successor or substitute Consumer Price Index) is not available, a reliable governmental or other nonpartisan publication evaluating information theretofore used in determining the Consumer Price Index shall be used.
- (D) Notwithstanding any provision of this Lease to the contrary, Tenant acknowledges and agrees that County shall have the right to establish and maintain the rental rates hereunder to ensure compliance with the provisions of Section 710 (rate covenant) of the Bond Resolution.

5.05 Late Payments - Interest. Tenant shall pay to County interest at the rate of one and one-half percent (1.5%) per month on any late payments commencing ten (10) days after the amounts are due. To the extent permitted by law, acceptance of late payments by County shall not constitute a waiver of Tenant's default by County with respect to such overdue amount, nor prevent County from terminating this Lease for default in the payment of rentals, fees or charges due to County pursuant to this Lease or from enforcing any other provisions, rights, or remedies granted herein, or conferred by law.

5.06 Security Deposit. Prior to the Effective Date of this Lease, Tenant shall post a security deposit with County in the amount of Six Thousand Dollars (\$6,000.00) ("Security Deposit"). The Security Deposit shall serve as security for the payment of all sums due to County and shall also secure the performance of all obligations of Tenant to County. The Security Deposit shall be either in the form of a clean, Irrevocable Letter of Credit ("Letter of Credit") or a Surety Bond ("Bond") in form and substance satisfactory to County, or cash. In the event the Security Deposit is in the form of cash, it shall be held by County, without the obligation to pay or earn interest thereon, and may be commingled with other County funds. In the event of any failure by Tenant to pay any rentals, fees or charges when due or upon any other failure to perform any of its obligations or other default under this Lease, then in addition to any

other rights and remedies available to County at law or in equity, County shall be entitled to draw on the Security Deposit and apply same to all amounts owed. Upon notice of any such draw, Tenant shall promptly replace the Security Deposit with a new Letter of Credit or Bond, or cash as applicable, in the full amount of the Security Deposit required hereunder. The Security Deposit shall be kept in full force and effect throughout the Term of this Lease and any extension thereof and for a period of six (6) months after the termination of this Lease. Not less than forty-five (45) days prior to any expiration date of a Letter of Credit or Bond, Tenant shall submit evidence in form satisfactory to County that such security instrument has been renewed. Failure to renew a Letter of Credit or Bond or to increase the amount of the Security Deposit as required by this Section 5.06 shall: (i) entitle County to draw down the full amount of such Security Deposit, and (ii) constitute a default of this Lease entitling County to all available remedies. The Security Deposit shall not be returned to Tenant until all obligations under this Lease are performed and satisfied. Prior to consent from County to any assignment of this Lease by Tenant, Tenant's assignee shall be required to provide a Security Deposit to County in accordance with the terms and conditions of this Section 5.06.

5.07 Triple Net Lease. This Lease shall be deemed to be "triple net" without cost or expense to County including, but not limited to, cost and expenses relating to taxes, insurance, and the maintenance and operation of the Leased Premises. Unless otherwise expressly stated herein, Tenant shall have no obligation to pay, or reimburse County for any taxes, insurance, maintenance and operation expenses relating to airport property other than the Leased Premises.

5.08 Sales and Use Tax. Tenant hereby covenants and agrees to pay monthly to County, as "Additional Rent," any sales, use or other tax, or any imposition in lieu thereof (excluding state and /or federal income tax) now or hereinafter imposed upon the rents, use or occupancy of the Leased Premises imposed by the United States of America, the State of Florida or Palm Beach County, notwithstanding the fact that the statute, ordinance or enactment imposing the same may endeavor to impose the tax upon County as Landlord, to the extent as applicable.

5.09 Additional Rent. Any and all sums of money or charges required to be paid by Tenant 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 Tenant of all Additional Rent as are available to County regarding annual rent.

5.10 Licenses, Fees and Taxes. Tenant shall pay, on or before their respective due dates, all federal, state and local taxes and fees, and all special assessments of any kind, which are now or may hereafter be levied upon the Leased Premises (including improvements) or the estate hereby granted, or upon Tenant, or upon the business conducted on the Leased Premises, or upon any of Tenant's property used in connection therewith, or upon any rentals or other sums payable hereunder, including, but not limited to any ad valorem taxes (based upon Tenant's pro rata share according to the area of the Leased Premises), and sales or excise taxes on rentals, and personal property taxes against tangible and intangible personal property of Tenant. Tenant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by Tenant.

5.11 Accord and Satisfaction. In the event Tenant pays any amount that is less than the amount stipulated to be paid under this Lease, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed an accord and satisfaction. County may accept any check or payment without prejudice to County's right to recover the balance due or to pursue any other remedy available to County pursuant to this Lease or under the law.

## ARTICLE 6 CONSTRUCTION OF IMPROVEMENTS

6.01 Tenant Construction Requirements. Tenant shall make no additions, alterations or improvements to the Leased Premises, or improvements constructed thereon, without the prior written consent of the Department, which consent shall be given in the Department's sole and absolute discretion. Any such additions, alterations or improvements shall be made in accordance with the construction requirements contained herein and as established by the Department. All improvements constructed or placed on the Leased Premises, including drainage and landscaping, shall be of attractive construction and first-class design; comply with any and all applicable governmental laws, regulations, rules and orders; follow standard construction methods; and be constructed in accordance with the requirements of this Article.

- (A) Initial Leasehold Improvements. Tenant agrees that it shall construct a suitable barrier to separate the Warehouse Storage Space from the non-leased portions of the building and Tenant shall remove all trash and debris from within the Warehouse Storage Space (the Initial Leasehold Improvements) at its sole cost and expense. Construction of the Initial Leasehold Improvements shall be completed no later than sixty (60) days following the Commencement Date.
  
- (B) Construction Requirements. Prior to constructing any improvements on the Leased Premises (including, but not limited to, the Initial Leasehold Improvements), Tenant, without cost to County, shall prepare detailed preliminary construction plans and specifications for the improvements (hereinafter collectively referred to as the "Plans") in accordance with standards established by the Department and deliver the preliminary Plans to the Department for review, comment and adjustment. The Department shall review the preliminary Plans and provide a written response to Tenant after receipt of the preliminary Plans. In the event the Department does not approve the preliminary Plans, Tenant will be notified of the reasons for the disapproval and the necessary modifications and/or alterations to the Plans. Tenant shall resubmit modified Plans to the Department within thirty (30) days of the date of the Department's written notice of disapproval. Within one hundred twenty (120) days following approval of the preliminary Plans by the Department, Tenant shall prepare or cause to be prepared final working Plans in substantial conformity to the approved preliminary Plans and shall submit the final working Plans to the Department for approval. Upon approval of the final working Plans by the Department, Tenant shall obtain all permits and other government approvals required for the commencement of construction. Prior to

commencement of construction, Tenant shall deliver to the Department one complete set of the final working Plans as approved by the governmental agencies exercising jurisdiction thereover. Minor changes from the final working Plans shall be permitted if such changes may be reasonably inferred from the final working Plans, or if they are made to comply with requirements of any governmental agency exercising jurisdiction thereover.

- (C) Within sixty (60) days following Tenant's receipt of a certificate of occupancy or certificate of completion, as appropriate, if applicable, for improvements constructed pursuant to this Article, Tenant, at its sole cost and expense, shall have prepared and deliver to the Department: (a) one (1) complete set of as-built Mylar drawings and one (1) set of Auto CADD files in the latest version acceptable by the Department.
- (D) All improvements constructed upon the Leased Premises shall be completed at Tenant's sole cost and expense and shall be completed in accordance with the standards established by the Department.
- (E) Approval of County shall extend to and include architectural and aesthetic matters and County reserves the right at its sole and absolute discretion to reject any design proposals submitted and to require Tenant to resubmit any such design proposals until they receive County's approval.

6.02 Construction Bonds. Tenant shall ensure that all improvements are constructed to completion in accordance with the approved Plans and that all persons or entities performing work or providing materials relating to such improvements including, but not limited to, all contractors, subcontractors, laborers, materialmen, suppliers and professionals, are paid in full for such services and materials. Prior to the commencement of any improvements to the Leased Premises, the estimated cost of which exceeds Fifty Thousand Dollars (\$50,000), Tenant shall cause to be made, executed and delivered to County at Tenant's sole cost a bond that is in a form and substance reasonably satisfactory to County, that a company reasonably acceptable to County issues, and that guarantees Tenant's compliance with its obligations arising under this Section. Tenant may not subdivide improvements or phase projects for the purpose of avoiding the foregoing bond requirement. County shall be named as the obligee on the bonds.

