

AGENDA ITEM SUMMARY

☒ Consent ☐ Regular
☐ Workshop ☐ Public Hearing

Submitted By: Department of Airports

I. EXECUTIVE BRIEF

- A)** Non-Signatory Airline Agreement with Canadian North, Inc., an Alberta Corporation, commencing September 18, 2017, and terminating September 30, 2018, with automatic October 1st to September 30th annual term renewals unless canceled.
- B)** Addendum To Airline Agreement with Canadian North, Inc., an Alberta Corporation, commencing September 18, 2017, and terminating on the date the Non-Signatory Airline Agreement with Canadian North, Inc., either expires or is canceled, providing for changes in leased facilities on a short-term basis due to seasonal demands at the Palm Beach International Airport.

Background and Justification: N/A

1. One (1) Non-Signatory Airline Agreement
2. One (1) Addendum To Airline Agreement

Approved By: *J. C. Baker* 10/18/17
County Administrator Date

The diagram illustrates a two-stage sampling process. At the top, a large circle represents the 'Population (N)'. Inside this circle is a smaller circle representing the 'Sample (n)'. Inside the 'Sample (n)' circle is a smaller circle representing the 'Subsample (m)'. Arrows indicate the flow from the population to the sample, and from the sample to the subsample. The labels 'Population (N)', 'Sample (n)', and 'Subsample (m)' are placed next to their respective circles.

A. Five Year Summary of Fiscal Impact:

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Summary of Certificates

This report displays detailed Certificate of Insurance information for a selected Insured. Any items shown in red are deficient.

Friday, September 22, 2017

Simple View

Certificate Images

Documents

Insured: Canadian North, Inc. Insured ID: PBI-CA-17-02

Status: Compliant

ITS Account Number: PLC2860

Project(s): Palm Beach County - Airport Properties

Insurance Policy	Required	Provided	Override
<u>General Liability</u>			
Expiration: 12/15/2017			
General Aggregate:	\$100,000,000	\$100,000,000	
Products - Completed Operations Aggregate:	\$100,000,000	\$100,000,000	
Personal And Advertising Injury:	\$25,000,000	\$100,000,000	
Each Occurrence:	\$100,000,000	\$100,000,000	
Fire Damage:	\$0	\$0	
Medical Expense:	\$0	\$0	
<u>Workers Compensation/Employers Liability</u>	WC Stat. Limits	WC Stat. Limits	
<u>Aircraft Liability</u>			
Expiration: 12/15/2017			
Each Occurrence:	\$100,000,000	\$100,000,000	
Aggregate Limit:	\$100,000,000	\$100,000,000	

Notifications

There were no deficiency letters issued.

Do you have an updated Certificate? Click the button below to submit a Certificate.

Certificate Submittal

**CANADIAN NORTH INC.
OFFICER'S CERTIFICATE**

TO: Miami Airport located in Palm Beach County

I, Tanis Thomas, the Corporate Secretary of Canadian North Inc. (the "**Corporation**"), hereby certify for and on behalf of the Corporation and not in my personal capacity and without assuming any personal liability whatsoever, as follows:

1. As at the date hereof, the Corporation's certificate and articles of incorporation, together with all amendments thereto (the "**Constating Documents**"), copies of which are attached in Schedule "A" have not been amended, repealed or supplemented and are in full force and effect.
2. Pursuant to the governing documents and bylaws of the Corporation, the Corporation is duly authorized to enter into and conclude arrangements including the creation, execution and delivery of documents and agreements between Palm Beach County and the Corporation;
3. The persons named in Schedule "B" hereto are the duly authorized signatories of the Corporation and hold office in the capacity set forth therein
4. The Corporation is in good standing under the laws of Canada as certified in the Certificate of Compliance attached as Schedule "C".

IN WITNESS WHEREOF, the undersigned has set her hand and affixed the Corporate Seal of the Corporation this 10th day of December 2015.

Per:



Corporate Name: Tanis Thomas
Seal

Title: Corporate Secretary

SCHEDULE "A"

See attached.



Certificate of Amendment

Canada Business Corporations Act

Certificat de modification

Loi canadienne sur les sociétés par actions

CANADIAN NORTH INC.

Corporate name / Dénomination sociale

349060-2

Corporation number / Numéro de société

I HEREBY CERTIFY that the articles of the above-named corporation are amended under section 178 of the *Canada Business Corporations Act* as set out in the attached articles of amendment.

