

RESOLUTION NO. 2014-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, ADOPTING A NEW STANDARD FORM SIGNATORY CARGO CARRIER OPERATING AND LEASE AGREEMENT; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO EXECUTE STANDARD FORM SIGNATORY CARGO CARRIER OPERATING AND LEASE AGREEMENTS ON BEHALF OF THE BOARD OF COUNTY COMMISSIONERS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO ENTER INTO CERTAIN AMENDMENTS TO THE STANDARD FORM SIGNATORY CARGO CARRIER OPERATING AND LEASE AGREEMENT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, by and through its Department of Airports, owns and operates the Palm Beach International Airport; and

WHEREAS, the delegation to the County Administrator or his designee of the authority to execute the standard form agreements will eliminate delays caused by requiring such items to be brought before the Board of County Commissioners for approval and would therefore be consistent with the goal of the Board of County Commissioners to streamline the agenda process; and

WHEREAS, the Board of County Commissioners desires to authorize the County Administrator or his designee to execute a new standard form Signatory Cargo Carrier Operating and Lease Agreement on behalf of the Board of County Commissioners.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1. The foregoing recitals are true and correct and are incorporated herein.
2. The Board of County Commissioners hereby: (i) adopts a new standard form Signatory Cargo Carrier Operating and Lease Agreement, in the form attached hereto and incorporated herein as Attachment "A" ("Signatory Cargo Carrier Agreement"), and (ii) authorizes the County Administrator or his designee to execute the Signatory Cargo Carrier Agreement on behalf of the Board of County Commissioners.
3. The County Administrator or his designee is hereby authorized to execute, on behalf of the Board of County Commissioners amendments to a Signatory Cargo Carrier Agreement, which includes non-material changes. For purposes of this Resolution, "non-material changes" mean changes that will not modify any of the substantive obligations of the County under the Signatory Cargo Carrier Agreement.
4. It is the intention of the Board of County Commissioners that this delegation of signature authority is limited to the parameters set forth herein. In the event there is a material deviation from the approved standard terms and conditions of the Signatory Cargo Carrier Agreement, which would constitute discretion of the County Administrator or his designee relative thereto, then the approval of the Board of County Commissioners shall be required. The County Administrator's designee for purposes of this Resolution shall include the Director of the Department of Airports.

5. If any section, sentence, clause, phrase, or word of this Resolution is held invalid or unconstitutional by a Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

6. This Resolution shall become effective immediately upon adoption.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

COMMISSIONER PRISCILLA A. TAYLOR, MAYOR	-
COMMISSIONER PAULETTE BURDICK, VICE MAYOR	-
COMMISSIONER HAL R. VALECHE	-
COMMISSIONER SHELLEY VANA	-
COMMISSIONER STEVEN L. ABRAMS	-
COMMISSIONER MARY LOU BERGER	-
COMMISSIONER JESS R. SANTAMARIA	-

Then the Mayor thereupon declared this Resolution duly passed and adopted this ____ day of _____, 20__.

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

Sharon R. Bock, Clerk & Comptroller

By: _____
Deputy Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY**

By: _____
County Attorney

ATTACHMENT "A"
SIGNATORY CARGO CARRIER AGREEMENT

**SIGNATORY CARGO CARRIER OPERATING AND LEASE AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT**

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

and

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EXHIBIT "E" - RATE AND FEE SCHEDULE

**SIGNATORY CARGO CARRIER
OPERATING AND LEASE AGREEMENT**

THIS SIGNATORY CARGO CARRIER OPERATING AND LEASE AGREEMENT (this "Lease") is made and entered into _____, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and _____ ("Airline"), a _____, having its office and principal place of business at _____.

WITNESSETH:

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

WHEREAS, County has certain areas within its air cargo facilities at the Palm Beach International Airport, which are available for lease; and

WHEREAS, Airline desires to lease space within an air cargo building located on the Airport for the purpose of conducting its air freight and cargo operations; and

WHEREAS, Airline has indicated a willingness and demonstrated the ability to properly keep, maintain and improve said facilities in accordance with the terms and conditions of this Lease.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, and 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 words, terms, and phrases wherever used in this Lease shall have the meanings set forth in this Article and the meanings shall apply to both singular and plural forms of such words, terms, and phrases. Additional words, terms, and phrases used in this Lease, but not defined in this Article or in the Rate and Fee Schedule (as hereinafter defined), shall have the meanings set forth in the Bond Resolution:

2.01 "Activity Report" means the monthly report required to be submitted by Airline to County pursuant to Section 5.05 regarding Airline's activities and operations at the Airport, including, but not limited to, aircraft landing statistics, aircraft parking operations and amounts

paid or owed to County based on Airline's activities and operations at the Airport. The Activity Report shall be in a form and substance reasonably acceptable to County.

- 2.02 "Additional Rent" has the meaning set forth in Section 5.09.
- 2.03 "Adjustment Date" has the meaning set forth in Section 5.03.
- 2.04 "Aircraft Parking Fees" has the meaning set forth in the Rate and Fee Schedule.
- 2.05 "Air Cargo Building" means Building 1475 located on the Airport.
- 2.06 "Air Cargo Building Parking Lot" has the meaning set forth in Section 4.02(A).
- 2.07 "Airfield Cost Center" has the meaning set forth in the Rate and Fee Schedule.
- 2.08 "Airline" means the Air Transportation Company identified in the preamble of this Lease.
- 2.09 "Airline Party" means Airline's officers, agents, employees, contractors, invitees, licensees, subtenants, suppliers of service and materials and/or any other Persons whomsoever acting on behalf of or at the request of Airline.
- 2.10 "Airport" means Palm Beach International Airport located in Palm Beach County, Florida.
- 2.11 "Airport System" means all real property or any interest therein, including improvements thereto, structures, buildings, fixtures, and other personal property that are located on the Airport, Palm Beach County Park Airport, Palm Beach County Glades Airport, North Palm Beach County General Aviation Airport, and any other airport hereafter owned, leased or operated by County.
- 2.12 "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 law or ordinance regulating activities or operations on the Airport.
- 2.13 Air Transportation Company means an air carrier providing carriage by air of passengers, property, parcels, cargo, and/or mail.
- 2.14 "Assigned Building Premises" has the meaning set forth in Section 4.01(A).
- 2.15 "Assignment" has the meaning set forth in Section 19.01.
- 2.16 "Baggage Handling System Cost Center or BHS Cost Center" has the meaning set forth in the Rate and Fee Schedule.

2.17 “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.

2.18 “Board” means the Board of County Commissioners of Palm Beach County, Florida.

2.19 “Business Day” means any day other than a Saturday, Sunday or County holiday. Use of the word “day”, as opposed to Business Day, means calendar day of twenty four (24) hours measured from midnight to the next midnight.

2.20 “Capital Expenditure” means an expenditure made to acquire, purchase or construct a single capital item for the purpose(s) of improving, maintaining or developing the Airport System.

2.21 “Capital Improvement Project” means a Capital Expenditure that is estimated to be funded with more than Three Million Dollars (\$3,000,000) in Revenues and will result in costs being allocated to the Airfield, Baggage Handling System or Terminal Cost Centers during the Term of this Lease.

2.22 “Commencement Date” has the meaning set forth in Article 3.

2.23 “Commercially Reasonable” means the efforts a reasonable business entity (in the case of Airline) or governmental entity (in the case of County) would use under similar circumstances when acting in a determined manner to achieve an intended result.

2.24 “Contract Security” has the meaning set forth in Section 5.07.

2.25 “County Party” means County’s elected officers, employees and agents.

2.26 “Damages” has the meaning set forth in Article 20.

2.27 “Deferral Notice” has the meaning set forth in Section 7.02(C).

2.28 “Department” means the Palm Beach County Department of Airports, which is the department designated with the responsibility for the operation, maintenance and management of the County’s Airport System on behalf of County.

2.29 “Director” means the Director or Acting Director of the Palm Beach County Department of Airports.

2.30 “Derelict Aircraft” means an aircraft, stored in the open, that:

- A. Does not hold a current and valid airworthiness certificate issued by the FAA, or other appropriate aircraft certificating authority, together with

necessary aircraft registration and maintenance records with a current endorsement by an appropriately rated certificate holder that the aircraft is in an airworthy condition; or

- B. Has been issued a condition notice by the FAA that specifies that the aircraft has one or more conditions that render it not airworthy; or
- C. Has had major components, accessories, flight controls, portions of the airframe or engines removed so as to render the aircraft not airworthy.

2.31 “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.

2.32 “Effective Date” means the date that this Lease is executed by the parties hereto.

2.33 “Environmental Laws” means all applicable federal, state and local laws, rules, orders and regulations protecting human health, the environment and/or natural resources, as such laws, rules, orders and regulations are now or hereafter amended, including, but not limited to, the Federal Clean Water Act, Safe Drinking Water Act, Clean Air Act, Resource Conservation and Recovery Act and Comprehensive Environmental Response, Compensation and Liability Act of 1980.

2.34 “Environmental Operating Fees” has the meaning set forth in the Airport Rules and Regulations.

2.35 “Estimate” has the meaning set forth in Section 15.02.

2.36 “Event of Default” has the meaning set forth in Section 18.02.

2.37 “Excused Delays” means delays occurring by reason of casualties, acts of God (including tornados, hurricanes and other forms of inclement weather), strikes, lockouts, other labor troubles, non-availability of labor or materials or other causes reasonably characterized as being beyond a party’s control and that are not the result of such party’s negligence or intentional misconduct.

2.38 “FAA” means the Federal Aviation Administration and its authorized successors.

2.39 “Fiscal Year” means County’s annual accounting period for its general accounting purposes, which as of the Effective Date of this Lease, is the period of twelve (12) consecutive months commencing on October 1st and ending on September 30th of each year.

2.40 “Hazardous Substance” means any substance defined as a “hazardous waste”, “hazardous material”, “hazardous substance”, “pollutant”, or “contaminant” under any Environmental Law; any substance that is toxic, explosive, corrosive, flammable, infectious,

radioactive, carcinogenic, mutagenic, or otherwise hazardous and is regulated by any governmental authority, agency, department, commission, board, agency, or instrumentality of the United States or the State of Florida; any substance that contains gasoline, diesel fuel, or other petroleum hydrocarbons or volatile organic compounds; any substance that contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation; or any substance, excluding those naturally occurring at the Airport, that contains or emits radioactive particles, waves, or materials, including, but not limited to, radon gas.

2.41 "Landing Fees" has the meaning set forth in the Rate and Fee Schedule. The Landing Fees constitute consideration for, among other things, Airline's use of the Preferential Use Parking Apron.

2.42 "Landed Weight" means the maximum gross certificated landing weight, as certified by the FAA, in one thousand pound units, for each aircraft operated by Airline at the Airport.

2.43 "Lease" means this Signatory Cargo Carrier Operating and Lease Agreement between County and Airline, as amended and supplemented, and all addenda, schedules and exhibits hereto, which are incorporated herein by this reference. Words such as "herein," "hereafter," "hereof," "hereto," "hereby" and "hereunder," when used with reference to this Lease, refer to this Lease as a whole, unless the context otherwise requires.

2.44 "Licensed Areas" means those areas of the Airport set forth in Section 4.02.

2.45 "Loading Dock" has the meaning set forth in Section 4.02(B).

2.46 "Majority In Interest of Airlines ("MII")" means: (1) for the Terminal Cost Center and Baggage Handling System Cost Center at least fifty percent (50%) in number of the Signatory Airlines who together had at least sixty-six percent (66%) of the Total Passengers, including those carried by the Signatory Airlines' Affiliates, during the immediately preceding Fiscal Year; and (2) for the Airfield Cost Center at least fifty percent (50%) in number of the Signatory Airlines who together had at least sixty-six percent (66%) of the total Landed Weight, including the Landed Weight of the Signatory Airlines' Affiliates, during the immediately preceding Fiscal Year. Terms used in this definition that are not specifically defined in this Agreement shall have the meanings set forth in the Signatory Airline Agreement.

2.47 "Major Maintenance" means repair activities other than routine servicing activities normally requiring more than two (2) hours to complete.

2.48 "Minor Aircraft Maintenance" means routine aircraft service activities that normally require less than two (2) hours to complete, and that would not ordinarily appreciably affect weight, balance, structural strength, performance, powerplant operation, flight characteristics, or other qualities affecting airworthiness.

2.49 “Person” includes a partnership, joint venture, association, corporation, limited liability company, trust or other entity, or, where the context so permits or requires, a natural person.

2.50 “Plans” have the meaning set forth in Section 8.01(A).

2.51 “Preferential Use” means a license granting the user the first right or priority of use of certain airport facilities or areas for aircraft operations. The right of Preferential Use shall not preclude use of an airport area or facility by others when such areas or facilities are not in Active Use by the user with the right of Preferential Use. For purposes of this definition, the term “Active Use” shall mean active loading or unloading of parcels, freight and cargo, or the performance of Minor Aircraft Maintenance as permitted under this Lease. For purposes of Preferential Use, the period of Active Use shall commence two (2) hours prior to a scheduled arrival of aircraft in Airline’s fleet or feeder aircraft involved in Airline’s air cargo transportation business, and shall end one (1) hour following the departure of such aircraft.

2.52 “Preferential Use Parking Apron” has the meaning set forth in Section 4.01(B).

2.53 “Premises” means the Assigned Building Premises, Preferential Use Parking Apron and the Licensed Areas.

2.54 “Prior Lease” means that certain Air Cargo Building Lease and Operating Agreement by and between Airline and County dated _____ (R-_____), as amended.

2.55 “Proposed Statement of Rates” has the meaning set forth in Section 6.02(A).

2.56 “Public Airport Facilities” means the runways, taxiways, public roadways, sidewalks and other facilities and improvements, as may now be in existence or hereinafter constructed, for the use of Persons lawfully using the Airport. The term “Public Airport Facilities” shall not be construed as including any areas of the Airport, which are leased or under the contractual control of others.

2.57 “Rate and Fee Schedule” means the Rate and Fee Schedule attached hereto as Exhibit “E”.

2.58 “Revenues” means income and revenue derived by County in connection with the operation of the Airport System, as the term “Revenues” is further defined, limited and determined in accordance with the Bond Resolution. The term “Revenues” shall not include PFCs, insurance proceeds, restricted land sale proceeds or any local, state or federal assistance, or any interest earned thereon.

2.59 “Revenue Sharing Amount” means Airline’s Total Revenue Sharing Amount as determined in accordance with Section III of the Rate and Fee Schedule.

2.60 "Risk Management Department" means the Palm Beach County Risk Management Department.