6.03 Contractor Requirements. Tenant shall require contractors to furnish for the benefit of County a public construction bond as required under Section 255.05, Florida Statutes, in a form approved by County. Tenant shall require its contractors to name County as a dual obligee on the bond(s). Tenant shall also require contractors to furnish satisfactory evidence of statutory Worker's Compensation insurance, comprehensive general liability insurance, comprehensive auto insurance, and physical damage insurance on a Builder's Risk form with the interest of County endorsed thereon, in such amounts and in such manner as the Risk Management Department may reasonably require. The Risk Management Department may require additional insurance for any alterations or improvements approved hereunder, in such amounts as the Risk Management Department reasonably determines to be necessary.

6.04 No Liens. Tenant agrees that nothing contained in this Lease shall be construed as consent by County to subject the estate of County to liability under the Construction Lien Law of the State of Florida and understands that County's estate shall not be subject to such liability. Tenant shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Tenant of this provision of this Lease. If so requested by County, Tenant shall file a notice satisfactory to County in the Public Records of Palm Beach County, Florida, stating that County's estate shall not be subject to liens for improvements made by Tenant. In the event that a construction lien is filed against the Leased Premises or other County property in connection with any work performed by or on behalf of Tenant, Tenant shall satisfy such claim, or transfer same to security, within thirty (30) days from the date of filing. In the event that Tenant fails to transfer or satisfy such claim within the thirty (30) day period, County may do so and thereafter charge Tenant all costs incurred by County in connection with the satisfaction or transfer of such claim, including attorneys' fees, and Tenant shall promptly pay to County all such costs upon demand, as Additional Rent.

## ARTICLE 7 OBLIGATIONS OF TENANT

7.01 Observance of Rules and Regulations. Tenant covenants and agrees to observe and obey, and to require its subtenants, officers, employees, guests, invitees and those doing business with it to observe and obey such rules and regulations of the Department and County (including amendments and supplements thereto) regulating the conduct and operations of Tenant and others on the Leased Premises as may from time to time be promulgated. The obligation of Tenant to require such observance and obedience on the part of its subtenants, guests, invitees and business visitors shall pertain only while such persons are on or in occupancy of any portion of the Leased Premises.

7.02 Noise and Vibrations. Tenant shall take all reasonable measures to:

- (A) Reduce to a minimum, vibrations tending to damage any equipment, structure, building or portion of a building that is on the Leased Premises or is a part thereof, or is located elsewhere on the Airport; and
- (B) Keep the sound level of its operations as low as possible.

7.03 Regulation of Conduct. Tenant shall control the conduct, demeanor and appearance of its employees, subtenants, invitees and others doing business at the Leased Premises.

7.04 Garbage and Debris. Tenant shall be responsible for the provision of trash removal services for the Leased Premises at Tenant's sole cost and expense and agrees to deposit trash, garbage and debris in appropriate containers for collection.

7.05 Nuisance, Waste or Injury. Tenant shall not commit any nuisance, waste or injury on the Leased Premises and shall not do, or permit to be done, anything which may result in the creation, commission or maintenance of such nuisance, waste or injury on the Leased Premises.

7.06 Vapors, Fumes or Emissions. Tenant shall not create, nor permit to be caused or created upon the Leased Premises any obnoxious odor, smoke, noxious gases or vapors; provided, however, that fumes resulting from the normal operations of properly certified and maintained trucks and other vehicles shall be excepted from this provision. Tenant shall ensure that emissions generated by any such trucks, and other vehicles shall comply with all provisions of applicable environmental emissions laws and regulations.

7.07 Utilities Systems. Tenant shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the utilities systems installed or located on or about the Leased Premises that are also used by other occupants, customers or users of the Airport.

7.08 Overloading of Floor or Paved Areas. Tenant shall not overload any floor or paved area on the Leased Premises and shall repair at its sole cost and expense, any floor, including supporting members, and any paved area damaged by overloading.

7.09 Hazardous Conditions. Tenant shall not do or permit to be done any act or thing upon the Leased Premises that:

- (A) Will invalidate or conflict with any insurance policies covering the Leased Premises or the Airport; or
- (B) May constitute a hazardous condition that increases the risk normally attendant upon the operations permitted by this Lease.

7.10 Flammable Liquids. All flammable liquids that are kept or stored at the Leased Premises must at all times be handled, stored and used in accordance with all applicable Federal, State and local laws.

7.11 Fire Extinguishing System. From time to time and as often as reasonably required by the Department or any governmental authority having jurisdiction, Tenant shall conduct pressure, water flow, and other appropriate tests of the fire extinguishing system and apparatus, which are maintained by Tenant or any subtenant.

7.12 Derelict Vehicles. Tenant shall not permit the temporary or permanent storage of any Derelict Vehicles on the Leased Premises. Tenant shall cause Derelict Vehicles to be removed from the Leased Premises within twenty-four (24) hours after written notice from the Department.

7.13 Emergency Evacuation and Hurricane Plans. Tenant shall provide the Department with emergency evacuation and hurricane plans within thirty (30) calendar days of the Effective Date. These plans shall be detailed procedures of actions to be taken by Tenant and its subtenants, if any, in the event of an emergency evacuation or hurricane warning. Tenant shall update its emergency evacuation and hurricane plans annually, if requested by the Department.

**ARTICLE 8**  
**MAINTENANCE AND REPAIR**

8.01 Maintenance/Repair of the Leased Premises.

- (A) Tenant shall, at its sole cost and expense, maintain the Leased Premises, improvements, and appurtenances thereto, in a safe and presentable condition consistent with good business practice, industry standards and in accordance with all applicable laws, regulations and rules of any governmental entity. Tenant shall repair any damage to the Leased Premises and improvements caused by its employees, patrons, invitees, licensees, 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 Tenant's operations thereon or Tenant's use of the Leased Premises. Tenant hereby agrees that it shall abide by the decision of County with respect to maintenance or repair of the Leased Premises. Maintenance and repairs shall be in quality and class comparable to the original work, to preserve the Leased Premises in good order and condition
- (B) Tenant shall, at its sole cost and expense, provide and maintain all fire protection and safety equipment and all other equipment of every kind and nature required by any law, rule, order, ordinance, resolution or regulation of any applicable governmental authority.
- (C) Tenant shall, at its sole cost and expense, keep the Leased Premises clean and neat at all times. Tenant shall not deposit nor store any trash, waste, garbage or refuse of any kind on any part of the Leased Premises; provided, however, Tenant may obtain appropriate waste disposal containers and place those containers in such areas as designated by the Department. Tenant shall be responsible for the cost of all waste removal services.
- (D) County shall be the sole judge of Tenant's performance under this Section 8.01. Upon written notice by County to Tenant, Tenant shall perform the required maintenance or repair in accordance with Department's decision. If Tenant has not made a good faith effort, as determined by Department, to begin to perform said maintenance or repair within ten (10) days after written notice and to diligently pursue the same to completion, County shall have the right to enter on the Leased Premises and perform the necessary maintenance or repair, and Tenant 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 maintenance or repair cost, plus the administrative cost, shall be paid to County by Tenant within thirty (30) days from the date of Department's invoice.
- (E) County shall have no obligation whatsoever to maintain or repair the Leased Premises.



8.02 Inspections. The Department shall have the right to enter the Leased Premises at reasonable times, and except in cases of emergency, upon reasonable notice (generally forty-eight (48) hours) to inspect same for the purpose of determining whether Tenant is in compliance with the requirements of this Lease. In the event Tenant is not in compliance with this Lease, as reasonably determined by the Department, the Department shall provide Tenant with written notice of such noncompliance. Tenant shall commence corrective action to remedy such noncompliance to the satisfaction of the Department upon receipt of the notice of noncompliance. If corrective action is not immediately initiated and pursued in a diligent manner to completion, the Department may cause the same to be accomplished. Tenant agrees that Tenant shall assume and be liable to County for payment of all costs incurred by County, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee shall constitute Additional Rent hereunder and shall be due and payable within thirty (30) calendar days of the date of the Department's written notice.