JE CERTIFIE que les statuts de la société susmentionnée sont modifiés aux termes de l'article 178 de la *Loi canadienne sur les sociétés par actions*, tel qu'il est indiqué dans les clauses modificatrices ci-jointes.

Marcie Girouard

Director / Directeur

2013-09-05

Date of Amendment (YYYY-MM-DD)

Date de modification (AAAA-MM-JJ)

Canada



Form 4
Articles of Amendment
Canada Business Corporations Act
(CBCA) (s. 27 or 177)

Formulaire 4
Clauses modificatrices
Loi canadienne sur les sociétés par
actions (LCSA) (art. 27 ou 177)

- 1 Corporate name
Dénomination sociale
CANADIAN NORTH INC.
- 2 Corporation number
Numéro de la société
349060-2
- 3 The articles are amended as follows
Les statuts sont modifiés de la façon suivante

The corporation changes the province or territory in Canada where the registered office is situated to:
La province ou le territoire au Canada où est situé le siège social est modifié pour :
AB

- 4 Declaration: I certify that I am a director or an officer of the corporation.
Déclaration : J'atteste que je suis un administrateur ou un dirigeant de la société.

Original signed by / Original signé par
Tanis Thomas, Corporate Secretary
Tanis Thomas, Corporate Secretary
780-423-9268

Misrepresentation constitutes an offence and, on summary conviction, a person is liable to a fine not exceeding \$5000 or to imprisonment for a term not exceeding six months or both (subsection 250(1) of the CBCA).

Faire une fausse déclaration constitue une infraction et son auteur, sur déclaration de culpabilité par procédure sommaire, est passible d'une amende maximale de 5 000 \$ et d'un emprisonnement maximal de six mois, ou l'une de ces peines (paragraphe 250(1) de la LCSA)

You are providing information required by the CBCA. Note that both the CBCA and the *Privacy Act* allow this information to be disclosed to the public. It will be stored in personal information bank number IC/PPU-049.

Vous fournissez des renseignements exigés par la LCSA. Il est à noter que la LCSA et la *Loi sur les renseignements personnels* permettent que de tels renseignements soient divulgués au public. Ils seront stockés dans la banque de renseignements personnels numéro IC/PPU-049.

Canada

Canada Business Corporations Act (CBCA)
FORM 4
ARTICLES OF AMENDMENT
(Sections 27 or 177)

1 - Corporate name

CANADIAN NORTH INC.

2 - Corporation number

3 4 9 0 6 0 - 2

3 - The articles are amended as follows: (Please note that more than one section can be filled out)

A: The corporation changes its name to:

B: The corporation changes the province or territory in Canada where the registered office is situated to:
To complete the change, a Form 3 - Change of Registered Office Address must accompany the Articles of Amendment.

Alberta

C: The corporation changes the minimum and/or maximum number of directors to: (For a fixed number of directors, please indicate the same number in both the minimum and maximum options).

Minimum number

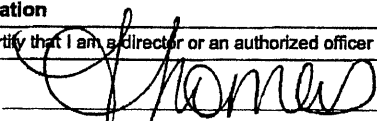
Maximum number

D: Other changes: (e.g., to the classes of shares, to restrictions on share transfers, to restrictions on the businesses of the corporation or to any other provisions that are permitted by the CBCA to be set out in the Articles) Please specify.

4 - Declaration

I hereby certify that I am a director or an authorized officer of the corporation.

Signature:



Print name: Tanis Thomas, Corporate Secretary


Telephone number: (780) 423-9268


Note: Misrepresentation constitutes an offence and, on summary conviction, a person is liable to a fine not exceeding \$5000 or to imprisonment for a term not exceeding six months or to both (subsection 250(1) of the CBCA).

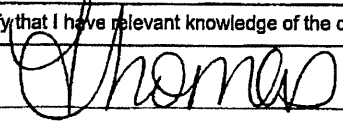
Canada Business Corporations Act (CBCA)
FORM 3
CHANGE OF REGISTERED OFFICE ADDRESS
(Section 19)

1 - Corporate name
CANADIAN NORTH INC.