2.61 "Scheduled Air Carrier" means an Air Transportation Company performing or desiring to perform, pursuant to published schedules, commercial Air Transportation Services over specified routes to and from Airport, and holding any and all necessary authority to provide such Air Transportation Services from all appropriate federal and state agencies.

2.62 Section refers to the individual sections of this Agreement contained in each Article.

2.63 "Settlement" means the process of determining the Settlement Amount, if any, due County or Airline set forth in Section 6.03 and the Rate and Fee Schedule.

2.64 "Settlement Amount" means the amount due County or Airline based upon the difference between: (1) the amount paid by Airline in a Fiscal Year based upon the estimated rates contained in the Statement of Rates; and (2) the amount Airline or County owes based upon a recalculation of the rates by County using audited financial data for such Fiscal Year in accordance with the Rate and Fee Schedule.

2.65 "Service Road" has the meaning set forth in Section 4.02(D).

2.66 "Signatory Airline" means: (1) a Scheduled Air Carrier that has the right to operate at the Airport pursuant to an agreement with County substantially similar to the Signatory Airline Agreement and has been granted a license to use ticket counter space and office space, consisting of a minimum of seven hundred (700) square feet of space, and has been granted a license to use at least one (1) gate on a Preferential Use basis; (2) a Scheduled Air Carrier that has the right to operate at the Airport pursuant to an agreement with County substantially similar to the Signatory Airline Agreement and has been granted a license to use ticket counter and office space, consisting of a minimum of seven hundred (700) square feet of space, and operates exclusively at gate(s) located within the Commuter Operating Area; or (3) an all-cargo Air Transportation Company that leases no less than three thousand (3,000) square feet of space from County on the Airport pursuant to an agreement for a total term at least equal to the Term of the Signatory Airline Agreement.

2.67 "Signatory Airline Agreement" means the Signatory Airline Agreement adopted by the Board on _____, 2014, pursuant to Resolution R-2014- _____, as may be amended.

2.68 "Statement of Rates" has the meaning set forth in Section 6.01(B).

2.69 "Term" has the meaning set forth in Article 3.

2.70 "Terminal Cost Center" has the meaning set forth in the Rate and Fee Schedule.

2.71 "Through-way Ramp Area" has the meaning set forth in Section 4.02(C).

2.72 “TSA” means the Transportation Security Administration of the Department of Homeland Security or any successor agency responsible for airport security.

ARTICLE 3 - TERM

The term of this Lease shall commence on _____ (“Commencement Date”) and shall terminate on September 30, 2019, unless sooner terminated pursuant to the terms of this Lease (“Term”).

ARTICLE 4 - PREMISES AND PRIVILEGES

4.01 Description of Premises and Specific Privileges, Uses and Rights.

- A. County hereby demises and leases to Airline, and Airline rents from County approximately _____ square feet of interior cargo space within the Air Cargo Building, as more particularly described in the attached Exhibit “A” (the “Assigned Building Premises”) for office administration, shipping, receiving, storage, sorting, loading and unloading of parcels, freight and cargo and for minor maintenance of Airline’s ground support equipment and aircraft components.
- B. County hereby grants to Airline a license to use Aircraft Parking Apron Position ____, as more particularly depicted in Exhibit “B” (“Preferential Use Parking Apron”), on a Preferential Use basis for the purposes of aircraft parking, Minor Maintenance and the staging, in a neat manner, of containers and ground support equipment necessary for the active loading and unloading of parcels, freight and cargo.

{Insert if applicable:

- C. County hereby demises and leases to Airline, and Airline rents from County approximately _____ square feet of ground, as more particularly identified on the attached Exhibit “A” (“GSE Area”), for the storage of Airline’s ground support equipment. The GSE Area shall be kept in a neat and orderly condition and shall not be used for long-term storage of inoperable equipment.}

4.02 Licensed Areas and Specific Privileges, Uses and Rights. County hereby grants to Airline a non-exclusive license to use the following areas (the “Licensed Areas”), as more particularly depicted in Exhibit “B”:

- A. The air cargo building parking lot for employee and visitor parking (“Air Cargo Building Parking Lot”). The Department reserves the right to designate or assign use of all or portions of the Air Cargo Building Parking Lot to specific Air Cargo Building tenants, or for the exclusive

use of visitors. Notwithstanding the foregoing, sufficient parking shall remain available for use by Airline and its visitors at all times during the Term of this Lease.

- B. The loading dock and loading ramp area east of and adjacent to the Air Cargo Building ("Loading Dock"), for shipping, receiving, loading and unloading of cargo.
- C. The through-way ramp, consisting of an area extending sixty (60) feet from and located immediately adjacent to the west side of the Air Cargo Building ("Through-way Ramp Area"), for the purposes of active shipping, receiving, loading and unloading in accordance with the terms and conditions of this Lease.
- D. The service road for the purposes of ingress to and egress from the Aircraft Parking Apron and Through-way Ramp Area ("Service Road") in accordance with the terms and conditions of this Lease.
- E. Aircraft Parking Apron Position 3, in common with other tenants of the Air Cargo Building, on a as-needed basis subject to availability and payment of applicable Aircraft Parking Fees.

4.03 Revocation of License.

- A. If County provides Airline written notice that it intends to permanently revoke Airline's license to use the Licensed Areas, *Insert if applicable:* with the exception of the GSE Area,} and if County does not contemporaneously offer Airline the use of alternative areas on the Airport that will permit Airline to continue its activities without material adverse effect, Airline shall have a right, for a period of one hundred eighty (180) days from the date of County's notice, to terminate this Lease by delivering written notice to County. In the event Airline fails to exercise its right to terminate this Lease within the aforementioned one hundred eighty (180) day period, Airline shall be deemed to have waived its right to terminate this Lease pursuant to this Section, and this Lease shall continue in full force and effect. Temporary closures or restrictions on access to the Licensed Areas that County puts in effect: (1) for repair, maintenance or construction activities, (2) as the result of acts of God (including tornadoes, hurricanes and other forms of inclement weather), (3) to comply with security requirements of the TSA, or (4) for other similar occurrences, shall not constitute a permanent or constructive revocation of Airline's non-exclusive license to use the Licensed Areas for purposes of this Section.

{Insert if applicable:}

- B. If Airline exercises its right to terminate this Lease in accordance with the provisions of Section 4.03(A) above, County shall reimburse Airline for the aggregate Net Book Value (as hereinafter defined) of the Initial Leasehold Improvements (as defined in the Prior Lease) less any Rental Credit applied by County to payments made by Airline hereunder and under the Prior Lease. Airline shall surrender possession of the Premises on or before the date of termination designated in Airline's notice of termination. County shall reimburse Airline within one hundred eighty (180) days of the date of termination. Upon termination, the parties shall be released from all further obligations hereunder with the exception of County's obligation to reimburse Airline as provided above, those obligations arising prior to the date of termination and those obligations that expressly survive termination of this Lease. For purposes of this paragraph, "Net Book Value" means the value of the Initial Leasehold Improvements, including associated design, architectural, engineering and construction management fees not exceeding ten percent (10%) of the total value of the Initial Leasehold Improvements, less accumulated depreciation. Accumulated depreciation shall be calculated on a straight-line basis for a period beginning on the date of issuance of the certificate of occupancy for the Initial Leasehold Improvements and ending on September 30, 2019. Accumulated depreciation will also include any pro rata annual depreciation for periods less than one (1) year calculated on a monthly basis, rounded up to the nearest whole monthly period.}

4.04 General Privileges, Uses and Rights. In addition to the specific privileges granted in this Article, County hereby grants to Airline the following general privileges, uses and rights, all of which shall be subject to the terms, conditions, and covenants hereinafter set forth and all of which shall be non-exclusive on the Airport:

- A. The general use, in common with others, of all Public Airport Facilities and improvements that are now or may hereafter be connected with or appurtenant to the Airport to be used by Airline, its agents and employees, patrons and invitees, suppliers of service, furnishers of material, and authorized subtenants, if any.
- B. The right of ingress to and egress from the Premises over and across public roadways serving the Airport for Airline, its agents and employees, patrons and invitees, suppliers of service and furnishers of material, and its authorized subtenants, if any. Said right shall be subject to such laws, rules, regulations and orders as now or may hereafter have application at the Airport.

Except as expressly set forth in this Article, nothing herein contained shall be construed to grant to Airline the right to use any space or area improved or unimproved which is leased to, or under contractual control of a third party, or which County has not leased or licensed herein.

4.05 Restrictions on Privileges, Uses and Rights.

- A. The Department shall have the right to establish reasonable rules and regulations governing the use of the Preferential Use Parking Apron, Licensed Areas and Public Airport Facilities. Airline agrees to be subject to, and comply with, such reasonable rules and regulations.
- B. The rights granted hereunder are expressly limited to the improvement, maintenance, and operation of the Premises pursuant to the terms and conditions of this Lease, and nothing herein shall be construed to give Airline any rights in any future expansion, renovation or relocation of the Airport or air cargo facilities. Airline covenants and agrees that the Premises shall be utilized solely for the uses permitted in this Article and for no other purpose whatsoever.
- C. Parking of boats, motor homes or inoperable vehicles and the stockpiling or storage of inoperable equipment, machinery and containers within the Premises or other areas of the Airport is strictly prohibited. Parking of automobiles upon the Loading Dock is prohibited. Long-term parking of any motorized vehicle or trailer upon the Loading Dock is prohibited.
- D. With regard to Airline's right to store aircraft parts within the Assigned Building Premises, Airline may only store parts intended for installation on aircraft in Airline's fleet or on feeder aircraft involved in Airline's air cargo transportation business. All such storage must be contained within the Assigned Building Premises, and shall be limited to the storage incidental to Airline's overall operation and use of the Assigned Building Premises.
- E. Except as otherwise provided for herein, use of the Premises and other areas of the Airport for Major Maintenance on aircraft, automobiles or equipment and painting or stripping of equipment is strictly prohibited.
- F. Except as otherwise provided for herein, or otherwise approved in writing by the Department, the Service Road, Through-way Ramp Area, and Loading Dock shall be maintained and kept free and clear to allow for the lateral movement of other Airlines' freight, equipment, and personnel in these non-exclusive areas. Furniture, chairs and similar items shall be prohibited on the Loading Dock. All tenants of the Air Cargo Building shall have the right to make such movements within said areas according to each tenant's business needs.

- G. Airline shall only be permitted to park upon the Preferential Use Parking Apron aircraft that Airline owns, leases, or has contracted to handle. Airline acknowledges that the availability of aircraft parking positions at the Air Cargo Building is limited and that such positions are to be used in common with others subject to Airline's Preferential Use of the Preferential Use Parking Apron. The Department shall have the right to require Airline to relocate Airline's aircraft to designated areas elsewhere on the Airport and to relocate its staged containers and ground support and loading equipment during times when such aircraft are not being actively loaded or unloaded and an aircraft parking position is needed to accommodate another Air Cargo Building tenant for such activities, subject to Airline's Preferential Use of the Preferential Use Parking Apron. Overnight or long-term parking of aircraft on the Preferential Use Parking Apron is prohibited. The Department may designate areas of the Airport for overnight or long-term parking of aircraft. Airline shall be responsible for payment of any applicable Aircraft Parking Fees for parking of aircraft on areas outside of the Preferential Use Parking Apron.
- H. Persons, including, but not limited to, Airline's employees, shall not loiter or remain overnight on the Premises or elsewhere at the Airport. The foregoing will not preclude Airline's personnel from being present on the Premises each day between 4:00 a.m. and the following midnight.

4.06 Condition and Use of the Premises. Airline expressly acknowledges that it has inspected the Premises and Airport and accepts both in their "AS IS CONDITION" and "WITH ALL FAULTS," together with all defects, latent and patent, if any. Airline further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Airport or the Premises, including, but not limited to, the physical and/or environmental condition of the Premises or any improvements located thereon; the value of the Premises or improvements; the zoning of the Premises; title to the Premises; the suitability of the Premises or any improvements for Airline's intended use; or Airline's legal ability to use the Premises for Airline's intended use. The foregoing will not affect any obligation to maintain or repair the Premises and the Licensed Areas that the County expressly undertakes under the terms of this Lease.

ARTICLE 5 - RENTAL, FEES AND CHARGES

5.01 Annual Rental. Airline shall pay to County for use of the Assigned Building Premises an initial annual rental in the amount of Eleven Dollars and Fifty Cents (\$11.50) per square foot for approximately _____ square feet or _____ (\$ _____) annually, plus any applicable taxes.

{Insert applicable provision (if any):

- A. Rental Credit. During the Term of this Lease, Airline's annual rental amount shall be reduced by _____ (\$_____) per year, representing a credit for a portion of Airline's cost to construct Initial Leasehold Improvements (as defined in the Prior Lease) ("Rental Credit"). The County shall apply that credit in equal monthly installments of _____ (\$_____).
- B. GSE Area. Airline shall pay to County for use of the GSE Area an initial annual rental of Sixty Five Cents (\$.65) per square foot for approximately _____ square feet or _____ (\$_____) annually, plus any applicable taxes.}

5.02 Commencement and Time of Payment. Commencing 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, subject to any Rental Credit, and except as otherwise expressly provided elsewhere in this Lease. Each monthly installment of rental will be due by the first day of each and every month throughout the Term. 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. Rental shall be deemed delinquent if payment is not received by the first business day of the month in which it is due. If the Commencement Date occurs on a day other than the first day of the month, Airline shall pay rent from the Commencement Date to the first day of the following month on a per diem basis (calculated on the basis of the actual number of days in the month in which the Commencement Date occurs). Any payment due hereunder for any other fractional month shall likewise be calculated and paid on such a per diem basis.

5.03 Adjustment of Premises Rental Rate. On October 1, 2016, and each three (3) year anniversary thereof ("Adjustment Date"), the then current rental rate shall be adjusted in accordance with the provisions of this paragraph. The new rental rate shall be determined by an appraisal obtained by County, which shall set forth the fair market rental for the Assigned Building Premises *{Insert if applicable: and GSE Area}*. 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 Assigned Building Premises *{Insert if applicable: and GSE Area}* as established by the appraisal, which shall become the new rental rate(s). Tenant shall commence paying the new rental rate on the Adjustment Date. The new rental rate shall not be less than the rental rate for the prior period. This Lease shall automatically be considered as amended to reflect the new rental rate, without formal amendment hereto, upon County's written notification of the establishment of the new rental rate applicable to the Assigned Building Premises *{Insert if applicable: and GSE Area}*. Notwithstanding any provision of this Lease to the contrary, Airline 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.

5.04 Fees and Charges for Aircraft Operations. Airline shall pay all fees and charges applicable to its operations at the Airport, including, but not limited to, Landing Fees, Environmental Operating Fees, and Aircraft Parking Fees for use of aircraft parking apron areas that are not licensed to Airline on a Preferential Use basis hereunder.