## ARTICLE 9 UTILITIES

9.01 Utility Costs. Tenant shall pay for all utilities used by it. In the event a utility meter serving the Leased Premises also serves buildings or improvements outside the Leased Premises, the costs of such utilities shall be billed by the Department to Tenant monthly and Tenant shall pay utility costs for any utilities provided by County within thirty (30) days of the date of the invoice. The utility costs for which Tenant must pay a share in accordance with the foregoing will not include any mark-up by County above the amounts that utility service providers charge to the County. Either party may elect to provide separate meters or connections to any and all utility mainlines or cables serving the Leased Premises in which case Tenant shall pay any charges for utility service to the Leased Premises according to the metered usage.

9.02 Interruption of Service. No failure, delay or interruption in supplying any services for any reason whatsoever (whether or not a separate charge is made therefor) shall be construed to be an eviction of Tenant or grounds for any diminution or abatement of Rental or shall be grounds for any claim by Tenant under this Lease for damages, consequential or otherwise.

9.03 Water, Industrial and Sanitary Sewage Systems. Tenant shall operate and maintain, at its sole cost and expense, all the components of any and all water, industrial and sanitary sewage system(s) and storm water drainage facilities serving the Leased Premises within the Leased Premises. Tenant shall generate or introduce no industrial waste or foreign materials generated into the water, industrial and sanitary sewage system(s) and storm water drainage facilities serving the Leased Premises, and all such industrial waste or foreign materials shall be properly disposed of as required by all applicable Federal, State and local laws, regulation and rules, as now or hereafter amended.

**ARTICLE 10**  
**AIRPORT SECURITY PROGRAM**

10.01 Compliance with Security Requirements. Tenant agrees to observe all security requirements and other requirements of the FAA, TSA, County and Department applicable to Tenant operations, as now or hereafter amended, including, but not limited to, Title 49, Parts 1500 et al., of the Code of Federal Regulations, to the extent applicable to Tenant and Tenant's activities hereunder.

10.02 Criminal History Background Checks. Tenant acknowledges that Tenant and its employees, contractors and agents may be subject to federal and state criminal history record check requirements under federal, state and/or local laws, as may now exist or as may hereafter be enacted, including, but not limited to the Palm Beach County Criminal History Record Check Ordinance (Chapter 2, Article IX, Palm Beach County Code), which laws may require Tenant to remove or restrict access of individuals who are not in compliance with the requirements of such laws. Tenant agrees to comply with and to require its employees, contractors and agents to comply with all federal, state and local criminal history record check requirements, including, but not limited to, the Palm Beach County Criminal History Record Check Ordinance and any access restrictions imposed thereunder. Tenant acknowledges and agrees that its employees, contractors and agents, who will have access to a "critical facility", as defined in the Palm Beach County Criminal History Record Check Ordinance, will be subject to a national and state fingerprint based criminal history records check. Tenant shall be solely responsible for the financial, scheduling and staffing implications associated with complying with the Palm Beach County Criminal History Record Check Ordinance.

10.03 Security Deficiency. Tenant agrees to rectify any security deficiency or other deficiency as may be determined as such by the Department, County, FAA or TSA. In the event Tenant fails to remedy any such deficiency, County may do so at the cost and expense of Tenant. Tenant acknowledges and agrees that County shall have the right to take whatever action is necessary to rectify any security deficiency or other deficiency as may be determined by the Department, County, FAA or TSA.

**ARTICLE 11**  
**INSURANCE REQUIREMENTS**

Unless otherwise specified in this Lease, Tenant shall, at its sole expense, maintain in full force and effect at all times during the Term and any extension thereof, the insurance limits, coverages and endorsements required herein. Tenant acknowledges and agrees that the requirements contained in this Article, or County's review or acceptance of insurance, shall not in any manner limit or qualify the liabilities and obligations assumed by Tenant under this Lease.

11.01 Commercial General Liability. Tenant shall maintain Commercial General Liability Insurance with limits of liability not less than One Million Dollars (\$1,000,000) each occurrence, including coverage for, but not limited to, Leased Premises/Operations, Products/Completed Operations, Contractual Liability, Personal/Advertising Injury and Cross Liability. This coverage shall be provided on a primary basis.

11.02 Business Auto Liability. Tenant shall maintain Business Automobile Liability Insurance with limits of liability not less than One Million Dollars (\$1,000,000) each occurrence for owned, non-owned and hired automobiles. In the event Tenant has no owned automobiles, Tenant shall maintain only Hired & Non-Owned Auto Liability Insurance. This coverage may be satisfied by way of endorsement to the Commercial General Liability/Airport Liability policy, or a separate Business Auto Liability policy. This coverage shall be provided on a primary basis.

11.03 Property/Contents Insurance. Tenant shall maintain property insurance in an amount not less than 100% of the total replacement cost of any of Tenant's furnishings and equipment.

11.04 Worker's Compensation & Employers Liability. Tenant shall maintain Worker's Compensation & Employers Liability in accordance with Chapter 440, Florida Statutes, and Federal law. This coverage shall be provided on a primary basis.

11.05 Umbrella or Excess Liability. If necessary, Tenant may satisfy the minimum limits required above Commercial General Liability and/or Business Auto Liability coverage under Umbrella or Excess Liability Insurance. The Umbrella or Excess Liability policy shall have an aggregate limit not less than the highest "each occurrence" limit for the Commercial General Liability, Business or Auto Liability. County shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability policy, unless the Certificate of Insurance notes the Umbrella or Excess Liability policy provides coverage on a "Follow-Form" basis.

11.06 Additional Insured Endorsement. Tenant shall endorse County as an "Additional Insured" on each liability insurance policy required to be maintained by Tenant, except for Worker's Compensation and Business Auto Liability policies. The CG 2011 Additional Insured - Managers or Lessors of Leased Premises, or its equivalent, shall be an endorsement to the Commercial General Liability policy. Other policies, when required, shall provide a standard "Additional Insured" endorsement offered by the insurer. The "Additional Insured" endorsements shall provide coverage on a primary basis. "Additional Insured" endorsements 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, Florida 33406," or as otherwise acceptable to the Risk Management Department.

11.07 Certificate of Insurance. A signed Certificate or Certificates of Insurance, evidencing that required insurance coverage(s) has been procured or maintained by Tenant in the types and amount(s) required hereunder, shall be delivered to County prior to the Effective Date. The Certificate(s) of Insurance shall clearly state that Palm Beach County is an "Additional Insured" as required herein. Certificate(s) of Insurance shall also endeavor to provide thirty (30) days written notice to County prior to cancellation (ten (10) days for nonpayment of premium) or non-renewal of coverage. Required insurance shall be subject to the review, acceptance and approval of County, at its reasonable discretion, as to form and types of coverage. Tenant's failure to maintain all insurance policies required herein shall constitute a material default of this Agreement by Tenant, entitling County to exercise any remedies available to it under this Agreement, at law and in equity, including the right to immediately terminate this Agreement.

11.08 Claims-Made Liability. When any of Tenant's liability insurance policies is provided under a Claims-Made Liability form, Tenant agrees to the following additional special conditions:

- (A) The Certificate of Insurance issued to County shall clearly indicate whether the Claims-Made Liability form applies, include the retroactive date of coverage and indicate if the limits are subject to annual aggregate. In the event aggregate limits are applicable, Tenant shall maintain an aggregate limit not less than three (3) times the per occurrence limit of liability required in Section 11.01 above.
- (B) Tenant shall purchase a Supplemental Extended Reporting Period providing an additional reporting period of not less than three (3) years in the event a Claims-Made liability policy is canceled, non renewed, switched to an Occurrence Form, renewed with an advanced retroactive date, or any other event triggering the right to purchase a Supplemental Extended reporting Period during the term of this Agreement. All insurance policies required hereunder may be written to include a reasonable deductible or self-insured retention, unless otherwise stated or limited. Limits on said deductible amounts may be subject to review and approval. When requested, Tenant shall submit a copy of most recent financial statement in order to justify a particular deductible or self-insured retention amount.

11.09 Waiver of Subrogation. By entering into this Lease, Tenant agrees to a Waiver of Subrogation for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, Tenant shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. The requirements of this paragraph shall not apply to any policy, a condition to which the policy specifically prohibits such an endorsement, or voids coverage if Tenant enters into such an agreement on a pre-loss basis.