2 - Corporation number
3 4 9 0 6 0 - 2

3 - Address of registered office (must be a street address, a P.O. Box is not acceptable)		
Number and street name: 200, 580 Palmer Road NE		
City: Calgary	Province / Territory: Alberta	 Postal Code: T2E 7R3

4 - Additional address		
Care of:		
Number and street name:		
City:	Province / Territory:	 Postal Code:

5 - Declaration	
I hereby certify that I have relevant knowledge of the corporation, and that I am authorized to sign this form.	
Signature: 	
Print name: Tanis Thomas, Corporate Secretary	Telephone number: (780) 423-9268
Note: Misrepresentation constitutes an offence and, on summary conviction, a person is liable to a fine not exceeding \$5000 or to imprisonment for a term not exceeding six months or to both (subsection 250(1) of the CBCA).	



Certificate
of Amendment

Canada Business
Corporations Act

Certificat
de modification

Loi canadienne sur
les sociétés par actions

CANADIAN NORTH INC.

349060-2

Name of corporation-Dénomination de la société

Corporation number-Numéro de la société

I hereby certify that the articles of the
above-named corporation were amended:

Je certifie que les statuts de la société
susmentionnée ont été modifiés:

- a) under section 13 of the *Canada Business Corporations Act* in accordance with the attached notice;
- b) under section 27 of the *Canada Business Corporations Act* as set out in the attached articles of amendment designating a series of shares;
- c) under section 179 of the *Canada Business Corporations Act* as set out in the attached articles of amendment;
- d) under section 191 of the *Canada Business Corporations Act* as set out in the attached articles of reorganization;

- ☐ a) en vertu de l'article 13 de la *Loi canadienne sur les sociétés par actions*, conformément à l'avis ci-joint;
- ☐ b) en vertu de l'article 27 de la *Loi canadienne sur les sociétés par actions*, tel qu'il est indiqué dans les clauses modificatrices ci-jointes désignant une série d'actions;
- ☒ c) en vertu de l'article 179 de la *Loi canadienne sur les sociétés par actions*, tel qu'il est indiqué dans les clauses modificatrices ci-jointes;
- ☐ d) en vertu de l'article 191 de la *Loi canadienne sur les sociétés par actions*, tel qu'il est indiqué dans les clauses de réorganisation ci-jointes;

Richard G. Shaw
Director - Directeur

March 1, 2006 / le 1 mars 2006

Date of Amendment - Date de modification



Industry Canada Industrie Canada
Canada Business Loi canadienne sur les
Corporations Act sociétés par actions

FORM 4
ARTICLES OF AMENDMENT
(SECTIONS 27 OR 177)

FORMULAIRE 4
CLAUSES MODIFICATRICES
(ARTICLES 27 OU 177)

1 -- Name of the Corporation - Dénomination sociale de la société

AIR NORTERRA INC.

2 -- Corporation No. - N° de la société

3490602

3 -- The articles of the above-named corporation are amended as follows:

Les statuts de la société mentionnée ci-dessus sont modifiés de la façon suivante :

to change the name of the Corporation to CANADIAN NORTH INC. pursuant to
Section 173(1)(a) of the Canada Business Corporations Act.

Signature

Printed Name - Nom en lettres moulées

4 -- Capacity of - En qualité de

5 -- Tel. No. - N° de tél.

TANIS THOMAS.

CORPORATE
SECRETARY

780-423-9268

FOR DEPARTMENTAL USE ONLY - À L'USAGE DU MINISTÈRE SEULEMENT



Industry Canada

Industrie Canada

**Certificate
of Incorporation**

**Canada Business
Corporations Act**

**Certificat
de constitution**

**Loi canadienne sur
les sociétés par actions**

AIR NORTERRA INC.

349060-2

Name of corporation-Dénomination de la société

Corporation number-Numéro de la société

I hereby certify that the above-named corporation, the articles of incorporation of which are attached, was incorporated under the *Canada Business Corporations Act*.

Je certifie que la société susmentionnée, dont les statuts constitutifs sont joints, a été constituée en société en vertu de la *Loi canadienne sur les sociétés par actions*.

Director - Directeur

May 7, 1998/le 7 mai 1998

Date of Incorporation - Date de constitution

Canada

1. Name of Corporation

AIR NORTERRA INC.

2. The place in Canada where the registered office is to be situated

YELLOWKNIFE, NORTHWEST TERRITORIES

3 The classes and any maximum number of shares that the Corporation is authorized to issue.

3.1 AUTHORIZED CAPITAL

- (a) An unlimited number of Class "A" Shares;
- (b) An unlimited number of Class "B" Shares; and
- (c) An unlimited number of Class "C" Shares.