5.05 Activity Report.

- A. No later than the tenth (10th) day of each month during the Term and any extension thereof, Airline shall deliver to the Department an Activity Report detailing Airlines activities and operations on the Airport for the preceding month. Airline shall remit payment for all fees and charges based upon Airline's Activity Report including, but not limited to, Aircraft Parking Fees, Landing Fees and Environmental Operating Fees, with the Activity Report. Payment of such fees and charges shall be deemed delinquent if not received by the twentieth (20th) day following the month in which the activity occurred. The acceptance of any payment by County shall not preclude County from verifying the accuracy of Airline's reports on which the fees and charges to be paid by Airline are based and shall not be deemed a waiver of any interest penalties due. In the event Airline fails to provide the Activity Report within the time period specified herein or if the data in the Activity Report appears to be inaccurate, the Department may, based on previous reports and other information available to the Department, estimate Airline's activity for the preceding month and issue invoices based upon such estimates. If such estimates result in overpayment by Airline, County shall grant Airline a rental credit for such overpayment against future rentals, fees and/or charges payable by Airline.
- B. In the event that Airline handles aircraft that it does not own or lease, Airline shall report monthly to the Department, without request by County, the name, address, and telephone number of the company, including contact person responsible for such payments pursuant to this Section. Airline agrees to provide County, upon request by County, any and all reasonable information requested regarding quantities of freight and cargo handled. Airline shall provide any such information within thirty (30) days of a written request by County.

5.06 Late Payments - Interest. In the event Airline fails to make timely payment of any rentals, fees and charges due and payable in accordance with the terms of this Lease, interest at the rate of one and one-half percent (1½%) per month shall accrue against the delinquent payment(s) from the date due until the date payment is received by the Department.

5.07 Contract Security.

- A. Unless Airline has provided regularly scheduled flights to and from the Airport pursuant to an agreement with County for no less than eighteen (18) consecutive months prior to the Effective Date without violating such agreement, Airline shall provide County with a clean, irrevocable letter of credit, surety bond or other security acceptable to County ("Contract Security") in an amount equal to County's estimate of three (3) months' rentals, fees and charges payable by Airline hereunder, to guarantee the faithful performance by Airline of its obligations under this Lease and the payment of all amounts due hereunder. The Contract Security shall be provided to County prior to the Effective Date. Airline shall be obligated to maintain the Contract Security in effect for no less than eighteen (18) consecutive months. The Contract Security shall be in a form and issued by a company reasonably acceptable to County. In the event that any such Contract Security shall be for a period of less than the full period required by this Lease, or if the Contract Security may be canceled, Airline shall provide a renewal or replacement Contract Security at least sixty (60) days prior to the later of: (1) the date the Contract Security expires, or (2) the effective date of cancellation of the Contract Security.
- B. If Airline commits an Event of Default hereunder, or upon Airline's election to assume this Lease under federal bankruptcy laws, County shall have the right to impose or re-impose the Contract Security requirements of Section 5.07(A) above upon Airline by written notice to Airline. In such event, Airline shall provide County with the required Contract Security within ten (10) days of receipt of County's written notice and shall thereafter maintain such Contract Security for a period of no less than eighteen (18) consecutive months. In the event Airline does not commit an Event of Default or an act or omission that, with the passage of time or giving of notice, or both, would constitute an Event of Default hereunder for a period of eighteen (18) consecutive months, Airline shall be released from its obligation to maintain the Contract Security required by this Section. County's rights under this Section shall be in addition to all other rights and remedies available to County either by law or under the terms and conditions of this Lease.
- C. Notwithstanding the foregoing, County shall have the right, in its sole and absolute discretion, to waive the requirements of this Section if Airline demonstrates that it has provided regularly scheduled flights at three (3) or more airports during the preceding eighteen (18) month period, remains in good standing under its agreements with the other airports and does not have a pattern of untimely payments to the other airports. Airline shall have the burden of demonstrating compliance with the requirements of this subsection to County.

- D. The parties acknowledge and agree that any Contract Security provided by Airline will not be considered "property of the estate" for purposes of the United States Bankruptcy Code, it being understood that any Contract Security is property of the third party providing it (subject to County's ability to draw against the Contract Security).
- E. Notwithstanding any provision of this Lease to the contrary, failure to maintain Contract Security as required herein shall constitute an Event of Default and shall be grounds for termination of this Lease in accordance with Section 18.03 of this Lease.

5.08 Audit.

- A. Airline shall maintain and keep books, ledgers, accounts, or other records relating to the aircraft handled by Airline at the Airport and the resulting activity statistics, including an accurate recording of the total number of landings at the Airport, the Landed Weight of each aircraft, aircraft parking information and all other traffic and activity statistics to be recorded or reported hereunder. Airline shall make those books, ledgers, accounts, and records available to County for inspection in such format as Airline regularly maintains them throughout the Term and for a period of three (3) years following the termination of this Lease. If Airline makes the books and records available to County in an electronic format, an officer of Airline must certify them as being accurate.
- B. County or its duly authorized representative(s) may examine any and all such books, ledgers, accounts and records during all reasonable business hours, in Airline's offices or such other place as mutually agreed to between Airline and the Department. Upon County's written request for examination of such books, ledgers, accounts and records, Airline shall produce such items in Palm Beach County, Florida, within ten (10) business days or pay all reasonable expenses, including, but not limited to, transportation, food, and lodging for County's Internal Auditor or his representative(s) to audit said books and records outside Palm Beach County, Florida. Except as required by Chapter 119, Florida Statutes, and as otherwise provided by law, County agrees to keep confidential any information that it obtains from an examination of Airline's books, ledgers, accounts and records, but that this Lease does not require Airline to report to County. In all such cases where an exemption from Chapter 119, Florida Statutes, or any other law pertaining to the confidentiality of records is claimed by Airline, Airline shall identify and claim such exemption upon submitting any protected documents or records to County or its representatives.
- C. The cost of an audit, with the exception of the aforementioned transportation, food and lodging expenses, shall be borne by County;

provided however, that the full cost of the audit shall be borne by Airline if either or both of the following conditions exist:

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

- D. Any underpayment of amounts due County disclosed as a result of an audit conducted pursuant to this Section, including interest computed from the original due date of each such amount due, shall be paid to County within thirty (30) days of the date of County's invoice. Such payment by Airline shall not abrogate Airline's right to contest the validity of said underpayments. Any valid overpayments made by Airline shall be promptly remitted, or at County's option, credited to Airline.

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

5.10 Accord and Satisfaction. In the event Airline 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 - ADJUSTMENT OF RATES

6.01 General.

- A. Rates for fees and charges payable hereunder based on Airline's activity and operations at Airport, including, but not limited to Landing Fees and Aircraft Parking Fees, shall be reviewed and adjusted annually by County in accordance with the provisions of this Article. Annual adjustments shall become effective each October 1st throughout the Term of this Lease. In addition to the annual adjustment provided for in this Article, rates for fees and charges may also be adjusted by County: (1) in order to ensure compliance with Section 710 (rate covenant) of the Bond Resolution; or (2) at any time that financial data indicates that the total fees and charges calculated in accordance with the Rate and Fee Schedule are reasonably

estimated by County to vary by more than ten percent (10%) from the total fees and charges that would be payable based upon the use of actual financial data to date for the Fiscal Year.

- B. County shall prepare and deliver to Airline a statement showing the adjusted rates for fees and charges payable hereunder calculated in accordance with the Rate and Fee Schedule ("Statement of Rates") in accordance with Section 6.02. The Statement of Rates shall become part of this Lease without formal amendment hereto upon issuance of the final Statement of Rates to Airline.
- C. Notwithstanding any provision of this Lease to the contrary, the provisions of this Article shall not apply to payment of rental for use of the Assigned Building Premises *Insert if applicable:* and GSE Area}, which shall be adjusted in accordance with Section 5.03 above.

6.02 Annual Adjustment.

- A. On or about July 1st of each Fiscal Year (or approximately ninety (90) days prior to the end of the then current Fiscal Year), County shall notify Airline of the proposed schedule of rates for fees and charges ("Proposed Statement of Rates") for the next Fiscal Year. The rates for fees and charges contained in the Proposed Statement of Rates shall be determined and presented to Airline in conformance with the methodologies set forth in the Rate and Fee Schedule.
- B. Within forty five (45) days after providing the Proposed Statement of Rates to the Signatory Airlines, County agrees to meet collectively with the Signatory Airlines at a mutually convenient time for the purpose of discussing the Proposed Statement of Rates. County shall make available to the Signatory Airlines any reasonably requested additional information relating to the Proposed Statement of Rates prior to the meeting. County agrees to fully consider the comments and recommendations of the Signatory Airlines prior to finalizing the Statement of Rates.
- C. After the meeting with the Signatory Airlines pursuant to Section 6.02(B), and prior to the end of the then current Fiscal Year, County shall deliver the final Statement of Rates to Airline in accordance with Section 6.01(B) for the next Fiscal Year.
- D. If the annual adjustment of rates for fees and charges pursuant to this Article is not completed by County on or before October 1st, the then current fees and charges shall continue to be paid by Airline until such adjustment is concluded. Upon the conclusion of such adjustment calculations, any difference(s) between the actual fees and charges paid by Airline through the date of the adjustment for the then current Fiscal Year

and the fees and charges that would have been paid by Airline during the same period using the adjusted rates shall be remitted to the party to whom it is due within sixty (60) days of County's delivery of the final Statement of Rates to Airline.

6.03 Settlement/Revenue Sharing Payment Procedures.

- A. Airline acknowledges that the rates contained in the Statement of Rates shall be estimated based upon County's budget for the upcoming Fiscal Year ("Estimated Rates"). On or before March 1st of each year, County shall recalculate the rates set forth in the Statement of Rates based upon the actual financial data for such Fiscal Year in accordance with the Rate and Fee Schedule and shall provide to Airline in writing the estimated Settlement Amount due County or Airline and the estimated Revenue Sharing Amount due Airline, if any.
- B. No later than July 1st of each year, County shall provide to Airline a written statement setting forth the final Settlement Amount due County or Airline and final Revenue Sharing Amount due Airline for the preceding Fiscal Year, if any.
- C. In the event a Settlement Amount is due County, County shall invoice Airline for the Settlement Amount, which amount shall be payable to County within sixty (60) days of the receipt of County's invoice.
- D. In the event a Settlement Amount is due Airline, County shall pay to Airline the Settlement Amount due plus any Revenue Sharing Amount within sixty (60) days of County's written statement to Airline setting forth the final Settlement Amount.
- E. Notwithstanding any provision of this Lease to the contrary, in the event Airline is past due or delinquent in making any payments to County hereunder, County may deduct such past due or delinquent amounts, plus any applicable interest accrued thereon, from any amounts payable to Airline under this Section.
- F. Airline may elect to receive payments from County pursuant to this Section in the form of a rental credit against future rentals, fees and/or charges payable by Airline hereunder, by County warrant or by interbank wire transfer to an account designated by Airline. Airline shall provide any payee information reasonably requested by County or the Palm Beach County Clerk and Comptroller's Office for the purpose of ensuring Airline's receipt of payment pursuant to this Section. As of the Effective Date of this Lease, Airline has elected to receive payments pursuant to this Section as follows:

Airline has elected to receive payments in the form of a rental credit.

Airline has elected to receive payments by County warrant to:

ATTN: _____

Airline has elected to receive payments by interbank wire transfer to:

Airline may change its election pursuant to this Section 6.03(F) and/or its address for payments by County warrant or account information for interbank wire transfers upon thirty (30) days prior written notice to County.

6.04 Fiscal Year 2014 Transfers. The parties acknowledge and agree that they are parties to the Prior Lease, which provides for annual Transfers (as defined in the Prior Lease) that represent revenue sharing component of rate calculations that would have been credited against Terminal Cost Center and Airfield Cost Center. Because the method of distributing revenue sharing to the Signatory Airlines has been modified, Airline shall be entitled to a distribution of a portion of the Transfers amount, if any, which amount shall be calculated in accordance with the Prior Lease and allocated in accordance with the Rate and Fee Schedule to this Lease; provided, however, Airline acknowledges and agrees that Airline shall not be entitled to a distribution under this Section if Airline is: (1) in material default of the Prior Lease (or an event has occurred that, with the passage of time or giving of notice, or both, would constitute a material default, unless Airline promptly cures such material default in accordance with the provisions of the Prior Lease); and (2) Airline has not executed this Lease on or before October 1, 2014. In the event of a merger or other consolidation of two Signatory Airlines prior to the Effective Date of this Lease, the statistics of the merged or consolidated Signatory Airlines shall be combined for purposes of determining the distribution, if any, to the successor or surviving entity, pursuant to this Section. Notwithstanding the foregoing, in the event Airline is past due

or delinquent in making any payments to County hereunder, County may deduct such past due or delinquent amounts, plus any applicable interest accrued thereon, from any amounts payable to Airline under this Section. Airline may elect to receive the distribution provided for in this Section, if any, in the manner set forth in Section 6.03(F) above.

6.05 County Covenants.

- A. County covenants that for purposes of allocating Revenues and expenses that it will include only those charges properly attributable or allocable to the Airport System.
- B. County shall use good faith efforts to operate the Airport System in a manner so as to produce Revenues from concessionaires, tenants, and other users of the Airport System at levels that would be produced by a reasonably prudent operator of an airport of substantially similar size, use, and activity, with due regard for the interests of the public.
- C. County shall use all Revenues in accordance with the Bond Resolution.

ARTICLE 7 - CAPITAL IMPROVEMENTS BY COUNTY

7.01 Capital Improvements. The parties hereto recognize that Capital Improvement Projects to preserve, protect, enhance, expand, or otherwise improve the Airport System, or any portion thereof, may be required during the Term of this Lease.

7.02 Expenditures Subject to Consideration.

- A. County shall notify Airline in writing of its intent to undertake any Capital Improvement Project that is subject to MII consideration hereunder, which notice shall include the following information associated with the Capital Improvement Project:
 - 1. A description of the proposed Capital Improvement Project, together with cost estimates, scheduling, and any preliminary drawings, if applicable;
 - 2. A statement of the need for the proposed Capital Improvement Project, along with the planned benefits to be derived from such expenditures;
 - 3. County's preferred means of financing or method of paying the costs of the proposed Capital Improvement Project; and
 - 4. The planned allocation of the costs of the Capital Improvement Project to the Airfield Cost Center, Baggage Handling System Cost Center and Terminal Cost Center and the projected impact on Signatory Airline rates, fees and charges.