11.10 Premiums and Proceeds. Tenant shall not keep, use, sell or offer for sale in or upon the Leased Premises any article which may be prohibited by any, condition, provision, or limitation of the property, flood or wind insurance policies. Tenant shall be responsible for all premiums, including increases, for property, flood and wind insurance policies. Tenant agrees that all property, flood and windstorm insurance proceeds shall be made available for use to promptly replace, repair or rebuild the building, betterments and improvements, including, but not limited to, those made by or on behalf of Tenant.

11.11 Deductibles, Coinsurance & Self-Insured Retention. Tenant 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.

11.12 Right to Review or Adjust Insurance. The 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 this Article from time to time throughout the Term and any extension thereof. 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 Tenant a written notice of rejection, and Tenant shall comply within thirty (30) days of receipt of the notice.

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

## ARTICLE 12 DAMAGE TO OR DESTRUCTION OF PREMISES

12.01 Damage or Destruction. Tenant hereby assumes full responsibility for the condition of the Leased Premises and character, acts and conduct of all persons admitted to the Leased Premises by or with the actual or constructive consent of Tenant or by or with the consent of any person acting for or on behalf of Tenant. If the Leased Premises, improvements, or any part thereof, are damaged in any way whatsoever by the act, default or negligence of Tenant or its sublessees, contractors, employees, officers, licensees, agents or invitees, Tenant shall, at its sole cost and expense, restore the Leased Premises to the condition existing prior to such damage. Tenant 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 Tenant in accordance with the construction requirements established by the Department. If Tenant fails to restore the Leased Premises as required above, County shall have the right to enter the Leased Premises and perform the necessary restoration, and Tenant 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.

12.02 Partial Destruction. If any of the improvements on the Leased Premises are damaged or destroyed in part by fire or other casualty, County may terminate this Lease upon written notice to Tenant within ninety (90) days after the date of any such damage or destruction or commence restoration of the Leased Premises within a commercially reasonable period of time subject to the limitations set forth herein. In the event of restoration of the Leased Premises by County pursuant to this paragraph, Tenant's obligation to pay rental shall be abated proportionately on a square footage basis as to that portion of the Leased 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 Tenant that the Leased 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 Leased Premises in the event the casualty was the result of the act, default or negligence of Tenant or its sublessees, contractors, employees, officers, licensees, agents or invitees. In such event, Tenant shall be obligated to restore the Leased Premises in accordance with Section 12.01 above with no abatement in rental.

12.03 Total Casualty. In the event of a total casualty to the Leased Premises, which renders the Leased 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, Tenant shall not have the right to terminate in the event the casualty was the result of the act, default or negligence of Tenant or Tenant's sublessees, contractors, employees, officers, licensees, agents or invitees. In such event, Tenant shall be obligated to restore the Leased Premises in accordance with Section 12.01 above with no abatement in rental. In the event neither party terminates this Lease pursuant to this Section 12.03 and County elects to restore the Leased Premises, Tenant's obligation to pay rental shall be abated until thirty (30) days after notice by County to Tenant that the Leased Premises have been substantially repaired or restored.

12.04 Waiver. Tenant hereby waives any claim against County for any and all liability, damages or compensation in the event this Lease is terminated pursuant to Sections 12.02 or 12.03 above.

12.05 Limitations. Notwithstanding any provision of this Lease to the contrary, County shall have no obligation to repair, rebuild or restore Tenant's personal property or fixtures or any improvements made by Tenant to the Leased Premises. In the event County elects to restore or rebuild the Leased Premises following a casualty, County's obligation to restore, rebuild or restore the Leased Premises pursuant to this Lease shall exist only to the extent of the insurance proceeds received by County as a result of such casualty. Tenant shall not be entitled to and hereby waives any claims against County for any compensation or damage for any loss of use of the Leased 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 Tenant occasioned by fire or other casualty.

12.06 Insurance Proceeds. Upon receipt by Tenant of the proceeds of any applicable insurance policy or policies, the proceeds shall be deposited in an escrow account approved by the Department so as to be available to pay for the cost of such repair, replacement or rebuilding. Any insurance proceeds shall be disbursed during construction to pay the costs of such work. If the amount of the insurance proceeds is insufficient to pay the costs of the necessary repair, replacement or rebuilding of such damaged improvements and the damage was caused by Tenant or its sublessees, contractors, employees, officers, licensees, agents or invitees, Tenant shall pay any additional sums required into said escrow account. If the amount of the insurance proceeds is in excess of the costs of repair, replacement or rebuilding, the amount of such excess shall be remitted to Tenant.

**ARTICLE 13**  
**ENCUMBRANCES**

Tenant shall not, in any manner, mortgage, pledge or otherwise encumber this Lease, the Leased Premises or any improvements now existing or hereinafter erected or constructed upon the Leased Premises. Tenant shall cause to be removed any and all liens of any nature arising out of or resulting out of or resulting from the performance of any work or labor performed upon the Leased Premises or the furnishing of any materials for use upon the Leased Premises, by, on behalf of or at the direction of Tenant, its employees, agents, contractors or subcontractors. This provision shall be construed to include a prohibition against any mortgage, pledge, or encumbrance by operation of law, legal process, receivership, bankruptcy, or otherwise, whether voluntary or involuntary.

**ARTICLE 14**  
**TITLE TO IMPROVEMENTS**

All buildings, structures and improvements constructed or placed upon the Leased Premises as of the Effective Date are the absolute property of County, and County shall have every right, title and interest therein, free and clear of any liens; and any interest in such buildings, structures, and improvements, and absolute title thereto, shall be vested in County. All improvements and constructed or placed upon the Leased Premises by Tenant during the Term pursuant to Article 6, shall be the absolute property of Tenant during the Term; provided, however, that County shall be entitled, at its option, to have the Leased Premises returned to County free and clear of some or all improvements constructed or placed by Tenant, at Tenant's sole cost and expense. In such event, County shall provide timely notification to Tenant of its election to require removal of the improvements and to the extent possible, County shall notify Tenant at least sixty (60) days prior to the termination of this Lease. If Tenant fails to so remove said improvements, County may remove same at Tenant's sole cost and expense. Tenant agrees that Tenant shall fully assume and be liable to County for payment of all costs for the removal of improvements required to be removed by Tenant (whether direct or indirect) incurred by County, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee shall be due and payable to County within thirty (30) days from the date of the written notice provided by the Department. For any improvements constructed or placed upon the Leased Premises by Tenant which County expressly allows to remain on the Leased Premises following the expiration or earlier termination of the Lease, County shall have every right, title and interest therein, free and clear of any liens; and any interest in such buildings, structures, and improvements, and absolute title thereto, shall be vested in County.

**ARTICLE 15**  
**EXPIRATION OF LEASE, DEFAULTS, REMEDIES AND TERMINATION**

15.01 Expiration. This Lease shall automatically terminate as provided in Article 3.

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

- (A) The vacating or abandonment of the Leased Premises by Tenant.

- (B) The failure by Tenant to make payment of rent or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of three (3) days after the date due to County. County shall have no obligation to provide an invoice or notice of delinquent payment to Tenant.
- (C) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, other than described in paragraph (B) above, where such failure continues for a period of thirty (30) days after written notice thereof from County to Tenant; provided, however, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion. Notwithstanding any provision of this Lease to the contrary, including the cure provisions provided for in this Section 15.02, Tenant acknowledges and agrees that the County may require Tenant to immediately cease any activity which could result in an airport hazard or endanger the safety of any other airport user, as determined by the Department.
- (D) To the extent permitted by law, (i) the making by Tenant or any guarantor thereof of any general assignment, or general arrangement for the benefit of creditors; (ii) the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days]; (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Leased Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

Notwithstanding any provision of this Lease, Tenant acknowledges and agrees that the Department may require Tenant 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.

15.03 Remedies. In the event of any default or breach by Tenant, 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 term or any part thereof due and payable forthwith, and bring an action for the recovery thereof.
- (B) Terminate Tenant's right to possession of the Leased Premises by any lawful means and reenter and retake possession of the Leased Premises for the account of Tenant, in which case the rent and other sums hereunder shall be accelerated and due in full, and Tenant 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 Leased Premises, which deficiency shall be paid by Tenant. Upon such reletting, all rentals received by County shall be applied, first to the payment of any indebtedness, other than rent due hereunder from Tenant; second, to the payment of any reasonable costs and expenses of such reletting, which shall include all damages incurred by County due to Tenant's default including, but not limited to, the reasonable cost of recovering possession of the Leased Premises including reasonable attorneys' fees, and reasonable 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 Tenant.