3.2 THE SPECIAL RIGHTS, PRIVILEGES, RESTRICTIONS
AND CONDITIONS ATTACHING TO EACH CLASS OF SHARES:

(a) Voting

The holders of Class "A" Shares shall be entitled to vote at all meetings of the shareholders of the Corporation except meetings at which only holders of a specified class of shares are, by the provisions of the *Canada Business Corporations Act*, entitled to vote. The Class "B" and Class "C" Shares shall be non-voting subject always to the provisions of the *Canada Business Corporations Act*.

(b) Dividends

(i) No Preference with Respect to Class "C" Shares

The holders of the Class "C" Shares shall in each year, at the

discretion of the directors, but without preference or priority with respect to payment of dividends to holders of any other class of shares, be entitled out of all or any profits or surplus available for dividends, to non-cumulative dividends at an annual rate equal to the prescribed rate of interest for the purposes of subsection 256(1.1) of the *Income Tax Act* as at the time of issuance of the first issued Class "C" Shares (the "Prescribed Rate") on the Redemption Amount thereof (as described in paragraph 3.2(c)(i) herein) as may be determined by the directors, payable at such time or times and at such place or places as the directors may determine. The said dividends shall be non-cumulative whether earned or not earned, and if in any fiscal year the directors in their discretion shall not declare the said dividends or any part thereof, then the right of the holders of the Class "C" Shares to such dividends or any greater dividend than the dividend actually declared for the fiscal year shall be extinguished. The holders of the Class "C" Shares shall in no circumstances be entitled to any dividends other than or in excess of the non-cumulative dividends at the Prescribed Rate, as herein provided for.

(ii) Exclusive

The holders of each share of every class of shares shall be entitled to receive dividends as and when declared by the directors, acting in their sole discretion, which dividends may be declared on one class of shares wholly or partially to the exclusion of any other class of shares.

(iii) Restriction on Dividends

No dividends or distributions of any kind whatsoever shall be declared or made in respect of any of the shares of the Corporation which would be contrary to any applicable law or which would have the effect of reducing the net assets, including goodwill, of the Corporation to an amount insufficient to enable the redemption by the Corporation, at the aggregate of the Redemption Amount, of the issued and outstanding Class "C" Shares.

(c) Redemption Amount of Class "C" Shares

(i) Formula for Calculation of Redemption Amount

The Redemption Amount for each Class "C" Share shall be equal to the fair market value of the property or issued shares of the

Corporation of a different class (the "Assets") for which Class "C" Shares were issued by the Corporation (the "Asset Value"), less the aggregate value of any non-share consideration given or assumed by the Corporation as partial consideration for the Assets (the "Non-Share Value"), all divided by the number of Class "C" Shares issued in exchange for the Assets.

(ii) Fair Market Value Adjustment

Notwithstanding the provisions of the foregoing paragraph 3.2(c)(i) hereof, if the Minister of National Revenue his authorized representative or any similar authority shall assess or reassess the Corporation or its shareholders for income tax (or propose such an assessment or reassessment) on the basis of a determination or assumption that the Asset Value or the Non-Share Value should have been a greater or lesser amount than the amount determined upon issuance of any particular Class "C" Shares, then the Asset Value shall be adjusted (the "Adjusted Asset Value") or the Non-Share Value shall be adjusted (the "Adjusted Non-Share Value"), as the case may be, and shall be deemed to be:

- (A) subject to subparagraph (C), hereof, the fair market value of the Assets or the Non-Share Value as determined by the authority making or proposing such an assessment or reassessment, provided that the directors agree that such determination is accurate; or
- (B) subject to subparagraph (C) hereof, where the directors do not agree that the authority's determination is accurate, the fair market value of the Assets or the Non-Share Value as determined by a qualified person whom the directors shall appoint to make that determination forthwith following the making or proposing of such an assessment or reassessment; or
- (C) where any such assessment or reassessment is the subject of an appeal to a Court of competent jurisdiction, the fair market value of the Assets or the Non-Share Value as determined by that Court.