- B. Within thirty (30) days of the date of County's notice, Airline may request in writing, a meeting with County for the purpose of discussing the proposed Capital Improvement Project. In the event a request is timely delivered to County, County shall set a date and time to meet collectively with the Signatory Airlines for the purposes of discussing the proposed Capital Improvement Project. County agrees to consider comments and recommendations of the Signatory Airlines with respect to the proposed Capital Improvement Project.
- C. County may proceed with a Capital Improvement Project, unless the Signatory Airlines constituting a MII, issue a written notice to County that they are requesting a deferral of the Capital Improvement Project within thirty (30) days of the date of the meeting ("Deferral Notice"), time being of the essence. In the event a timely Deferral Notice is delivered to County and the proposed Capital Improvement Project is anticipated to be funded with Ten Million Dollars (\$10,000,000) or less in Revenues, the proposed Capital Improvement Project will be deferred for a period of twelve (12) months from the date of the Deferral Notice. In the event a timely Deferral Notice is delivered to County and the proposed Capital Improvement Project is anticipated to be funded with more than Ten Million Dollars (\$10,000,000) in Revenues, the proposed Capital Improvement Project will be deferred for a period of twenty four (24) months from the date of the Deferral Notice. Upon the expiration of the applicable deferral period, County may proceed with the Capital Improvement Project as proposed.
- D. County shall have the right to request reconsideration of a deferral of a Capital Improvement Project by the Signatory Airlines constituting a MII, and the deferral may be reversed by the Signatory Airlines constituting a MII at any time.
- E. Notwithstanding any provision of this Lease to the contrary, County may also proceed at any time with any Capital Improvement Project that is not subject to MII consideration hereunder, and with any other planning, construction, improvement or development project that is not defined as a Capital Improvement Project hereunder.

7.03 Capital Improvement Projects Not Subject to Consideration. The following Capital Improvement Projects shall not be subject to consideration by the Signatory Airlines, including Airline, hereunder and shall be permitted to be undertaken by County at any time:

- A. A Capital Improvement Project required by any governmental authority having jurisdiction over the Airport, including, but not limited to, the County, provided that County is acting in its governmental capacity and not as the Airport proprietor, the FAA, TSA, and the Department of Transportation.

- B. A Capital Improvement Project necessary to repair casualty damage to Airport property.
- C. Special Purpose Facilities for which the tenant(s) or other user(s) thereof shall be required to reimburse County for the costs of the Capital Improvement Project that will be paid with Revenues, including, but not limited to, financing costs.
- D. A Capital Improvement Project necessary to settle a lawful claim, satisfy a judgment, or comply with a judicial order against County by reason of its ownership, operation, maintenance, or use of the Airport.
- E. A Capital Improvement Project of an emergency nature that would result in the closure of the Airport or any portion thereof necessary for the safe and/or efficient operation of the Airport, as reasonably determined by County, if not completed.
- F. A Capital Improvement Project that will not impact Signatory Airline rates, fees or charges hereunder.

ARTICLE 8 - CONSTRUCTION OF IMPROVEMENTS BY AIRLINE

8.01 Airline Construction Requirements. All improvements constructed or placed on the Premises by Airline, including drainage and landscaping, shall comply with any and all applicable governmental laws, regulations, rules, and orders, shall follow standard construction methods; and shall be constructed in accordance with the requirements of this Article.

- A. Prior to constructing any improvements on the Premises or elsewhere on the Airport, Airline, without cost to County, shall prepare detailed 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 Plans to the Department for review, comment and adjustment. The Department shall review the Plans and provide a written response to Airline after receipt of the Plans. In the event the Department does not approve the Plans, Airline will be notified of the reasons for the disapproval and the necessary modifications and/or alterations to the Plans. Airline shall resubmit modified Plans to the Department within thirty (30) days of the date of the Department’s written notice of disapproval. Upon approval of the final Plans by the Department, Airline shall obtain all permits and other government approvals required for the commencement of construction. Prior to commencement of construction, Airline shall deliver to the Department one complete set of the Plans as approved by the governmental agencies exercising jurisdiction thereover. Minor changes from the Plans approved by the Department shall be permitted if such changes may be reasonably

inferred from such Plans, or if they are made to comply with requirements of any governmental agency exercising jurisdiction thereover.

- B. Within ninety (90) days of Airline's receipt of a certificate of occupancy or certificate of completion, as appropriate, for any improvements that Airline undertakes during the Term, Airline, at its sole cost and expense, shall have prepared and delivered to the Department: (1) 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; and (2) a detailed statement attested to and certified by an authorized employee of Airline, detailing the total costs incurred by Airline for the construction of the improvements.
- C. All improvements constructed upon the Premises shall be completed at Airline's sole cost and expense and shall be completed in accordance with the standards reasonably established by the Department.
- D. The construction or installation of improvements shall not interfere with the operation of the Airport or unreasonably interfere with the activities of other Airlines and Airport users.
- E. The County shall have no obligation whatsoever to approve the installation of any improvements within any Licensed Areas or other areas of the Airport.
- F. The County shall have no obligation whatsoever to repair, replace or maintain improvements made to the Premises by Airline.

8.02 Construction Bonds. Airline shall cause all improvements to be constructed to completion in accordance with the approved Plans and that all Persons 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, the estimated cost of which exceeds Fifty Thousand Dollars (\$50,000), Airline, at its sole cost and expense, shall cause to be made, executed and delivered to County a bond for the estimated cost of the improvements, drawn in a form and issued by a company reasonably acceptable to County, guaranteeing compliance by Airline of its obligations arising under this Section. County shall be named as a dual obligee on the bond(s). In lieu of the bond required by this Section, Airline may file with County an alternative form of security for the estimated cost of the improvements in the form of cash, a money order, a certified check, a cashier's check, a clean irrevocable letter of credit, or a security of a type listed in Part II of Chapter 625, Florida Statutes; provided, however, the form of the security and company issuing such security, if applicable, shall be subject to the prior written approval of County. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this Section. Any such alternative form of security may be reduced by Airline, subject to

County's approval, which approval shall not be unreasonably withheld or denied, during the construction of the improvements, but not more than once per month, in an amount equal to the percentage of completion of the improvements multiplied by the original amount of the security.

8.03 Contractor Requirements. Airline 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. Airline shall require its contractors to name County as a dual obligee on the bond(s). Airline shall also require contractors to furnish satisfactory evidence of statutory Worker's Compensation insurance, commercial 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.

8.04 No Liens. Airline 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. Airline shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Airline of this provision of this Lease. If so requested by County, Airline 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 Airline. In the event that a construction lien is filed against the Premises or other County property in connection with any work performed by or on behalf of Airline, Airline shall satisfy such claim, or transfer same to security, within thirty (30) days from the date of filing. In the event that Airline fails to transfer or satisfy such claim within the thirty (30) day period, County may do so and thereafter charge Airline all costs incurred by County in connection with the satisfaction or transfer of such claim, including attorneys' fees, and Airline shall promptly pay to County all such costs upon demand, as Additional Rent.

ARTICLE 9 - OBLIGATIONS OF AIRLINE

9.01 Compliance with Rules and Regulations. Airline 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) for the government of the conduct and operations of Airline and others on the Premises as may from time to time be promulgated. The obligation of Airline 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 Premises.

9.02 Conduct of Operations. Airline shall conduct its operations hereunder in an orderly and commercially reasonable manner, considering the nature of such operations so as not to unreasonably annoy, disturb, endanger or be offensive to others at the Airport.

9.03 Vibrations. Airline shall take all reasonable measures to reduce to a minimum, vibrations tending to damage any equipment, structure, building or portion of a building on the Airport.

9.04 Conduct of Employees/Guests. Airline shall control the conduct, demeanor and appearance of its employees, subtenants, invitees and others doing business at the Airport and, upon objection from the Department concerning the conduct, demeanor and appearance of any such persons, shall immediately take all reasonable steps that are necessary to remove the cause of any reasonable objection and that Airline may lawfully take.

9.05 Garbage. Airline shall remove or otherwise dispose of in a manner approved by the Department all garbage, debris and other waste materials (whether solid or liquid) arising out of the use or occupancy of the Premises, Airport or out of any operations conducted thereon. Garbage, debris and other non-hazardous waste materials may be temporarily stored on the Premises in suitable garbage and waste receptacles. Airline may deposit garbage, debris and other non-hazardous waste materials in containers provided by County designated for the collection and removal of waste. Containers shall be located within the immediate vicinity of the Air Cargo Building in such common use and access areas as determined by Department. The cost for disposal of such waste shall be prorated and billed by the Department to Airline monthly, and shall be paid to County by Airline within thirty (30) days of Airline's receipt of such bill or invoice. Airline's share of such disposal costs shall be equal to the percentage equivalent of a fraction, the numerator of which is the floor area of the Assigned Building Premises, and the denominator of which is the total leased floor area of the Air Cargo Building.

9.06 Nuisance. Airline shall not commit any nuisance, waste or injury on the Airport and shall not do, or permit to be done, anything that may result in the creation, commission or maintenance of such nuisance, waste or injury on the Airport.

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

9.08 Utility Systems. Airline shall not do or permit to be done anything that may interfere with the effectiveness or accessibility of the utilities systems that are also used by other occupants, customers or users of the Airport.

9.09 Overloading. Airline shall not overload any floor or paved area on the Premises and shall repair, at its sole cost and expense, any floor, including supporting members, and any paved area damaged by overloading. Based upon the original design and construction of the floor slab of the Assigned Building Premises and the Preferential Use Parking Apron, County acknowledges that: (1) the interior floor slab of the Assigned Building Premises was designed and constructed to accommodate loads of up to five hundred (500) pounds per square foot, and

(2) the Preferential Use Parking Apron was designed and constructed to accommodate loads exerted by the MD11 aircraft operating at its Maximum Gross Take-Off Weight. Tenant acknowledges and agrees that the forgoing acknowledgements by County do not take into consideration any modifications or alterations -made by Tenant to the interior floor slab of the Assigned Building Premises or the Preferential Use Parking Apron under this Lease or the Prior Lease.

9.10 Hazardous Operations. Airline shall not do or permit to be done any act or thing upon any area of the Airport that:

- A. Will invalidate or conflict with any insurance policies covering the Premises or other areas of the Airport; or
- B. May constitute a hazardous condition so as to increase the risks normally attendant upon the operations permitted by this Lease.

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

9.12 Vending Machines. Except as specifically authorized by this Lease, Airline shall not place any coin or token operated vending machine or similar device (including, but not limited to, pay telephones, beverage or food machines, or other commodities) upon or within the Premises, without the prior written consent of the Department, which consent may be granted or withheld by the Department in its sole discretion. The foregoing will not apply to Airline's installation of food or beverage vending machines inside the Assigned Building Premises for the use of its employees.

9.13 Derelict Aircraft. Airline shall not permit the temporary or permanent storage of any Derelict Aircraft at the Premises. Derelict Aircraft shall be removed from the Airport within a period of thirty (30) days after written notice from the Department unless an open work order is being actively pursued. Notwithstanding the foregoing, the Department may require any Derelict Aircraft to be moved to another location on the Airport at Airline's sole cost and expense. In addition, the Department may require Airline to demonstrate that an open work order is being actively pursued. In the event Airline fails to demonstrate an open work order is actively being pursued to the reasonable satisfaction of the Department, Airline shall cause the Derelict Aircraft to be removed from the Airport within the aforementioned thirty (30) day period.

9.14 Disabled Aircraft on Airfield. Airline shall promptly remove its disabled aircraft from the Airfield as soon as proper clearance is obtained from the appropriate governmental authorities, if applicable, and place such disabled aircraft in a storage area designated by County on the Airport. In the event Airline fails to remove its disabled aircraft as expeditiously as possible under the circumstances, County may cause the removal and storage of such aircraft. Airline shall only store disabled aircraft in areas on the Airport designated by County for storage of such aircraft and for such length of time as authorized by County. In the event Airline fails to

remove its disabled aircraft from a designated storage area on or before the expiration of the period of time authorized by County, County shall advise Airline of County's intent to remove such disabled aircraft prior to removal with no less than thirty (30) days advance written notification. In the event County causes Airline's disabled aircraft to be removed, Airline shall pay County for the costs of removing the disabled aircraft, plus a twenty-five percent (25%) administrative overhead, which shall be payable within thirty (30) days of the date of County's invoice.

9.15 Derelect Vehicles. Airline shall not permit the temporary or permanent storage of any Derelect Vehicles at the Premises. Airline shall cause Derelect Vehicles to be removed from the Premises within twenty-four (24) hours after written notice from the Department.

9.16 Hurricane Plans. Upon written request, Airline shall provide the Department with emergency evacuation and hurricane plans consistent with County's plans for the Airport. These plans shall be detailed procedures of actions to be taken by Airline and its subtenants, if an evacuation need or hurricane alert warning is present. Hurricane plans are to be annually updated, if requested by the Department.

ARTICLE 10 - SECURITY OF PREMISES

Airline acknowledges and accepts full responsibility for the security and protection of the Premises, and any and all inventory, equipment, facilities and improvements now existing or hereafter placed on or installed in or upon the Premises, and for the prevention of unauthorized access to its facilities, and expressly agrees to comply with, and to require its employees and contractors to fully comply with, all rules and regulations of County and of any and all other governmental entities that now or may hereafter have jurisdiction over such security. Airline fully understands that the police security protection provided by County is limited to that provided to any other business situated in Palm Beach County, Florida by the Palm Beach County Sheriff's Office, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Premises and improvements constructed thereon, shall be the sole responsibility of Airline and shall involve no cost to County.

ARTICLE 11 - MAINTENANCE AND REPAIR

11.01 Cleanliness and Maintenance and Repair of Premises.

- A. Except as provided in Section 11.01(D) below, Airline shall maintain the Premises and the 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. Except as provided in Section 11.01(D) and Article 15 below, Airline shall repair all damages to the Premises and improvements caused by Airline or an Airline Party, and all damages caused by or resulting from or in any way arising out of Airline's operations at the Airport or Airline's or an Airline Party's use of the Premises. Maintenance and repairs shall be in quality and class

comparable to the original work so as to preserve the Premises in good order and condition. In the event Airline fails or refuses to perform its obligations under this Article, authorized representatives of County shall have the right to enter the Premises and perform such obligations; provided, however, County shall give to Airline reasonable notice and opportunity to cure in accordance with Section 18.02(B) prior to the exercise of this right, except in the event of an emergency or immediate safety hazard. In the event of an emergency or immediate safety hazard, County shall endeavor to give Airline reasonable notice under the circumstances. Airline shall have the right to have an Airline employee accompany County's authorized representative when entering the Premises to perform such activities. Airline agrees that it shall reimburse County's direct labor and material costs, plus a twenty five percent (25%) administrative overhead within thirty (30) days of the date of County's invoice. Nothing in this Section shall be construed as waiving any other legal remedy County may have hereunder in the event Airline fails or refuses to perform its obligations under this Article.