- (C) Treat this Lease as terminated and re-enter and re-take possession of the Leased Premises for the account of County, thereby terminating any further liability under this Lease on the part of Tenant and County. Notwithstanding the foregoing, County shall have a cause of action to recover any rent remaining unpaid when County retakes possession of the Leased Premises for the account of County.
- (D) Stand by and do nothing, holding Tenant liable for the rent as it comes due.
- (E) Pursue any other remedy now or hereinafter available to County under the laws of the State of Florida.

Notwithstanding anything in this Lease to the contrary, County shall have the right to bring an action for its damages upon the occurrence of a default by Tenant and County reserves all rights which laws of the State of Florida confer upon a landlord against a tenant in default. Tenant hereby waives any additional notice Tenant may be entitled to pursuant to Florida law.

15.04 Termination by Tenant. Tenant may terminate this Lease, if Tenant is not in default of this Lease (including, but not limited to, its payments to County hereunder), by giving County sixty (60) days advance written notice, 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 Leased Premises for the purposes permitted hereunder, 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 herein required to be performed by County and the failure of County to remedy such default for a period of thirty (30) days after receipt from Tenant 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 Tenant's notice of cancellation; or in the event the same cannot be cured within such thirty (30) 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 Tenant, for a period of at least ninety (90) days.

15.05 Surrender of Leased Premises. Tenant expressly agrees that it shall immediately surrender the Leased Premises to County in good condition, upon expiration or termination of this Lease, depreciation and wear from ordinary use for the purpose for which the Leased Premises were leased being excepted. In the event Tenant shall holdover, refuse, or fail to give up the possession of the Leased Premises at the termination of this Lease, Tenant shall be liable to County for any and all damages, and in addition thereto, Tenant 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. Tenant shall remove all of its personal property from the Leased Premises prior to the expiration of this Lease. Any personal property of Tenant not removed by Tenant shall, at the option of County, become the property of County.

#### ARTICLE 16 ASSIGNMENT, TRANSFER AND SUBLETTING

Tenant shall not, in any manner, assign, transfer, sublease or otherwise convey an interest in this Lease, the Leased Premises or any portion thereof ("Assignment"), without the prior written consent of the Department, which consent may be granted or withheld by the Department in its sole discretion for any reason or no reason at all. Any attempted Assignment without Departmental approval shall be null and void. In the event the Department consents in writing to an Assignment, Tenant shall have the right to assign this Lease to the extent permitted by Department's consent to such Assignment, provided that the use of the Leased Premises shall be limited to the same uses as are permitted under this Lease. Any permitted Assignment shall be subject to the same conditions, obligations and terms as set forth herein. County may freely assign this Lease at any time without the consent of Tenant, and upon assumption by such assignee of County's obligations hereunder, County shall be released from all liability and obligation arising hereunder upon such assignment.

#### ARTICLE 17 INDEMNIFICATION

Tenant 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 Tenant's use or occupancy of the Leased 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 Tenant's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of Tenant, or any breach of the terms of this Lease; provided, however, Tenant 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. Tenant 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 Tenant's activities or operations or use of the Leased Premises whether or not Tenant 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, on behalf of, or at the request of Tenant. Tenant acknowledges the broad nature of this indemnification and hold-harmless clause and that County would not enter 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 in accordance with laws of the State of Florida. The obligations arising under this Article 17 shall survive the expiration or termination of this Lease.

## **ARTICLE 18** **ALTERATION OR ADDITIONS, SIGNS**

18.01 Alterations or Additions. Tenant shall make no alterations or additions to the Leased Premises or improvements constructed thereon, without the prior written consent of the Department. Any such additions, alterations or improvements shall be made in accordance with the construction requirements contained herein and as established by the Department.

18.02 Signs. No signs, posters, or similar devices shall be erected, displayed, or maintained by Tenant on the Leased Premises without the written consent of the Department, which consent will not be unreasonably withheld by the Department. The Department may impose reasonable conditions on the size, location and type of signage. All signs not approved by the Department shall be immediately removed at the sole cost and expense of Tenant upon written demand therefore by the Department.

## **ARTICLE 19** **LAWS, REGULATIONS AND PERMITS**

19.01 General. Tenant agrees that throughout the Term and any extension thereof, Tenant shall at all times be and shall 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.

19.02 Permits and Licenses Generally. Tenant 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 Term of this Lease or any extension thereof by any federal, state or local governmental entity or any court of law having jurisdiction over Tenant or Tenant's operations and activities, for any activity of Tenant's conducted on the Leased Premises and for any and all operations conducted by Tenant including ensuring that all legal requirements, permits, and licenses necessary for or resulting, directly or indirectly, from Tenant's operations and activities on the Leased Premises have been obtained

and are in full legal compliance. Upon the written request of the Department, Tenant shall provide to the Department certified copies of any and all permits and licenses which Department may request.

19.03 Safety Regulation. Tenant agrees that it shall conduct its operations and activities under this Lease 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, subtenants, contractors, business invitees and all other persons transacting business with or for Tenant resulting from, or in any way related to, the conduct of Tenant's business on the Leased Premises. Tenant 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 at the Airport, as same may now exist or hereafter come into being. Tenant hereby agrees that neither Tenant, nor employee or contractor or any person working for or on behalf of Tenant, shall require any personnel engaged in the performance of Tenant'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.

19.04 Environmental Indemnification. Tenant hereby expressly agrees to indemnify and hold County harmless from and against any and all liability for fines and physical damage to property or injury or death to persons, including, without limitation, reasonable expenses and attorneys fees, arising from or resulting out of, or in any way caused by, Tenant's failure to comply with any and all Environmental Laws. Tenant understands that this indemnification is in addition to and is a supplement of Tenant's indemnification agreement set forth in Article 17 of this Lease and that Tenant fully understands the broad extent of this indemnification and hereby expressly acknowledges that it has received full and adequate consideration from County to legally support this indemnification agreement. Tenant's obligations under this paragraph shall survive expiration or earlier termination of this Lease.

## ARTICLE 20 AMERICANS WITH DISABILITIES ACT

Tenant shall comply with the applicable requirements of the Americans with Disabilities Act and the State of Florida Accessibility Requirements Manual, and any similar or successor laws, ordinances, rules, and regulations, including cooperation with County, concerning the same subject matter.

**ARTICLE 21**  
**DISCLAIMER OF LIABILITY**

COUNTY HEREBY DISCLAIMS, AND TENANT 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 TENANT, ITS EMPLOYEES, AGENTS, OR INVITEES DURING THE TERM OF THIS LEASE OR ANY EXTENSION THEREOF INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF TENANT OR TENANT'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE PREMISES, UNLESS SUCH LOSS, DAMAGE OR INJURY IS JUDICIALLY DETERMINED TO HAVE BEEN CAUSED BY COUNTY'S SOLE NEGLIGENCE OR IS CAUSED BY COUNTY'S BREACH OF ITS OBLIGATIONS UNDER THIS LEASE. 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 LEASING OF THE PREMISES PURSUANT TO THIS LEASE. TENANT RELEASES COUNTY FROM ANY AND ALL LIABILITY RELATING TO ANY INFORMATION PROVIDED BY COUNTY RELATING TO THIS LEASE. FURTHERMORE, TENANT 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.

**ARTICLE 22**  
**GOVERNMENTAL RESTRICTIONS**

22.01 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 Leased 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 Tenant may have against the United States as a result of such taking.

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

22.03 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 County, as a political subdivision of the State of Florida, or any of the public officials of County of Palm Beach, of the right 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 Leased Premises, the business or property of Tenant.

22.04 Height Restriction. Tenant expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Leased Premises to such a height so as to comply with Title 14, Part 77 of the Code of Federal Regulations, as now or hereafter amended.

22.05 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 Leased 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, said airspace for landing on, taking off from, or operating on the Airport.

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

22.07 Release. Tenant acknowledges that noise and vibration are inherent to the operation of the Airport and hereby releases County from any and all liability relating to the same.