(iii) Adjustment of Redemption Amount

In the event of a determination of an Adjusted Asset Value or an Adjusted Non-Share Value, then the Redemption Amount payable

for each Class "C" Share issued in exchange for the Assets shall be adjusted by the directors and shall be equal to the Adjusted Asset Value (or, if there has been no adjustment, the Asset Value) less the Adjusted Non-Share Value (or, if there has been no adjustment, the Non-Share Value), all divided by the total number of Class "C" Shares issued in exchange for the Assets. If any non-share consideration shall have been given or assumed, any Class "C" Share shall have been redeemed or any dividends shall have been declared thereon prior to the Redemption Amount thereof being adjusted as aforesaid, any resulting over-payment by the Corporation shall be a debt due on demand to the Corporation from the holder of such Class "C" Share and any resulting under-payment shall be a debt due on demand from the Corporation to the holder of such Class "C" Share.

(d) Procedure

Subject to the provisions of the *Canada Business Corporations Act*, the Corporation may, upon giving notice as hereinafter provided, redeem the whole or any part of the Class "C" Shares on payment for each Class "C" Share to be redeemed of the Redemption Amount thereof, together with all dividends declared thereon and unpaid. If at any time only part of the then outstanding Class "C" Shares is to be redeemed, the redemption shall be pro rata from the holders of such Class "C" Shares, provided that the directors may make such adjustments as shall be necessary to avoid the redemption of fractional parts of the Class "C" Shares. Unless waived by the registered holder of the shares to be redeemed, the Corporation shall give not less than thirty (30) days notice in writing of such redemption by mailing such notice to the registered holder of each Class "C" Share to be redeemed, specifying the date and place or places of redemption. If notice of any such redemption be given by the Corporation in the manner aforesaid and an amount sufficient to redeem such shares be deposited with any trust company or chartered bank in Canada as specified in the notice on or before the date fixed for redemption, dividends on the Class "C" Shares to be redeemed shall cease after the date so fixed for redemption and the holders thereof shall thereafter have no rights against the Corporation in respect thereof except, upon the surrender of certificates for such Class "C" Shares, to receive payment therefor out of the monies so deposited. Upon the amount sufficient to redeem such Class "C" Shares being deposited with any trust company or chartered bank in Canada as aforesaid, notice shall be given to the holders of the Class "C" Shares called for redemption who have failed to present the certificates representing such Class "C" Shares within two (2) months of the date specified for redemption, to the effect that the monies have been

so deposited and may be obtained by the holders of the said Class "C" Shares upon presentation of the certificates representing such Class "C" Shares for redemption at the said trust company or chartered bank in Canada. If any part of the total monies so deposited has not been paid to or to the order of the respective holders of the Class "C" Shares which were called for redemption within two (2) years after the date upon which such deposit was made or the date specified for redemption in the said notice, whichever is the later, such balance of monies remaining in the account shall be returned to the Corporation without prejudice to the rights of the holders of the Class "C" Shares being redeemed to claim the monies so deposited without interest from the Corporation.

(e) Retractable

Each holder of a Class "C" Share has the right, exercisable by depositing the holder's share certificate with the Corporation at its registered office, to require the Corporation to redeem such Class "C" Share within thirty (30) days after the date the certificate is deposited, for an amount equal to one hundred (100%) per cent of the Redemption Amount of the Class "C" Share so deposited, together with all dividends declared thereon and unpaid. The Corporation will not be obligated to redeem any Class "C" Share pursuant to this provision if and so long as the redemption would be contrary to any applicable law.

(f) Liquidation

In the event of the liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary:

- (i) firstly, the holders of the Class "C" Shares shall rank equally amongst themselves and shall be entitled to receive, in respect of each Class "C" Share held, before distribution of any part of the assets of the Corporation amongst the holders of shares of any other class in the capital of the Corporation, an amount equal to one hundred (100%) per cent of the Redemption Amount of such Class "C" Share and any dividends declared thereon and unpaid and no more. In the event that less than one hundred (100%) per cent of the amount necessary for redemption of each Class "C" Share is available for distribution to the holders of the Class "C" Shares, then the holders of such shares shall be entitled to participate in such distribution in equal proportions in respect of each Class "C" Share held, firstly having regard to the respective Redemption Amounts of such Class "C" Shares and secondly having regard to the amount of the declared but unpaid dividends

owing in respect of each such class; and

- (ii) thereafter, the holders of the Class "A" and Class "B" Shares shall be entitled to participate equally amongst themselves in respect of each Class "A" or Class "B" Share held in any further distribution of the assets of the Corporation.

4. Restrictions if any on share transfer.

No shares of the Corporation shall be transferred without the approval of the directors of the Corporation either by a resolution passed at a Board of directors meeting, or by an instrument or instruments in writing signed by all of the directors.