- B. Except as provided in Section 11.01(D) below, Airline shall keep all aircraft apron areas, buildings and other improvements in good, tenable, useable condition throughout the Term and any extension thereof, and without limiting the generality thereof, Airline shall:
1. Paint the finished interior areas of the Assigned Building Premises and repair and maintain all doors, windows, equipment, lighting fixtures, furnishings and fixtures and provide pavement striping required in connection with the Preferential Use Parking Apron.
 2. Keep the Premises at all times in a clean and orderly condition and appearance and all of the fixtures, equipment and personal property that are located in any part of the Premises open to or visible by the general public.
 3. Provide and maintain all obstruction lights and similar devices, 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.
 4. Repair any damage to the Premises, including, but not limited to, the Preferential Use Parking Apron and other paved surfaces, that is caused by any oil, gasoline, grease, lubricants or other liquids or substances having a corrosive or detrimental effect thereon and that does not occur because of the actions of County or any of its employees, agents or contractors or third parties that County permits to use the Licensed Areas or any other paved surface.

5. Make no use of any portion of the Premises in a manner that causes or results in dust, debris or waste of any kind to be blown about or raised so as to be ingested by aircraft.
- C. Airline shall perform all repairs and maintenance required by virtue of Sections 11.01(A) and (B) at its expense unless the repair or maintenance becomes necessary by virtue of the negligence or willful misconduct of County or any County Party or any of County's contractors or County's failure to properly perform the maintenance required of it by virtue of Section 11.01(D); in that case, County shall perform, or cause to be performed, such repairs or maintenance, or, at County's election, shall reimburse Airline within sixty (60) days after County's receipt of Airline's invoice for the amount of all reasonable costs Airline incurs in performing the maintenance or making the repair, and such documents as may be reasonably requested to corroborate the costs Airline incurred.
 - D. Throughout the Term, County shall maintain in accordance with all applicable laws, regulations and rules of any governmental authority: (1) the structure of the Assigned Building Premises, including, without limitation, the roof, roof membrane, foundations, floor slab, columns and exterior and load-bearing walls, and (2) the Licensed Areas, Preferential Use Parking Apron *{Insert if applicable:}* and GSE Area, excluding alterations or improvements installed by Airline such as caster decking and light poles. County's obligation with respect to the Licensed Areas includes striping of all Licensed Areas. County shall be responsible for making any alterations or modifications to the Licensed Areas and Preferential Use Parking Area *{Insert if applicable:}* and GSE Area that are required by any law, ordinance, rule or regulation enacted or promulgated after the Effective Date; provided, however, County shall not be responsible for making any alterations or modifications to improvements installed or constructed within such areas by Airline or that are made necessary solely as a result of Airline's alterations or improvements to such areas. County shall perform all repairs and maintenance required by virtue of this Section 11.01(D) at its expense unless the repair or maintenance becomes necessary by virtue of (1) the negligence or willful misconduct of Airline or an Airline Party; (2) Airline's failure to properly perform the maintenance required of it by virtue of Sections 11.01(A) and 11.01(B), or (3) any alteration or improvement Airline makes to the Premises; in that case, Airline shall reimburse County within thirty (30) days after Airline's receipt of County's invoice for the amount by which the amount of all reasonable costs County incurs in performing the maintenance or making the repair exceeds the proceeds payable, if any, in respect of damage covered under the terms of the policy of property insurance County maintains in force

with respect to the Premises. County shall accomplish all maintenance for which it is responsible as soon as reasonably practicable following receipt of written notice from Airline.

11.02 Inspections. Notwithstanding any provision of this Lease to the contrary, Airline agrees that authorized employees and representatives of County and any federal, state or local governmental entity having jurisdiction over Airline's operations and activities on the Premises shall have the right with advance notice that is reasonable under the circumstances to enter the Premises at reasonable times to inspect same for the purpose of determining whether Airline is in compliance with the requirements of this Lease.

ARTICLE 12 - UTILITIES

12.01 Utility Costs. Airline shall pay for all utilities used by it. County shall provide water and sewer utilities, the costs of which shall be prorated and billed by the Department to Airline monthly. County also reserves the right to charge Airline for electric utilities to all common areas serving the Air Cargo Building. Airline's share of the utility costs will be equal to the percentage equivalent of a fraction, the numerator of which is the floor area of the Assigned Building Premises, and the denominator of which is the total leased floor area of the Air Cargo Building. The utility charges imposed by County pursuant to this Section shall not include any mark-up to the amounts that the utility service providers charge to the County. Airline shall have the right, but not the obligation, at its sole cost and expense, to connect to any and all utility mainlines or cables existing at the Effective Date of this Lease or installed during the Term. County shall have the right to provide separate meters or connections to any and all utility mainlines or cables serving the Air Cargo Building in which case Airline shall pay any charges for utility service to the Assigned Building Premises according to the metered usage. Airline shall pay utility costs for any utilities provided by County within thirty (30) days of the date of the invoice.

12.02 Interruption of Service. Except for failures, delays or interruptions caused by the negligence or willful misconduct of County, a County Party or any of County's contractors or that occur because of County's failure to make timely remittances to the service provider, no failure, delay or interruption in supplying any services for any reason whatsoever (whether or not a separate charge is made therefor) shall be or be construed to be an eviction of Airline or grounds for any diminution or abatement of rental or shall be grounds for any claim by Airline under this Lease for damages, consequential or otherwise.

12.03 Industrial Waste Systems. Airline shall provide, operate and maintain adequate facilities for separating, neutralizing and treating industrial waste and foreign materials generated within the Premises and the proper disposal thereof as required by all applicable Federal, State and local laws, regulation and rules, as now or hereafter amended.

ARTICLE 13 - AIRPORT SECURITY PROGRAM

Airline expressly acknowledges and accepts full responsibility to conduct its operations at the Airport so as to maintain the integrity of the airfield operations area and hereby agrees to fully comply with all Federal, State and local laws, rules and security requirements applicable to Airline's operations, as now or hereafter promulgated or amended, including, but not limited to, Title 14, Part 139 of the Code of Federal Regulations and Title 49, Part 1542 of the Code of Federal Regulations and the Palm Beach County Criminal History Record Check Ordinance (Chapter 2, Article IX, Palm Beach County Code). Airline agrees to comply with the Airport Security Program and the Air Operations Area (AOA) Vehicle Access Program, and amendments thereto. Notwithstanding any provision of this Lease to the contrary, Airline shall comply with such other security policies, procedures, rules and regulations as may be prescribed by County, the Department, FAA, or TSA and to take such steps as may be necessary or directed by County, the Department, FAA, or TSA to ensure that subtenants, employees, invitees and guests observe these requirements. If required by the Department, Airline shall conduct background checks of its employees in accordance with applicable Federal, State or local laws. Airline shall pay any and all fees assessed for providing the security badges for Airline's employees and contractors, and other fees that may be imposed. Airline further agrees to be responsible for the care and maintenance of the Airport security barriers and devices to the Premises. All costs associated with the construction and repair of the security fence, barriers, access control and monitoring system, including, but not limited to, gates, signs or locks (keying and re-keying), that are installed now or in the future within the Assigned Building Premises shall be borne by Airline. Airline agrees to rectify any security deficiency or other deficiency arising within the Assigned Building Premises or as a result of the conduct of Airline's operations on the Airport as may be determined as such by County, the Department, FAA or TSA. In the event Airline fails to remedy any such deficiency, County may do so at the cost and expense of Airline. Airline acknowledges and agrees that County shall have the right to take whatever action is necessary to rectify any security deficiency or other deficiency of the nature described above as may be determined by County, the Department, FAA or TSA. Airline shall be solely responsible for any fines, penalties, costs, expenses (including attorneys' fees and costs), and damages incurred by County and/or Airline as a result of Airline's failure to strictly comply with the requirements of this Article. The provisions of this paragraph shall survive the expiration or any other termination of this Lease insofar as they relate to security breaches occurring on or before the expiration or earlier termination of this Lease. Failure to comply with the requirements of this Article shall be considered a material default of this Lease.

ARTICLE 14 - INSURANCE REQUIREMENTS

14.01 Insurance Requirements. Airline, at its sole cost and expense, shall maintain in full force and effect throughout the Term and any extension thereof, the insurance coverages, limits and endorsements required herein. Neither the requirements contained in this Article, nor County's review or acceptance of insurance, shall in any manner limit or qualify the liabilities and obligations assumed by Airline hereunder.

- A. Property, Wind & Flood Insurance. Airline shall maintain Property Insurance in an amount not less than 100% of the total replacement cost of any betterments and improvements made by or on behalf of Airline to the

Premises. The settlement clause shall be on a Replacement Cost basis. Coverage shall be written with a Special - Cause of Loss (All-Risk) form and include an endorsement for Ordinance & Law in an amount not less than 25% of the Property Insurance limit. Airline shall maintain Flood Insurance, regardless of the flood zone, in an amount not less than 100% of the total replacement cost of the betterments and improvements made by or on behalf of Airline to the Premises or the maximum amount available from the National Flood Insurance Program, whichever is less. Airline shall maintain Windstorm Insurance, unless included as a covered peril in the Property Insurance, in an amount not less than 100% of the total replacement cost of the betterments and improvements made by or on behalf of Airline to the Premises or the maximum amount available under the Florida Windstorm Underwriting Association, whichever is less. Airline shall cause County to be endorsed as a "Loss Payee" on the policies. The "Loss Payee" endorsement shall provide coverage on a primary basis and shall read "Palm Beach County Board of County Commissioners, c/o Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406." The Loss Payee endorsement language may be modified or updated by County from time to time upon written notice to Airline.

- B. Aircraft Liability Insurance. Airline shall maintain Aircraft Liability Insurance with respect of all aircraft owned, leased or operated by Airline, including Passenger, Bodily Injury (including death) and Property Damage Liability in a Combined Single Limit Amount of not less than One Hundred Million Dollars (\$100,000,000) Each Occurrence.
- C. Business Automobile Liability Insurance. Airline shall maintain Business Automobile Liability Insurance covering all Owned, Hired, and Non-Owned Vehicles used on the Airport in an amount of not less than One Million Dollars (\$1,000,000) Combined Single Limit Each Occurrence for Bodily Injury (including death) and Property Damage Liability; provided, however, that if the scope and conduct of Airline's operations under this Lease require vehicle access to the aircraft operations area, Airline shall maintain Business Automobile Liability Insurance in an amount not less than Five Million Dollars (\$5,000,000) Combined Single Limit Each Occurrence for Bodily Injury (including death) and Property Damage Liability. Notwithstanding the foregoing, if the scope and conduct of Airline's operations under this Lease do not involve the operation, ownership or use of any vehicle, then this requirement shall include automobile liability for Hired & Non-Owned vehicles only.
- D. Airline Liability/Commercial General Liability Insurance. Airline shall maintain Airline Liability/Commercial General Liability Insurance at limits of not less than Fifty Million Dollars (\$50,000,000) with a

Combined Single Limit Each Occurrence, subject to sub-limits and annual aggregates, where applicable, for Personal Injury (Twenty Five Million Dollar (\$25,000,000) sub-limit for Personal Injury to non-passengers), Bodily Injury (including death) and Property Damage and shall include, but not be limited to, Premises and Operations, Personal Injury, Products and Completed Operations, Contractual Liability.

- E. Workers Compensation Insurance. Airline shall maintain Workers Compensation Insurance applying to all employees for Statutory Limits in compliance with Chapter 440, Florida Statutes and applicable federal laws. Coverage shall include Employers Liability with minimum limits of One Million Dollars (\$1,000,000) Each Accident, One Million Dollars (\$1,000,000) Disease Policy Limit, and One Million Dollars (\$1,000,000) Disease Each Employee. In the event Airline subcontracts any portion of the work or services under this Lease to another party, Airline shall be responsible for ensuring its subcontractors maintain Worker's Compensation and Employers Liability Insurance.

14.02 Waiver of Subrogation. Except as provided in Section 15.01, County and Airline hereby mutually waive any and all rights of recovery against the other party arising out of damage or destruction of the Airport, Premises or any other property from causes included under any property insurance policies to the extent such damage or destruction is covered by the proceeds of such policies but only to the extent that the insurance policies then in force permit such waiver. When required by an insurer, or if a policy condition will not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, Airline 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 foregoing requirements shall not apply to any policy that specifically prohibits such an endorsement or voids coverage if Airline enters into such an agreement on a pre-loss basis.

14.03 Additional Insured. Airline shall cause County to be endorsed or designated as "Additional Insured" on all liability policies, with the exception of Workers Compensation/Employers Liability, to the extent of Airline's contractual obligations hereunder. The "Additional Insured" designation or endorsement shall provide coverage on a primary basis. The "Additional Insured" designation or endorsement shall read: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406", or as otherwise specified by County's Risk Management Department. The status of the Palm Beach County Board of County Commissioners, its officers and employees, and any other party as an Additional Insured under Airline's insurance policies shall not afford any such Additional Insured coverage for claims that arise by reason of the willful misconduct or negligence of the Additional Insured.

14.04 Certificate of Insurance. Airline shall deliver to County or its designated contractor certificate(s) of insurance, evidencing the coverages and amounts required hereunder prior to the Commencement 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. Notwithstanding any provision of this Lease to the contrary, Airline's failure to maintain all insurance policies required herein shall constitute an Event of Default of this Lease by Airline, entitling County to exercise any remedies available to it under this Lease, at law and in equity, including the right to immediately terminate this Lease. County may modify the endorsement language required pursuant to this Article upon written notice to Airline.

14.05 Claims-Made Liability. When any of Airline's liability insurance policies is provided under a Claims-Made Liability form, Airline 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, Airline agrees to maintain an aggregate limit not less than three (3) times the "per occurrence" limit of liability required in Sections 14.01 (B) – (D) above.
- B. Airline 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 Lease. 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, Airline shall submit a copy of most recent financial statement in order to justify a particular deductible or self-insured retention amount.

14.06 Umbrella Liability Insurance or Excess Liability Insurance. Umbrella or Excess Liability Insurance may be used to reach the limits of liability required for the Airline Liability Policy, Aircraft Liability Policy and Business Automobile Policy.