22.08 Exclusive Rights. Notwithstanding any provision of this Lease to the contrary, Tenant understands and agrees that the rights granted under this Lease are nonexclusive, other than the exclusive right of use of the Leased Premises, and that County may grant similar privileges to another lessee or other lessees on other parts of the Airport.

22.09 Hazardous Wildlife Attractants. Tenant shall be prohibited from using the Leased Premises in a manner which attracts, or has the potential to attract, hazardous wildlife to or in the vicinity of the Airport. Tenant acknowledges that water detention and retention areas are considered wildlife attractants and shall request the approval of the Department prior to constructing a water detention or retention area within the Leased Premises. If approved by the Department, water detention or retention areas shall be in compliance with the siting, design and construction requirements of the Department. Tenant further agrees to comply with the provisions of Federal Aviation Administration Advisory Circular No. 150/5200-33, as now or hereafter amended, as such circular is interpreted by the Department.

**ARTICLE 23**  
**NON-DISCRIMINATION**

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

**ARTICLE 24**  
**COUNTY NOT LIABLE**

County shall not be responsible or liable to Tenant for any claims for compensation or any losses, damages or injury whatsoever sustained by Tenant 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 Leased 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. All personal property placed on or moved on to the Leased Premises shall be at the sole risk of Tenant. County shall not be liable for any damage or loss of any personal property placed or moved on to the Leased Premises.

**ARTICLE 25**  
**AUTHORIZED USES ONLY**

Notwithstanding anything to the contrary herein, Tenant shall not use or permit the use of the Leased 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 Leased Premises or the Airport for County or Tenant.

**ARTICLE 26**  
**MISCELLANEOUS**

26.01 Waiver. The failure of either party 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 either party may have for any subsequent breach, default, or non-performance, and neither parties' right to insist on strict performance of this Lease shall be affected by any previous waiver or course of dealing.

26.02 Subordination.

- (A) Subordination to Bond Resolution. This Lease and all rights granted to Tenant 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 Tenant agree that to the extent permitted by authorizing legislation, the holders of the bonds or their designated representatives shall exercise any and all right of County hereunder to the extent such possession, enjoyment and exercise are necessary to insure compliance by Tenant and County with the terms and provisions of this Lease and Bond Resolution.
- (B) 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 Leased Premises are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Tenant 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 State of Florida, or any of their 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 state or federal funds for the development of the Airport.

26.03 Easement. Nothing in this Lease shall impair any existing utility easements, nor impair the right of access to any existing utility lines. County reserves the right to grant utility easements, licenses and rights-of way to others over, under, through, across or on the Leased Premises; provided, however, that such grant is not materially detrimental to the proper conduct of Tenant's operations.

26.04 Independent Contractor. Tenant 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.

26.05 Governmental Authority. Nothing in this Lease shall be construed to waive or limit the County's governmental authority as a political subdivision of the State of Florida to regulate Tenant or its operations. The County's obligations under this Lease are made in a proprietary capacity, rather than in a governmental capacity and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statues and laws, nor alter or impair the County's governmental functions, including, without limitation, the County's right to lawfully exercise its regulatory authority over the development of the Leased Premises, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of the County's governmental authority.

26.06 Rights Reserved to the County. All rights not specifically granted Tenant by this Lease are reserved to County.



26.07 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.

26.08 Governing Law. This Lease shall be governed by and in accordance with the laws of the State of Florida.

26.09 Venue. Venue in any action, suit or proceeding in connection with this Lease shall be filed and held in a State court of competent jurisdiction located in Palm Beach County, Florida.

26.10 Inspections. Notwithstanding any provision of this Lease to the contrary, Tenant agrees that authorized employees and representatives of County and any federal, state and local governmental entity having jurisdiction over Tenant's operations or activities on the Leased Premises shall have the right of access to the Leased Premises at all reasonable times for the purposes of inspection for compliance with the provisions of this Lease and applicable laws.

26.11 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 designated 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:

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

With a copy to:

Attn: Airport Real Estate Attorney  
Palm Beach County Attorney's Office  
301 North Olive Ave, Suite 601  
West Palm Beach, FL 33401  
Fax: 561-355-4398

Tenant:

Bus One LLC  
8117 Bautista Way  
Palm Beach Gardens, FL 33418  
Fax: 561-244-4116

Any 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.

26.12 Paragraph Headings. The heading of the various articles and sections of this Lease, 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 Lease or any part or parts of this Lease.

26.13 No Recording. Neither this Lease, nor any memorandum or short form hereof, shall be recorded in the Public Records of Palm Beach County, Florida, without the prior written consent of the Department.

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

26.15 Performance. The parties expressly agree that time is of the essence with respect to the performance of every provision of this Lease in which time of performance is a factor.

26.16 Construction. No party shall be considered the author of this Lease since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Lease. Thus, the terms of this Lease shall not be strictly construed against one party as opposed to the other party based upon who drafted it. In the event that any section, paragraph, sentence, clause, or provision hereof, shall be held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Lease and the same shall remain in full force and effect.

26.17 No Broker. Tenant represents and warrants that Tenant has not dealt with any real estate salesperson, agent, finder or broker in connection with this Lease and further agrees to indemnify, defend and hold harmless County from and against any claims or demands of any such salesperson, agent, finder or broker claiming to have dealt with Tenant. The foregoing indemnification shall include all costs, expenses and fees, including reasonable attorney's fees plus cost at trial and all appellate levels, expended or incurred in the defense of any such claim or demand. The obligations set forth in this paragraph shall survive the termination of this Lease.

26.18 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Tenant 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.

26.19 Consent or Action. In the event that 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 Department, rather than any implied standard of good faith, fairness or reasonableness. Wherever this Lease requires County or Department's consent or approval or permits County or Department to act, such consent, approval or action may be given or performed by the Director.

26.20 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 hereto.

26.21 Remedies Cumulative. The rights and remedies of the parties hereto 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.

26.22 Incorporation by References. All terms, conditions, specifications of the Bid, Tenant's Response and all exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Lease by such reference.

26.23 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 County's public health unit.

26.24 Conflict. In the event of any conflict and for the purposes of resolving any disputes which may arise regarding this Lease, the order of precedence shall be: (1) this Lease; (2) the Invitation for Bids; and (3) Tenant's Bid.

26.25 Inspector General. County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of Tenant, its officers, agents, employees and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

26.26 No Third Party Beneficiaries. No provision of this Lease is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Lease, including but not limited to any citizen or employees of County and/or Tenant.

26.27 Survival. Notwithstanding any early termination of this Lease, Tenant shall remain obligated hereunder to perform any duty, covenant or obligation imposed upon Tenant hereunder arising prior to the date of such termination.

26.28 Annual Appropriation. Nothing in this Lease shall obligate County, during any fiscal year, to expend money or incur any liability that involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. County's obligations under this Lease, which involve the expenditure of money, shall be subject to annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners in accordance with Chapter 129, Florida Statutes, as it may be amended.

**(Remainder of page left blank intentionally)**

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

ATTEST:

PALM BEACH COUNTY,  
A POLITICAL SUBDIVISION OF THE  
STATE OF FLORIDA, BY ITS BOARD  
OF COUNTY COMMISSIONERS

SHARON R. BOCK,  
CLERK AND COMPTROLLER

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Steven L. Abrams, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: \_\_\_\_\_  
County Attorney

APPROVED AS TO TERMS  
AND CONDITIONS

By: \_\_\_\_\_  
Director, Department of Airports

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

TENANT:

BJS ONE LLC

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

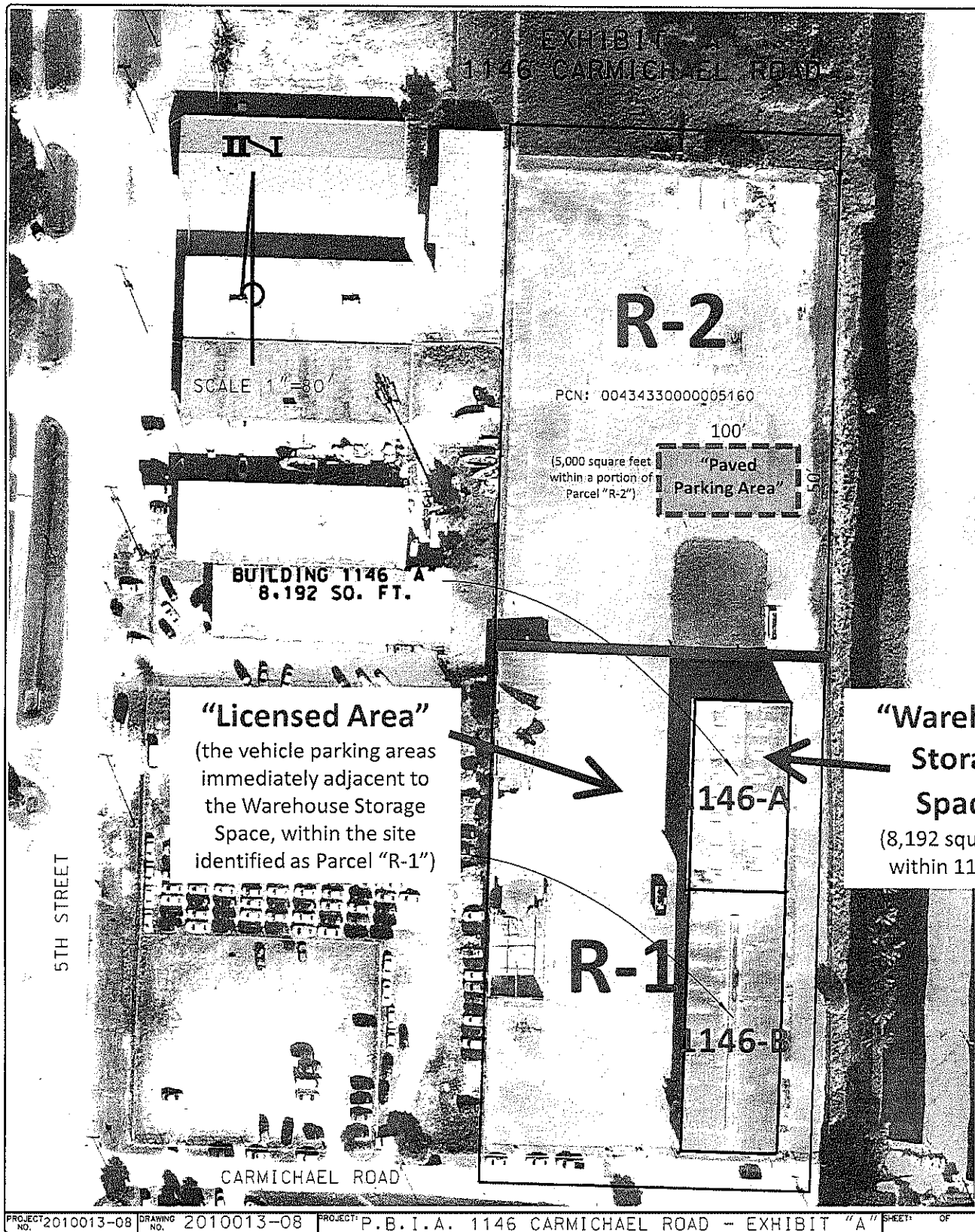
\_\_\_\_\_  
Manager

\_\_\_\_\_  
Title

(Corporate Seal)

# EXHIBIT "A"

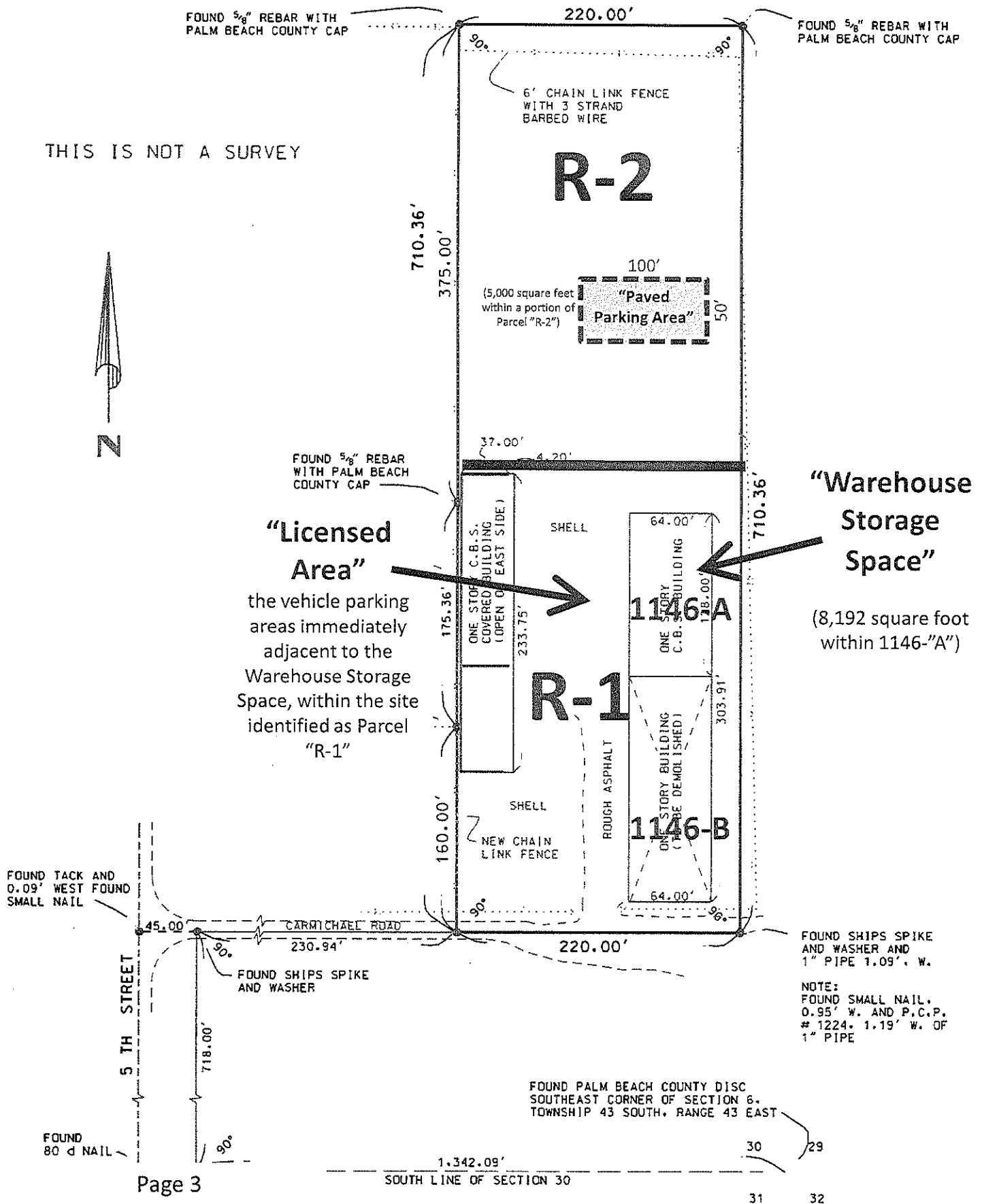
The "Leased Premises" and the "Licensed Area"



# EXHIBIT "A"

The "Leased Premises" and the "Licensed Area"

THIS IS NOT A SURVEY



# EXHIBIT "A"

The "Leased Premises" and the "Licensed Area"



PCN: 00434330000005160

## R-2

(5,000 square feet within a portion of Parcel "R-2")



**BUILDING 1146 "A"**  
8,192 SO. FT.

**"Warehouse Storage Space"**

(8,192 square foot within 1146-"A")

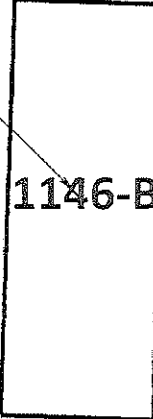


**BUILDING 1146 "B"**  
11,258 SO. FT.

**"Licensed Area"**

(the vehicle parking areas immediately adjacent to the Warehouse Storage Space, within the site identified as Parcel "R-1")

## R-1



5TH STREET

CARMICHAEL ROAD



**STATEMENT OF EXEMPTION FROM WORKER'S COMPENSATION REQUIREMENT**

TO: PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS  
C/O DEPARTMENT OF AIRPORTS

This will affirm that:

1. We are not engaged in the "construction industry" as defined in FL Chapter 440 and do not employ more than three persons (including Corporate Officers, if any).
2. We do not carry Florida Workers Compensation insurance.
3. Any persons that we may engage to work will have legal status as independent contractors, and not employees.
4. All such independent contractors have been advised that they are not covered for Workers Compensation insurance, and would be responsible for carrying their own such coverage if they desire.
5. If we should fall under Florida's requirement for carrying Workers Compensation insurance, we shall immediately obtain such coverage and provide evidence of it to you.