5. Number (or minimum and maximum number) of directors

There shall be a minimum of one (1) director and a maximum of seventeen (17) directors.

6. Restrictions if any on business the corporation may carry on.

None

7. Other provisions if any

- (a) The number of shareholders of the corporation, exclusive of:

- (i) persons who are in its employment or that of an affiliate, and
 - (ii) persons, who having been formerly in its employment or that of an affiliate were, while in that employment, shareholders of the corporation and have continued to be shareholders of that corporation after termination of that employment.

is limited to not more than fifty (50) persons, two or more persons who are joint

registered owners of one or more shares being counted as one shareholder.

- (b) Any invitation to the public to subscribe for securities of the corporation is prohibited.

8. Incorporator:

Name	Address (include postal code)	Signature
MARJORIE E. SIMINGTON	2700, 10155-102 STREET EDMONTON, ALBERTA T5J 4G8	<i>M. Simington</i>

FOR DEPARTMENTAL USE ONLY

Corporation number	Filed
--------------------	-------

MAY 1 1 1998

SCHEDULE "B"
INCUMBENCY

<u>Name</u>	<u>Office Held</u>
Steve Hankirk	President
John Hankirk	Senior Vice President Operations and Charters
Peter McCart	Senior Vice President Scheduled Services
Don MacLellan	Vice President Finance
Lorraine Bonner	Vice President Scheduled Services
Trevor Wakefield	Vice President Operations
Leslie Kwasny	Chief Financial Officer
Tanis Thomas	Corporate Secretary

SCHEDULE "C"

See attached.

Certificate of Compliance

*Canada Business Corporations Act
s. 263.1*

Certificat de conformité

*Loi canadienne sur les sociétés par actions
art. 263.1*

CANADIAN NORTH INC.

Corporate name / Dénomination sociale

349060-2

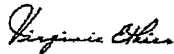
Corporation number / Numéro de société

I HEREBY CERTIFY that the corporation
named above:

- exists under the *Canada Business Corporations Act*;
- has filed the required annual returns; and
- has paid all prescribed fees required.

JE CERTIFIE, par la présente, que la société ci-
dessus mentionnée :

- existe en vertu de la *Loi canadienne sur les sociétés par actions*;
- a déposé les rapports annuels exigés; et
- a acquitté les droits prescrits.



Virginie Ethier

Director / Directeur

2015-12-10

Issuance date (YYYY-MM-DD)
Date d'émission (AAAA-MM-JJ)

Canada

**NON-SIGNATORY AIRLINE AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT**

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

Canadian North, Inc.

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EXHIBIT “A” - FORM OF ACTIVITY REPORT
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EXHIBIT “E” - RATE AND FEE SCHEDULE

**NON-SIGNATORY AIRLINE AGREEMENT
PALM BEACH INTERNATIONAL AIRPORT**

THIS AGREEMENT is made and entered into SEP 18 2017, 20__, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and Canadian North, Inc., an Alberta Corporation, having its office and principal place of business at 580 Palmer Road NE, Suite 200, Calgary, Alberta T2E 7R3 Canada ("Airline").

W I T N E S S E T H:

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

WHEREAS, Airline is engaged in the business of scheduled air transportation for the carriage of persons, property, parcels, cargo, and mail; and

WHEREAS, Airline desires to obtain certain rights, services and privileges in connection with the use of the Airport and its facilities, and County is willing to grant the same to Airline upon the terms and conditions hereinafter set forth.

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

ARTICLE 1 - DEFINITIONS

The following words, terms, and phrases wherever used in this Agreement 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 Agreement, but not defined in this Article or the Rate and Fee Schedule (as hereinafter defined), shall have the meanings set forth in the Bond Resolution:

1.01 Activity Report means the reporting form required to be submitted by Airline to County each month attached hereto as Exhibit "A", as may be amended from time to time by the Department upon thirty (30) days prior written notice to Airline. The modified Activity Report shall automatically become a part of this Agreement, without formal amendment hereto.

1.02 Airline means the Air Transportation Company identified in the preamble of this Agreement.

1.03 Agreement means this Non-signatory Airline 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 Agreement, refer to this Agreement as a whole, unless the context otherwise requires.

1.04 Air Transportation Company means an air carrier providing carriage by air of passengers, property, parcels, cargo, and/or mail.