14.07 Right to Review. Required insurance shall be subject to the review, acceptance, and approval of County, in its reasonable discretion, as to form and types of coverage. County, by and through its Risk Management Department, in cooperation with the Department may reasonably adjust the limits of coverage required hereunder from time-to-time throughout the Term of this Lease; provided, however, any adjustment to the limits of the required insurance shall be consistent with the limits established by other comparable airports within the United States. All insurance shall be issued by responsible insurance companies, which may be Airline's captive, deemed to be reasonably acceptable to County. County may 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 Airline written notice of such adjusted limits or rejection and Airline shall comply within thirty (30) days of receipt thereof. Airline shall be responsible for any

premium revisions as a result of any such reasonable adjustment. The acceptance of delivery to County of any certificate(s) of insurance evidencing the insurance coverages and limits required under this Lease shall not constitute approval or acceptance by County that the insurance requirements have been met.

14.08 Invalidation of Policies. Airline shall not knowingly use or permit the use of the Premises for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Premises or Airport for County or Airline. In the event Airline's acts or failure to act shall cause cancellation of any policy, then Airline shall immediately, prior to notification by County, take such action as is necessary to reinstate or replace the required insurance.

14.09 Deductibles, Coinsurance & Self-Insured Retention. Airline 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.

14.10 No Representation of Coverage Adequacy. Airline acknowledges the limits, coverages and endorsements required by this Article are intended to minimize liability for County. Airline 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 Airline against any loss exposures, whether as a result of this Lease or otherwise.

ARTICLE 15 - DAMAGE OR DESTRUCTION OF PREMISES

15.01 Damage or Destruction. Subject to the limitations set forth elsewhere in this Lease, Airline hereby assumes full responsibility for the condition of the Premises and character, acts and conduct of all Persons admitted to the Premises (other than County, a County Party or any of County's contractors) by or with the actual or constructive consent of Airline or by or with the consent of any Person acting for or on behalf of Airline. If any part of the Air Cargo Building or any other part of the Airport is damaged in any way whatsoever by the default, negligence or willful misconduct of Airline or any Airline Party, Airline shall be responsible for payment of: (1) all costs of restoring the damaged property to substantially the same condition that existed prior to the occurrence of the fire or other casualty using materials of like kind and quality to the extent that those costs exceed the proceeds payable under any policy of property insurance that County maintains in force with respect to the Air Cargo Building or Airport; and (2) the deductibles that apply in connection with the County's policies of insurance; provided, however, Airline shall only be liable for payment of such costs and deductibles to the extent those costs are allocable to the default, negligence or willful misconduct of Airline or an Airline Party.

15.02 Termination Rights of the Parties. If a fire or other casualty renders the Premises untenable, in whole or in part, either by reason of direct damage to the Premises or by denial of, or material restriction to, Airline's access to the Premises and if the estimated cost of restoring the damaged property to substantially the same condition that existed prior to the occurrence of the fire or other casualty using materials of like kind and quality exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), County may elect to terminate this Lease by delivering written

notice to Airline within sixty (60) days after the date of such fire or other casualty. In the event County elects to restore the damaged property or is obligated to restore the damaged property pursuant to this Section, County shall provide Airline with a good faith estimate of the anticipated time to complete restoration ("Estimate") within sixty (60) days of the date of the fire or other casualty. If the estimated date for completion of restoration is more than one hundred eighty (180) days after the date of the occurrence of the fire or other casualty, Airline may terminate this Lease by delivering written notice to County within fifteen (15) days following Airline's receipt of the Estimate. If County fails to complete the restoration within thirty (30) days after the date specified in the Estimate, Airline may terminate this Lease by delivering written notice to County at any time following the expiration of that thirty (30) day period; provided, however, Airline shall not have the right to terminate this Lease on or after the date on which County completes the restoration. In the event County's inability to complete restoration on or before the date specified in the Estimate is due, in whole or in part, to Excused Delays or the act or omission of any Airline Party, the date for completion of restoration shall be postponed by the aggregate amount of the delay in restoration that occurs as a result of such Excused Delays or act or omission of the Airline Parties. In the event of restoration of the Premises by County pursuant to this paragraph, Airline's obligation to pay rental shall be abated as provided in Section 15.03 below.

15.03 Rent Abatement. If this Lease is terminated pursuant to this Article, the rental required by virtue of the terms of this Lease will abate entirely effective upon the effective date of the termination. In the event neither party terminates this Lease pursuant to Section 15.02 above, the rental required by virtue of the terms of this Lease will abate for the period during which the Premises is untenable to the extent that the rental exceeds the proceeds payable in respect of the time element insurance that County maintains in force with respect to the Airport by reason of the damage to the Air Cargo Building. In the event County elects to restore the Premises, no abatement of the rental required by virtue of the terms of this Lease that is allocable to that portion of the Premises that remains tenable will occur; the parties will determine the amount of the rental that is allocable to that portion of the Premises that remains tenable based on the proportion that the utility that the tenable portion of the Premises has in the conduct of Airline's business bears to the total utility of the Premises in the conduct of that business. For purposes of the foregoing, the parties will consider that the Premises is untenable and that use of the entire Premises has not been restored to Airline until the date that is the earliest of (1) the date that is thirty (30) days after the date on which County substantially completes the restoration of the Premises (excluding leasehold improvements Airline makes) and restores substantially the same degree of access to the Premises that existed prior to the occurrence of the fire or other casualty, (2) the date that is thirty (30) days after the date on which County would have substantially completed the restoration of the Premises (excluding leasehold improvements Airline makes) and would have restored substantially the same degree of access to the Premises that existed prior to the occurrence of the fire or other casualty, but for the occurrence of delays that occur in the completion of the restoration because of Airline's action or inaction, or (3) the date on which Airline resumes the conduct of its business activities within the portion of the Premises affected by the fire or other casualty. County is entitled to adjust any claim made, and receive all proceeds payable, in respect of the time element insurance that County maintains in force with respect to the Airport and shall apply those proceeds to the payment of the rental that becomes due during the period of the restoration.

15.04 Restoration. If a fire or other casualty renders the Premises untenable, in whole or in part, either by reason of direct damage to the Premises or by denial of, or material restriction to Airline's access to the Premises and this Lease is not terminated in accordance with this Article, County shall restore the damaged property (exclusive of the leasehold improvements made by Airline) to substantially the condition that existed prior to the occurrence of the fire or other casualty in accordance with the requirements of this Lease and all applicable laws, ordinances and regulations. To the extent practicable, County will provide Airline's contractors with access to the Premises during the restoration for the purpose of concurrently repairing or replacing Airline's leasehold improvements and trade fixtures; provided that the work to be performed by Airline's contractors will not: (1) conflict with the restoration work being performed by County's contractors; or (2) result in a delay in completion of the restoration work being completed by County's contractors.

15.05 Waiver. Airline hereby waives any claim against County for any and all liability, damages or compensation in the event this Lease is terminated pursuant to Section 15.02 above.

15.06 Limitations. Notwithstanding any provision of this Lease to the contrary, County shall have no obligation to repair, rebuild or restore Airline's personal property or fixtures or any improvements made by Airline to the Premises. If this Lease is not terminated in accordance with this Article, County's obligation to restore or rebuild the damaged property shall only exist to the extent of: (1) the insurance proceeds payable to County as the result of a fire or other casualty; and (2) any amounts received by County from Airline towards the costs of restoration pursuant to Section 15.01. Except as provided in Section 15.03, Airline shall not be entitled to and hereby waives any claims against County for any compensation or damage for any loss of use of the Premises, in whole or in part, or for any inconvenience or annoyance occasioned by any damage, destruction, repair or restoration of the Premises. In the event this Lease is terminated in accordance with this Article, County shall remain entitled to receive all proceeds payable in respect of the insurance that County maintains.

15.07 Insurance Proceeds. Upon receipt by Airline of the proceeds of any applicable insurance policy or policies that covers damage to the Premises (as distinguished from policies covering damage to leasehold improvements Airline makes to the Premises or to personal property that Airline places in or about the Premises), 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 Airline or an Airline Party, Airline 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 Airline.

ARTICLE 16 - ENCUMBRANCES

Airline shall not, in any manner, mortgage, pledge or otherwise encumber this Lease, the Premises or any improvements now existing or hereinafter erected or constructed upon the

Premises without County's prior written consent, which consent may be granted or withheld by County in its sole discretion for any reason or no reason at all. Any such encumbrance without County's approval shall be null and void. 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 17 - TITLE TO IMPROVEMENTS

Airline shall be deemed to be the owner of all improvements constructed by Airline upon the Premises during the Term. Upon expiration of the Term or its sooner termination as provided herein, all improvements constructed or placed upon the Premises by Airline, title to which has not previously vested in County hereunder, shall become the absolute property of County, and County shall have every right, title, and interest therein, free and clear of any liens, mortgages, and other encumbrances. Upon the request of County, Airline shall provide County with a bill of sale or other evidence of the transfer of ownership of the improvements together with evidence satisfactory to County that the improvements are free from liens, mortgages and other encumbrances. The provisions of this Article shall survive expiration or termination of this Lease.

ARTICLE 18 - EXPIRATION, DEFAULT AND REMEDIES

18.01 Expiration/Termination. This Lease shall terminate at the end of the Term as set forth in Article 3, unless terminated earlier in accordance with the provisions of this Lease. County may elect to terminate this Lease in the event Airline vacates or abandons the Premises for a period of more than ninety (90) consecutive days, without prior written consent of County, which consent may be granted or withheld in County's sole and absolute discretion.

18.02 Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Lease by Airline ("Event of Default"):

- A. The failure by Airline to pay any fees or charges payable hereunder, as and when due, where such failure shall continue for a period of fifteen (15) days after receipt of written notice thereof from County to Airline.
- B. The failure by Airline to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Airline, where such failure continues for a period of thirty (30) days after receipt of written notice thereof from County to Airline, provided, however, that if the nature of Airline's default is such that more than thirty (30) days are reasonably required for its cure, then Airline shall not be deemed to be in default if Airline commences such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion. Nothing contained in this subsection shall be deemed to alter or affect the cure period for performance of any covenant, condition or provision for which a specific time period is provided elsewhere in this Lease.

- C. To the extent permitted by law, (1) the making by Airline or any guarantor hereof of any general assignment, or general arrangement for the benefit of creditors; (2) the filing by or against Airline of a petition to have Airline adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against Airline, the same is dismissed within sixty (60) days]; (3) the appointment of a trustee, custodian or receiver to take possession of substantially all of Airline's assets located at the Premises or of Airline's interest in this Lease, where possession is not restored to Airline within thirty (30) days; or (4) the attachment, execution or other judicial seizures of substantially all of Airline's assets located at the Premises or of Airline's interest in this Lease, where such seizure is not discharged within thirty (30) days.
- D. The discovery by County that any material information given to County by Airline relating to this Lease was false, and Airline knew such information to be false at the time it was given to County.
- E. The failure of Airline to provide and keep in force insurance coverage in accordance with Article 14.
- F. Any other material default and breach of this Lease specifically identified as an Event of Default.

18.03 Remedies. In the event of an Event of Default by Airline, County may at any time thereafter, without limiting any other right or remedy that County may have under the law by reason of such Event of Default, elect to exercise any of the following remedies:

- A. Terminate Airline's right to possession of the Premises by any lawful means and reenter and retake possession of the Premises for the account of Airline, in which case the rentals, fees and charges and other sums due hereunder shall be accelerated and due in full and Airline shall be liable for the difference between the fees and charges which are stipulated to be paid hereunder plus other sums as described herein and what County is able to recover from its good faith efforts to reassign the Premises, which deficiency shall be paid by Airline. Upon the reassignment of the Premises, all amounts received by County shall be applied: (1) to the payment of any indebtedness other than fees and charges due hereunder from Airline; (2) to the payment of any costs and expenses for such reassignment, which shall include all damages reasonably incurred by County due to Airline's default, including, but not limited to, the cost of recovering possession of the Premises, including reasonable attorney's fees, and reasonable expenses relating to the renovation or alteration of the Premises; (3) to the payment of fees and charges due and unpaid hereunder; and the residue, if any, shall be paid to Airline.

- B. Terminate this Lease and reenter and retake possession of the Premises for the account of County, thereby terminating any further liability under this Lease on the part of Airline and County. Notwithstanding the foregoing, County shall have a cause of action to recover any fees and charges remaining unpaid when County retakes possession of the Premises for the account of County.
- C. Retain any Settlement Amount and/or Revenue Sharing due Airline and apply such amounts to any past due or outstanding fees and charges.
- D. Stand by and do nothing, holding Airline liable for the rentals, fees and charges as they come due; provided, however, County shall use Commercially Reasonable efforts to reassign the Premises.
- E. Pursue any other remedy now or hereafter available to County under the laws and judicial decisions of the State of Florida.

Notwithstanding the foregoing, in the event Airline commits an Event of Default, and at the same time or thereafter renounces this Lease in its entirety, County shall have the right to bring an action for its damages.

18.04 Termination by Airline. Airline may terminate this Lease, if Airline 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 to be served as hereinafter provided, upon or after the happening of any one of the following events:

- A. The issuance by any court of competent jurisdiction of an injunction in any way preventing the use of the Airport for Airport purposes or a substantial part of the Premises, which injunction remains, or would remain in full force for a period of at least ninety (90) days.
- B. The default by County in the performance of any material covenant or material 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 Airline of written notice to remedy same; provided, however, that no notice of termination, as provided herein, shall be of any force or effect if County shall have remedied the default prior to receipt of Airline's notice of termination; 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 a manner which substantially restricts, or is scheduled to substantially restrict, the

operation of Airline, for a period of at least ninety (90) days.

18.05 Surrender of Premises. Airline expressly agrees that it shall immediately surrender the Premises to County in good and fit condition, except as to those portions of the Premises that County is responsible for maintaining or repairing hereunder, upon expiration or earlier termination of this Lease, depreciation and wear from ordinary use for the purpose for which the Premises were licensed being excepted. All repairs and obligations for which Airline is responsible shall be completed by the earliest practical date but in no event later than ten (10) Business Days after the date of the expiration or termination. Airline shall remove all of its personal property from the Premises in accordance with the requirements of Section 18.06. County may require Airline to return the Premises free and clear of some or all improvements made by Airline, at Airline's sole cost and expense; provided that County notified Airline that County may require removal of such improvements as a part of County's approval to construct or install such improvements. In such event, County shall provide written notification to Airline of its election to require removal of improvements and, to the extent possible, County shall notify Airline at least sixty (60) days prior to the effective date of such expiration or earlier termination. Airline shall have sixty (60) days from date of County's notice within which to remove the improvements. In the event Airline fails to timely remove the improvements or restore the Premises to good and fit condition as provided above, County may remove the improvements and restore the Premises at Airline's sole cost and expense. Airline shall reimburse County for County's direct labor and material removal and restoration costs plus a twenty five percent (25%) administrative overhead within thirty (30) days of the date of County's invoice. Airline's obligation to reimburse County for removal of improvements pursuant to this Section shall survive the expiration or earlier termination of this Lease until County has received full reimbursement.