Accordingly, we hereby apply for exemption from Palm Beach County's requirement for carrying Workers Compensation insurance.

Denise Albritton

(Print Name)

2-5-2013

Date

Denise Albritton, OWNER

Signature/Title

Bus One LLC

Company Name

817 Bawtsta Way, Palm Beach Gardens, FL, 33418

Company Street Address/City/State/Zip Code



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
01/30/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER <b>Thomas Wood Insurance Agency, LLC</b> 105 Dovershire Ct. Cary, NC 27513	CONTACT NAME: <b>Tom Wood</b>
	PHONE (A/C, No., Ext): <b>919-342-2929</b> FAX (A/C, No.): <b>800-690-4958</b>
	E-MAIL ADDRESS: <b>tpwood98@gmail.com</b>
INSURER(S) AFFORDING COVERAGE	
INSURER A: <b>Occidental Fire &amp; Casualty Co of NC</b>	NAIC # <b>23248</b>
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED **Bus One LLC**  
8117 Bautista Way  
Palm Beach Gardens, FL 33418

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

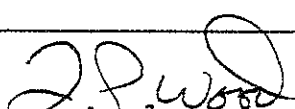
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL. SUBR. INSR. WVD	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	<input checked="" type="checkbox"/>	CL00159774	10/19/2012	10/19/2013	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>100,000</b> MED EXP (Any one person) \$ <b>5,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>1,000,000</b> \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	<input checked="" type="checkbox"/>	CA00037967	10/19/2012	10/19/2013	COMBINED SINGLE LIMIT (Ea accident) \$ <b>5,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/>				EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/>	N/A			WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate holder is added as an additional insured but only to the extent that they are liable for the conduct of the named insured. SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE (10 DAYS FOR NON-PAYMENT OF PREMIUM) TO THE CERTIFICATE HOLDER NAMED BELOW, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES

CERTIFICATE HOLDER CANCELLATION

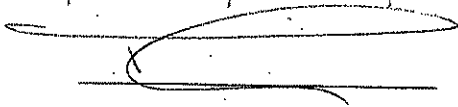
<b>Palm Beach County Board of Commissioners,</b> A Political Subdivision of the State of Florida Its Officers, Employees and Agents c/o Palm Beach County Department of Airports 846 Palm Beach International Airport West Palm Beach, FL 33406	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <b>Thomas P. Wood Managing Member</b> 

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Vehicle List

YEAR	MAKE	Model	Serial Number	CAP	Value
2001	Van Hool	C2045	YE2CC12BX12045659	57	\$115,000
2001	Van Hool	C2045	YE2CC12B812045692	57	\$120,000
2000	Prevost	H3-45	2PCH3349841013308	56	\$105,000
1997	Van Hool	T2145	YE2TC6ZB2V2043505	57	\$70,000
1997	Van Hool	T-940	YE2TA76B5U2029084	?	\$30,000

Signature



Date

2-5-2012



# EVIDENCE OF PERSONAL PROPERTY INSURANCE

DATE (MM/DD/YYYY)

THIS IS EVIDENCE THAT INSURANCE AS IDENTIFIED BELOW HAS BEEN ISSUED, IS IN FORCE, AND CONVEYS ALL THE RIGHTS AND PRIVILEGES AFFORDED UNDER THE POLICY.

AGENCY <b>PALM BEACH INSURANCE GROUP</b> 13700 US HWY 1 SUITE 102 JUNO BEACH, FL 33408	PHONE (A/C. No. Ext): <b>561-624-0362</b>	COMPANY <b>ESSEX</b>
FAX (A/C. No.): <b>561-624-0362</b>	E-MAIL ADDRESS:	
CODE:	SUB CODE:	
AGENCY CUSTOMER ID #:		
INSURED <b>BUS ONE, LLC</b> 8117 BAUTISTA WAY PALM BEACH GARDENS, FL 33418	LOAN NUMBER <b>NA</b>	POLICY NUMBER <b>CCL159254</b>
	EFFECTIVE DATE <b>02/05/2013</b>	EXPIRATION DATE <b>02/05/2014</b>
	CONTINUED UNTIL TERMINATED IF CHECKED	
THIS REPLACES PRIOR EVIDENCE DATED:		

## PROPERTY INFORMATION

### LOCATION/DESCRIPTION

1146 CARMICHAEL RD  
WEST PALM BEACH, FL 33409

## COVERAGE INFORMATION

COVERAGE/PERILS/FORMS	AMOUNT OF INSURANCE	DEDUCTIBLE
PERSONAL PROPERTY	75,000	2500
PERSONAL LIABILITY	300,000	

## REMARKS (Including Special Conditions)

## CANCELLATION

THE POLICY IS SUBJECT TO THE PREMIUMS, FORMS, AND RULES IN EFFECT FOR EACH POLICY PERIOD. SHOULD THE POLICY BE TERMINATED, THE COMPANY WILL GIVE THE ADDITIONAL INTEREST IDENTIFIED BELOW 10 DAYS WRITTEN NOTICE, AND WILL SEND NOTIFICATION OF ANY CHANGES TO THE POLICY THAT WOULD AFFECT THAT INTEREST, IN ACCORDANCE WITH THE POLICY PROVISIONS OR AS REQUIRED BY LAW.

## ADDITIONAL INTEREST

NAME AND ADDRESS <b>DEPARTMENT OF AIRPORTS, BOARD OF COUNTY COMMISSIONERS PALM BEACH COUNTY</b>	MORTGAGEE	ADDITIONAL INSURED
	LOSS PAYEE	
	LOAN # <b>NA</b>	
	AUTHORIZED REPRESENTATIVE 	

ISO Commercial General Liability Forms | 07/01/04  
POLICY NUMBER:  
CL00159774

COMMERCIAL GENERAL  
LIABILITY  
CG 20 10-07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Palm Beach County Board of County Commissioners, A Political Subdivision 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	

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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AFFIDAVIT OF LIMITED LIABILITY COMPANY

STATE OF Florida

COUNTY OF Palm Beach

BEFORE ME, the undersigned authority, personally appeared, the undersigned who by me being first duly sworn, depose(s) and say(s) that:

1. The undersigned is the Manager of Bus One LLC, a limited liability company organized and existing under the laws of the State of Florida ("Company").

2. Articles of Organization of the Company have been filed, and are on-file with, the Florida Department of State and such articles are incorporated herein by reference.

3. The Company is in good standing and is authorized to transact business in the State of Florida as of the date hereof.

4. The company is a manager managed limited liability company.

5. The undersigned is the sole managing member of the Company or has been authorized by majority vote of the managing members to act on behalf of the Company and legally bind the Company and execute contracts and other instruments relating to the transaction of business of the Company.

6. The undersigned has the right and authority to enter into that certain Lease Agreement between Palm Beach County, a political subdivision of the State of Florida and the Company (the "Agreement"), which is incorporated herein by reference and made a part hereof, and such other instruments as may be necessary and appropriate for the Company to fulfill its obligations under such Agreement, including amendment(s) and termination of such Agreement.

7. Upon execution and delivery of such Agreement and documents by the undersigned, all of the aforesaid shall be valid agreements of and be binding upon the Company.

8. The transactions contemplated herein will not violate any of the terms and conditions of the Company's member agreement, operating agreement certificate of organization or of any other agreement and amendments thereto of whatever kind between the Company and any third person.

9. The undersigned acknowledges that affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

FURTHER AFFIANT SAYETH NAUGHT,

Denise Albritton, Individually and as Manager

*Denise Albritton*

SWORN TO AND SUBSCRIBED before me on this 5 day of Feb, 2013, by Denise Albritton, Manager of Bus One LLC on behalf of the Company who is personally known to me OR who produced D/F.L.# 528-0 as identification and who did take an oath.

*[Handwritten Signature]*

Notary Signature

*Fedeline Dorjulus*

Print Notary Name

NOTARY PUBLIC



FEDELINE DORJULUS  
Notary Public, State of Flor  
Commission# EE 10962  
My comm. expires July 6,

State of FLORIDA at large

My Commission Expires: July 6, 2015