18.06 Removal of Personal Property.

- A. Airline shall not abandon any personal property at the Airport without the written consent of County, which consent may be granted or withheld in County's sole and absolute discretion. Any property owned by County that is damaged by or as a result of the removal of property owned by Airline shall be restored by Airline to the condition existing before such damage, at Airline's sole cost and expense. In the event Airline fails to timely restore the damaged property, County may restore the damaged property at Airline's sole cost and expense. Airline shall reimburse County for County's direct labor and material restoration costs plus a twenty five percent (25%) administrative overhead within thirty (30) days of the date of County's invoice.
- B. Any personal property of Airline not removed in accordance with this Section, at the option of County, may be removed and placed in storage by County at the sole cost of Airline, or may become the property of County, all at no cost to County. In the event County does not elect to take ownership of the property, it may dispose of same by either public or private sale and retain the proceeds thereof. Any costs of removal and

disposition not covered by such proceeds shall be borne by Airline.

18.07 Holdover. In the event Airline fails to surrender possession of the Premises, or any portion thereof, after the expiration or earlier termination of this Lease, Airline shall continue to pay to County, for so long as Airline shall remain in possession thereof, all fees and charges payable by Airline hereunder, and County may also elect to assess an additional ten percent (10%) charge on all fees and charges payable hereunder during such period if Airline holds over without the prior written consent of County, which consent may be granted or withheld in County's sole and absolute discretion. Airline shall not be considered to be Signatory Airline during any holdover period and shall not be entitled to the rights or privileges granted a Signatory Airline hereunder, unless such holdover is with the prior written consent of County, which consent may be granted or withheld in County's sole and absolute discretion. The foregoing provisions shall not serve as permission for Airline to holdover, nor serve to extend the Term of this Lease; provided, however, Airline acknowledges and agrees that, Airline shall remain bound to comply with all the provisions of this Lease during any holdover period until Airline vacates the Premises or enters into a new agreement with County. Airline shall indemnify and hold County and the County Parties harmless from any claims, damages or liabilities arising out of such unauthorized possession by Airline. Airline's obligations under this Section shall survive the expiration or earlier termination of this Lease. Nothing in this Section shall be deemed to waive any legal remedies County may have against Airline and County shall be entitled to exercise any and all available legal remedies for Airline's failure to surrender the Premises upon the expiration or earlier termination of this Lease.

ARTICLE 19 - ASSIGNMENT AND SUBLETTING

19.01 Assignment by Airline. Except as permitted below, Airline shall not in any manner assign, transfer, mortgage, pledge, encumber, hypothecate or otherwise convey an interest in this Lease, or any portion of Premises, without the prior written consent of the Department ("Assignment"), which consent may be granted or withheld in the Department's sole and absolute discretion. Without County's consent, however, Airline may assign this Lease or sublet any part of the Premises to a corporation controlling, controlled by, or under common control with, Airline, to the surviving corporation in any merger or other corporate re-organization involving Airline, or to the purchaser of all or substantially all of Airline's assets, upon written notice to County. In the case of any Assignment, whether one requiring County's consent or one not requiring that consent, the assignee must assume all obligations of Airline hereunder that accrue subsequent to the Assignment and must comply with terms and conditions set forth in this Lease insofar as they relate to obligations that accrue subsequent to the Assignment. Airline further agrees to provide County with such documentation relating to the merger or consolidation of Airline and the successor entity or to the sale of Airline's assets as County requires in its reasonable discretion.

19.02 Subletting By Airline. Except as Section 19.01 above permits, Airline shall not sublease the Premises, or any portion thereof, without the prior written consent of the Department, which consent may be granted or withheld in the Department's sole and absolute discretion

19.03 General.

- A. No Assignment or sublease agreement shall release Airline from its obligations hereunder, including without limitation the obligation to pay the rentals, fees, and charges provided herein.
- B. Except for vending machine concessions within the Assigned Building Premises to serve Airline's employees, this Article shall be applicable to subleases, licenses, handling agreements, and any other arrangements by which a third party may obtain any benefits of Airline's rights and privileges hereunder.
- C. This Article shall be construed to include a prohibition against any assignment, mortgage, pledge, encumbrance or sublease by operation of law, legal process, receivership, bankruptcy or otherwise, whether voluntary or involuntary.

ARTICLE 20 - INDEMNIFICATION

Except as provided in Section 14.02 and Article 23, Airline shall protect, defend, reimburse, indemnify and hold County and the County Parties and each of them free and harmless at all times from and against any and all liability, losses, expenses, costs, suits, claims, judgments, fines and damages (including reasonable attorney fees at trial and appellate levels) and causes of action of every kind and character (hereinafter collectively referred to as, "Damages"), or in which County or a County Party is named or joined, arising out of Airline's or an Airline Party's breach of this Lease or the use or occupancy of the Premises or Airport by Airline or an Airline Party, including, but not limited to, those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, any agent or employee of any party hereto, and any third party or other Person whomsoever, or any governmental agency, arising out of or incident to or in connection with the condition of the Premises, Airline's or an Airline Party's acts, omissions or operations at the Airport, or the performance to the extent caused by Airline or an Airline Party, non-performance or purported performance of Airline or an Airline Party or any breach by Airline or an Airline Party of the terms of this Lease; provided, however, Airline shall not be responsible for Damages that are determined by a court of competent jurisdiction to be attributable to the negligence or willful misconduct of County or a County Party or a direct result of a breach of this Lease by County. Nothing herein shall be deemed to abrogate Airline's common law or statutory rights to contribution from County for liability legally established as attributable to County's negligence. Each party shall give to the other reasonable notice of any such claims or actions. Airline recognizes the broad nature of this indemnification and hold-harmless clause, and acknowledges that County would not enter into this Lease without the inclusion of such clause, and voluntarily make 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 the laws of the State of Florida. The obligations arising under this Article shall survive the expiration or termination of this Lease.

ARTICLE 21 - SIGNS

No signs, posters, or similar devices shall be erected, displayed, or maintained by Airline on the Premises without the written consent of the Department. All signs not approved by the Department shall be immediately removed at the sole cost and expense of Airline upon written demand therefor by the Department.

ARTICLE 22 - LAWS, REGULATIONS AND PERMITS

22.01 General.

- A. Airline agrees that throughout the Term of this Lease, Airline 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, as now or hereafter amended, applicable to Airline's activities at the Airport, including, but not limited to, FAA Advisory Circulars, Airport Rules and Regulations and Environmental Laws. Airline agrees to cooperate in good faith with any investigation, audit, or inquiry by County regarding any federal or state regulatory action or investigation, which is against County, but arises out of Airline's activities.
- B. Airline agrees that it shall require its appropriate managers, supervisors, and employees to attend such training and instructional programs as County may, from time to time require, in connection with the Airport Rules and Regulations and policies and procedures related to certification of the Airport under Title 14, Part 139 of the Code of Federal Regulations, as now or hereafter amended.

22.02 Permits and Licenses. Airline agrees that it shall, at its sole cost and expense, obtain, maintain current, and fully comply with, any and all applicable permits, licenses and other governmental authorizations, as may be required by law, any federal, state or local governmental entity, or any court of law having jurisdiction over Airline or Airline's operations and activities, for any activity of Airline conducted on the Premises and/or Airport. Upon the written request of County, Airline shall provide to the Department certified copies of any and all permits and licenses.

22.03 Air and Safety Regulation. Airline agrees that it shall conduct its operations and activities under this Lease in a safe manner, shall comply with all applicable safety standards imposed by federal, state and local laws and regulations and shall require the observance thereof by all employees, contractors, business invitees and all other persons transacting business with or for Airline resulting from, or in any way related to, the conduct of Air Transportation Services on the Premises. Airline shall procure and maintain such fire prevention and extinguishing devices as required by law, including applicable County orders and codes, 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. Airline agrees that neither Airline nor any employee or contractor or any person working for or on behalf of Airline, shall require any personnel engaged in the performance of Airline's Air Transportation Services 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.

22.04 Assumption of Liability. Airline shall be liable for and hereby expressly assumes all responsibility for the cost of all citations, fines, penalties, environmental controls, monitoring, clean up, disposal, restoration and corrective measures resulting from the improper handling, storage and/or disposal at the Airport by Airline or any Airline Party of any Hazardous Substances regulated by Environmental Laws. Airline agrees to cooperate in good faith with any investigation, audit or inquiry by County regarding any regulatory enforcement action or investigation against County, which arises from Airline's activities. Airline shall provide any notice of non-compliance or violation or other notice of enforcement action against Airline related in any way to its activities at the Airport to County as soon as reasonably practicable, but no later than fourteen (14) days of receipt by Airline. Airline's obligations under this Section shall survive the expiration or earlier termination of this Lease.

22.05 Environmental Indemnification. Airline hereby expressly agrees to indemnify and hold County and the County Parties harmless from and against any and all Damages, including reasonable fees and costs of consultants, experts, contractors and laboratories reasonably incurred in connection with the indemnified incident to the extent required to reach compliance with applicable federal or state law, arising from or resulting out of any violation or non-compliance by Airline or any Airline Party of any Environmental Laws in connection with Airline's or an Airline Party's use of the Airport, and shall include, but shall not be limited to, enforcement actions to assess, abate, remediate, initiate corrective measures and/or monitor environmental conditions; provided, however, Airline shall not be responsible to County for any Damages determined by a court of competent jurisdiction to be attributable to the negligence, willful misconduct, actions or inactions of County or a County Party. Airline 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. Airline's obligations under this Section shall survive expiration or earlier termination of this Lease.

22.06 Environmental Considerations

- A. If Airline is deemed to be a generator of hazardous waste (as defined by Environmental Laws) in connection with its use of the Airport, Airline will obtain, if required by applicable Environmental Laws, a generator identification number and the appropriate generator permit from the government agency with jurisdiction and will comply with all applicable Environmental Laws in connection with its use of the Airport, including, but not limited to, ensuring that the transportation, storage, handling, and

disposal of such hazardous wastes are conducted in full compliance with Environmental Laws.

- B. If required by applicable Environmental Laws, Airline agrees to provide to County within fourteen (14) days after County's request, copies of all hazardous waste permit application documentation, permits, monitoring reports, transportation, records, storage and disposal plans, material safety data sheets and waste disposal manifests prepared or issued in connection with Airline's use of the Airport in the form such records are kept in accordance with applicable Environmental Laws.
- C. Upon the expiration or earlier termination of this Lease, Airline shall dispose of all of Airline's hazardous wastes and containers located upon the Airport in compliance with Environmental Laws. Upon request by County, copies of all waste manifests for shipments of such wastes will be provided to County at least sixty (60) days following the expiration or earlier termination of this Lease.
- D. Nothing in this Article will be construed to make Airline liable in any way for any contamination or release of Hazardous Substances, affecting Airport that occurred prior to Airline's entry upon or operations at the Airport or that occurred as a result of the actions or inaction of County or its employees, agents, contractors or anyone else other than Airline or its employees, agents or contractors at the Airport.
- E. Nothing in this Article will be construed to make Airline liable in any way for any environmental contamination or release of Hazardous Substances affecting the Airport or the Premises that occurs by reason of the migration or flow of contamination onto the Airport or the Premises from a site located off the Airport or off the Premises, as the case may be, with verifiable or documented evidence that the contamination is not attributable to Airline's activities at Airport.
- F. Airline agrees to conduct any corrective measures or remediation of the Airport and Premises caused by Airline or an Airline Party in accordance with applicable Environmental Laws.
- G. Airline acknowledges that certain properties within Airport or on County-owned land are subject to stormwater rules and regulations. Airline agrees to comply with all applicable stormwater rules and regulations, and, if applicable, Airline agrees in connection with Airline's operations on Airport with the following:
 - 1. The parties acknowledge that close cooperation is necessary to ensure compliance with any stormwater discharge permit terms and conditions, as well as to ensure safety and to minimize the cost

of compliance. County agrees to notify Airline in advance of any proposed changes to the stormwater permit or County's Stormwater Pollution Prevention Plan applicable to the Airport affecting Airline's activities or operations hereunder. Airline acknowledges further that it may be necessary to undertake actions to minimize the exposure of stormwater to "significant materials" (as such term may be defined by applicable stormwater rules and regulations) generated, stored, handled, or otherwise used by Airline in connection with Airline's activities or operations at the Airport by implementing and maintaining "best management practices" (as such term may be defined in applicable stormwater rules and regulations).

2. Airline shall comply with any stormwater discharge permit requirements applicable to Airline. If applicable to Airline's use of the Airport, Airline shall submit a separate Notice of Intent to use the State of Florida Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity to the Florida Department of Environmental Protection with a copy to County. Airline shall comply with all applicable stormwater requirements, including, but not limited to: certification of non-stormwater discharges; County's Stormwater Pollution Prevention Plan or similar plans; implementation of best management practices (as such term may be defined in applicable stormwater rules and regulations); and maintenance and submittal of records required by County's Stormwater Pollution Prevention Plan. In complying with such requirements, Airline will observe applicable deadlines set by the regulatory agency that has jurisdiction over the permit. Airline agrees to undertake, as its sole expense, those applicable stormwater permit requirements for which it has received written notice from the regulatory agency and that apply to Airline's operations at the Airport.

22.07 Emergency Coordinator. Airline agrees that an emergency contact and phone number for Airline shall be furnished to County, County's Risk Management Department - Safety Division, and to all appropriate governmental entities having jurisdiction thereof, to serve as Airline's point of contact in case of any spill, leak, or other emergency situation involving Hazardous Substances at the Airport.

22.08 Security. Airline acknowledges and accepts full responsibility for the security and protection of the Assigned Building Premises; any and all inventory, equipment, and facilities now existing or hereafter placed on or installed in or upon the Premises; and for the prevention of unauthorized access to the Assigned Building Premises. Airline expressly agrees to comply with all rules and regulations of County, PBSO, the Department of Homeland Security and all other governmental entities that now or may hereafter have jurisdiction over security of the Airport. Airline fully understands that the police security protection provided by County at the Airport is

limited to that provided to any other business situated in Palm Beach County by PBSO, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Premises and improvements constructed thereon shall be the sole responsibility of Airline and shall involve no cost to County. Airline further expressly acknowledges and accepts responsibility to maintain the security of the Airfield from or through the Assigned Building Premises to the aircraft operations area and hereby agrees to fully comply with all federal, state and local laws regulating security at the Airport and with all rules and regulations of the Department and County concerning security procedures at the Airport, as now or hereafter amended, including, but not limited to, 49 CFR 1542 and the Airport Security Program. If Airline, its officers, employees, agents, or those under Airline's control shall fail or refuse to comply with the aforementioned security requirements and such non-compliance results in a monetary penalty being assessed against County, Airline shall be responsible for the costs thereof and shall reimburse County in the full amount of any such monetary penalty.

22.09 Payment of Taxes. Airline shall pay any and all taxes and other costs lawfully assessed against its interest in the Premises, the improvements, whether owned by Airline or County, personal property or its operations under this Lease including, but not limited to, tangible, intangible, sales and ad valorem taxes, general or special assessments. In the event this Lease or Airline's use of the Premises renders the Premises subject to ad valorem real property taxes or similar impositions imposed by any government entity, Airline shall be responsible for and pay the same prior to delinquency. Airline shall have the right to contest the amount or validity of any tax or assessment payable by it by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending Airline's covenants to pay any such tax or assessment, unless the legal proceedings shall operate to prevent the collection of the tax or assessment. Upon termination of such legal proceedings, Airline shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

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

22.11 Americans with Disabilities Act. Airline shall comply with the applicable requirements of the Americans with Disabilities Act and any similar or successor laws, ordinances, rules, and regulations, including cooperation with County, concerning the same subject matter.

ARTICLE 23 - DISCLAIMER OF LIABILITY

COUNTY HEREBY DISCLAIMS, AND AIRLINE 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 AIRLINE OR AN AIRLINE PARTY 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 AIRLINE OR AIRLINE'S BUSINESS INVITEES THAT MIGHT BE LOCATED OR STORED ON THE PREMISES, EXCEPT TO THE EXTENT THAT SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY COUNTY'S NEGLIGENCE OR WILLFUL MISCONDUCT, BREACH OF THIS LEASE OR THAT OF A COUNTY PARTY OR A COUNTY CONTRACTOR. THE PARTIES HERETO EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL EITHER PARTY 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. AIRLINE ACKNOWLEDGES AND AGREES THAT ITS USE OF ANY INFORMATION, WHETHER PREPARED OR PROVIDED BY COUNTY OR OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS LEASE, WAS AT ITS SOLE RISK.

ARTICLE 24 - GOVERNMENTAL RESTRICTIONS

24.01 Avigation Rights. 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 Airport, including the Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used, for navigation of, or flight in the said airspace for landing on and taking off from the Airport.

24.02 Height Limitation. Airline expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such a height so as to comply with Federal Aviation Regulations, Part 77, as such may be amended or superseded from time to time.

24.03 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 the County of Palm Beach, of the right to assess, levy, and collect any license, personal, intangible, occupation, or other tax of general application that shall be lawfully imposed on the business or property of Airline.

24.04 Governmental Review. Airline acknowledges that this Lease is subject to review or inspection by the United States government and the State of Florida and their respective agencies and departments, including, but not limited to, the FAA, to determine satisfactory compliance with state and federal law and/or PFC and grant assurance requirements. Airline agrees that this Lease shall be in full force and effect and binding upon both parties pending such review or inspection; provided, however, that upon such review or inspection the parties agree to modify any of the terms of this Lease that are determined by the United States government or the State of Florida or any of their respective agencies or departments to be in violation of or inconsistent with any state or federal law and/or PFC or grant assurance requirement.

24.05 Federal Right to Reclaim. In the event a United States governmental agency shall demand and take over the entire facilities of the Airport or the portion thereof wherein the Premises are located, for public purposes, then this Lease shall thereupon terminate and County shall be released and fully discharged from any and all liability hereunder. This Article shall not act or be construed as a waiver of any rights Airline may have against the United States as a result of such taking.

ARTICLE 25 - SUBORDINATION AND SAVINGS CLAUSE

25.01 Subordination.

- A. This Lease and all rights granted to Airline 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 Airline agree that to the extent permitted by authorizing legislation, the holders of the Bonds or their designated representative may exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by Airline and County with the terms and provisions of this Lease and Bond Resolution. In the event of a conflict between this Lease and the Bond Resolution, the terms of the Bond Resolution shall prevail. County agrees to provide Airline with prior written notice of any future change to the Bond Resolution that will materially alter Airline's obligations hereunder.
- B. This Lease and all provisions hereof shall be subject and subordinate to all the terms and conditions of any instruments and documents under which County acquired the land or improvements thereon, of which the Premises are a part, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Airline understands and agrees that this Lease shall be subordinate to the provisions of any and all existing or future agreements between County and the United States of America, State of Florida or any of their respective agencies, relative to the operation or maintenance of the Airport, the execution of which has been or is required as a condition precedent to the spending of federal funds for the development of the Airport.

ARTICLE 26 - NON-DISCRIMINATION

26.01 Non-Discrimination in County Contracts. Airline acknowledges that County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Airline is prohibited from discriminating against any employee, applicant, or client because of race, color, creed, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information. County acknowledges that the foregoing prohibition shall not grant County any investigatory or recovery powers not otherwise provided for by law.

26.02 Federal Non-Discrimination Covenants.

- A. Airline, for itself, its personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as follows:
1. In the event facilities are constructed, maintained or otherwise operated on the Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Airline shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as said regulations may be amended.
 2. No person, on the grounds of race, color or national origin, shall be unreasonably excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in Airline's personnel policies and practices or in the use or operation of Airline's services or facilities.
 3. Airline agrees that in the construction of any improvements on, over, or under Airport land and the furnishing of services thereon, no person, on the grounds of race, color, or national origin, shall be unreasonably excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
 4. Airline shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as said regulations may be amended.
 5. In the event of a breach of any of the above nondiscrimination covenants, County shall have the right to terminate this Lease and re-enter the Premises as if this Lease had never been made or issued. This Lease shall not be terminated pursuant to this Section until the procedures of 49 CFR Part 21 are followed and completed, including exercise or expiration of appeal rights.
- B. Airline assures that it will comply with applicable statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or disability be excluded in participating in any activity conducted with or benefitting from Federal assistance.

- C. Airline assures that, in performance of its obligations hereunder, it will fully comply with the requirements of 14 CFR Part 152, as now or hereafter amended, to the extent applicable to Airline, to ensure that no person will be excluded from participation in any employment, contracting or leasing activities covered by such regulations on the grounds of race, creed, color, national origin or sex. Airline, if required, will provide assurances to County that Airline will undertake an affirmative action program or steps for equal employment opportunity and will require the same of its subcontractors.

ARTICLE 27 - GENERAL PROVISIONS

27.01 Clear Title. County covenants that at the granting and delivery of this Lease, it has the right and authority to lease and license the same as herein set forth, subject to all matters, exceptions and encumbrances of record of any kind, including easements.

27.02 Relationship of Parties. Airline, or any successor in interest to this Lease, is and shall be deemed to be an independent contractor and operator and shall be responsible to all parties for its respective acts or omissions, and County shall in no way be responsible therefor. All persons engaged by Airline in any of the work or services performed pursuant to this Lease shall at all times, and in all places, be subject to Airline's sole direction, supervision and control. Airline shall exercise control over the means and manner in which it and its employees perform the work, and in all respects Airline's relationship and the relationship of its employees to County shall be that of independent contractors and not as employees or agents of County.

27.03 County Not Liable. Except as provided for in this Lease, County shall not be under any duty or obligation to Airline to repair or maintain the Premises, nor any portion thereof, or any facilities or equipment constructed thereon. County shall not be responsible or liable to Airline for any claims for compensation for any losses, damages, or injury sustained by Airline resulting from failure of any water supply, heat, air conditioning, electrical power, or sewerage or drainage facility except to the extent such loss, damage or injury was caused by the negligence or willful misconduct of County, a County Party or County contractor, or caused by natural physical conditions on the Airport, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, act of God, or state of war, civilian commotion or riot, or any cause beyond the control of County. County shall not be liable for any damage to, or loss of said personal property, except to the extent that said damage or loss resulted from the negligence or willful misconduct of County or a County Party or County contractor.

27.04 Authorized Uses Only. Notwithstanding anything to the contrary herein, Airline shall not use or permit the use of the Premises or the Airport for any illegal or improper purpose or for any purpose that would invalidate any policies of insurance, now existing or hereafter written on the Premises or the Airport for County or Airline.

27.05 Quiet Enjoyment. County covenants that so long as Airline timely pays all fees and charges due hereunder, and fully and faithfully performs all of its obligations as provided

herein, and otherwise is not in default of any of the terms and conditions of this Lease, Airline shall peacefully and quietly have, hold and enjoy the Premises, free from any eviction or unauthorized interference by County or a County Party, during the Term hereof.

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

27.07 Non-Exclusivity of Remedies. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

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

27.09 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 Airline.

27.10 Annual Budgetary Funding. This Lease and all obligations of County hereunder are subject to and contingent upon annual budgetary funding and appropriations by the Palm Beach County Board of County Commissioners.

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

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

27.13 Agent for Service. It is expressly understood and agreed that if Airline is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation not licensed to do business in Florida, then in any such event, Airline shall appoint an agent within the state of Florida for the purpose of service of process, in any court action between Airline and County, arising out of or based upon this Lease. Airline shall immediately notify County, in writing, of the name and address of said agent. The service shall be made as provided by the laws of the State of Florida for service upon persons or entities having a registered agent in the state of Florida. It is further expressly agreed, covenanted, and stipulated that, as an alternative method of service of process, should Airline fail to appoint said agent, or fail to notify County of the name and address of said agent as aforesaid,

Airline may be personally served with such process out of this State by the registered mailing of such complaint and process to Airline at the address set forth in Section 27.21.

27.14 No Individual Liability. No elected official, member, officer, agent, director, or employee of County or Airline shall be charged personally, or held contractually liable by or to the other party, under the terms or provisions of this Lease, or because of any breach thereof, or because of its or their execution or attempted execution.

27.15 Governmental Authority. Nothing in this Lease shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Airline or its operations. 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, statutes and laws, nor alter or impair County's governmental functions, including, but not limited to, County's right to lawfully exercise its regulatory authority over the development of the Premises, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of County's governmental authority.

27.16 Rights Reserved to County. All rights not specifically granted to Airline by this Lease are reserved to County.

27.17 Severability. 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.

27.18 Venue. To the extent allowed by law, the venue for any action arising from this Lease shall be in a state or federal court of competent jurisdiction in Palm Beach County, Florida.

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

27.20 Consents and Approvals. Whenever this Lease calls for an approval, consent, authorization or other action by the Department or County, such approval, consent, authorization or other action may be provided or performed by the Department, on behalf of County, by and through its Director of the Department or his or her designee. In the event this Lease is silent as to the standard for any consent or approval contemplated hereunder, the standard shall be the implied standard of reasonableness. In the event this Lease is silent as to the specific timeframe for any consent or approval to which the implied standard of reasonableness applies, such consent or approval shall not be unreasonably delayed.

27.21 Notices.

- A. 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 delivery service, or alternatively, shall be delivered by United

States Postal Service certified mail, with return receipt requested. Notice shall be deemed to have been given and received as follows: (1) if by hand delivery, upon the date of delivery; (2) if mailed, upon the date the return receipt is signed or delivery is refused, or upon the date that the notice has been designated as non-deliverable by the postal authorities, as the case may be; or (3) if by courier service or overnight delivery service, upon the date shown on the receipt as the date of actual delivery. The parties hereby designate the following addresses as the addresses to which notices may be delivered, and delivery to such addresses shall constitute binding notice given to such party:

To County:

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

With a copy to:

Palm Beach County Attorney's Office
Attn: Airport Attorney
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401

To Airline:

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.

- B. Any information, documentation or reports required to be submitted electronically to County hereunder, including, but not limited to the Activity Report, shall be delivered electronically to County to such e-mail addresses designated by County in writing. County may change the e-mail address or form of delivery that the aforementioned information, documentation or reports are required to be delivered to upon ten (10) days prior written notice to Airline.

27.22 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.

27.23 Paragraph Headings. The headings 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.

27.24 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 sublicensees, if any. This provision shall not constitute a waiver of any conditions against assignment or subletting.

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

27.26 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Airline certifies that Airline has not, and to the best of Airline's knowledge, without having conducted any special investigation, its affiliates 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.

27.27 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Lease or performing any work in furtherance hereof, Airline certifies that Airline has not, and, to the best of Airline's knowledge, without having conducted any special investigation, its affiliates, suppliers, subcontractors and consultants who perform hereunder, have not been placed on the Scrutinized Companies Activities in Sudan List or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes. If County determines, using credible information available to the public, that a false certification has been submitted by Airline, this Lease may be terminated and a civil penalty equal to the greater of Two Million Dollars (\$2,000,000) or twice the amount of this Lease shall be imposed, pursuant to Section 287.135, Florida Statutes.

27.28 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. Except as otherwise provided in this Lease, 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.

27.29 No Broker. Airline represents and warrants that Airline 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 Airline. The foregoing indemnification shall include all costs, expenses and fees, including reasonable attorney's fees at trial and all appellate levels, expended or incurred in the defense of any such claim or demand.

27.30 Office of the Inspector General. Palm Beach 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 the Airline, 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.

27.31 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.

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

27.33 Sovereign Immunity. Notwithstanding any provision of this Lease to the contrary, the parties acknowledge and agree that nothing in this Lease shall be construed as a waiver of County's sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes.

{Insert if applicable:}

27.34 Termination of Prior Lease. The parties hereby agree that the Prior Lease shall be terminated upon the Commencement Date of this Lease, where upon the parties shall be released from all further obligation thereunder with the exception of those obligations arising prior to the date of termination or that expressly survive termination of the Prior Lease. The County shall refund to Airline the Security Deposit, if any, held by County pursuant to the Prior Lease within sixty (60) days of the Commencement Date.}

(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.

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

PALM BEACH COUNTY, FLORIDA

Signature

By: _____
Director, Department of Airports

Printed Name

Signature

Printed Name

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
County Attorney

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS

By: _____
County Attorney

By: _____
Director, Department of Airports

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

AIRLINE:

Signature

By: _____
Signature

Print Name

Print Name

Signature

Title

Print Name

(Seal)

EXHIBIT "A"

ASSIGNED BUILDING PREMISES

Signatory Cargo Carrier Operating & Lease Agreement - PBI

EXHIBIT "B"

LICENSED AREAS/PREFERENTIAL USE PARKING APRON

Signatory Cargo Carrier Operating & Lease Agreement - PBI

EXHIBIT "E"
RATE AND FEE SCHEDULE

Signatory Cargo Carrier Operating & Lease Agreement - PBI