1.05 Air Transportation Service(s) means those service(s) and operation(s) related to or provided by Airline at the Airport for the commercial transportation of passengers, property, parcels, cargo and mail by air, including services and operations necessary and incidental thereto.

1.06 Aircraft Parking Apron means those areas of the Airport designated by County for the parking of aircraft and the loading and unloading of passengers, property, parcels, cargo and/or mail.

1.07 Airfield means those portions of the Airport provided for the landing, taking off, and taxiing of aircraft, including runways, taxiways, approach and runway protection zones, safety areas, infield areas, landing and navigational aids, Aircraft Parking Apron and land areas required by or related to aeronautical use of the Airport.

1.08 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.

1.09 Airline Premises means those areas licensed for use by Airline herein, which shall include the Joint Use Premises and may include Preferential Use Premises if specifically designated in Exhibit "B" or "C".

1.10 Airport means the Palm Beach International Airport located in Palm Beach County, Florida.

1.11 Airport Layout Plan means the approved scaled drawing of the existing and proposed land and facilities necessary for the operation and development of the Airport submitted to the Federal Aviation Administration by County pursuant to the airport sponsor grant assurance requirements.

1.12 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.

1.13 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.

1.14 Assignment shall have the meaning set forth in Section 13.01.

1.15 Baggage Handling System ("BHS") means the systems and equipment at the Airport, exclusive of the TSA inspection equipment, used for the transportation of checked baggage to baggage makeup carousels for pick up by an Air Transportation Company.

1.16 Bond Resolution means County Resolution No. R-84-427 authorizing the issuance of the Palm Beach County Airport System Revenue Bonds, adopted by the Board of County Commissioners of Palm Beach County on April 3, 1984, as amended and supplemented, and including any successor bond resolution. The Bond Resolution is hereby incorporated herein by this reference and made a part hereof.

1.17 Bonds means any bonds or other financing instrument authenticated and delivered under and pursuant to the Bond Resolution.

1.18 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.

1.19 Commencement Date has the meaning set forth in Section 2.02.

1.20 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.

1.21 Commuter Apron means those portions of the Aircraft Parking Apron immediately adjacent to the Commuter Operating Area that are used for the parking of commuter aircraft and support vehicles, and the loading and unloading of passengers and cargo.

1.22 Commuter Operating Area means those portions of the Terminal that are designated by County for use by commuter Air Transportation Companies, which areas include gate, holdroom seating and concourse areas located in Concourse A.

1.23 County has the meaning set forth in the preamble of this Agreement.

1.24 County Party means County's elected officers, employees and agents.

- 1.25 Damages has the meaning set forth in Article 10.
- 1.26 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.
- 1.27 Department Director means the Director or Acting Director of the Palm Beach County Department of Airports.
- 1.28 Department of Homeland Security means the United States Department of Homeland Security and any divisions thereof, including, but not limited to, the TSA.
- 1.29 Department of Transportation means the United States Department of Transportation and any divisions thereof, including, but not limited to, the FAA.
- 1.30 Deplaned Passengers or Deplanement means any passenger disembarking an aircraft at the Terminal, including, but not limited to, any passenger that subsequently boards another aircraft of the same or different Air Transportation Company or the same aircraft, which was previously operated under a different flight number.
- 1.31 Effective Date means that date specified in Section 2.01.
- 1.32 Election Notice has the meaning set forth in Section 9.03(A).
- 1.33 Emergency Landing means any flight that, after taking off from the Airport and without making a landing at any other airport, returns to land at the Airport because of meteorological conditions or operating causes, or for any other similar emergency or precautionary reason.
- 1.34 Enplaned Passengers or Enplanement means any passenger boarding at the Terminal, including, but not limited to, any passenger that previously disembarked from another aircraft of the same or different Air Transportation Company or from the same aircraft, which was previously operated under a different flight number.
- 1.35 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.
- 1.36 Event of Default has the meaning set forth in Section 12.02.
- 1.37 FAA means the Federal Aviation Administration and its authorized successor(s).
- 1.38 Federal Inspection Services ("FIS") Facility means the systems, equipment and areas of the Terminal designated by County for the inspection and processing international passengers and their baggage by U.S. Customs and Border Protection.
- 1.39 Fiscal Year means County's annual accounting period for its general accounting purposes, which as of the Effective Date of this Agreement, is the period of twelve (12) consecutive months commencing on October 1st and ending on September 30th of each year.
- 1.40 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.

1.41 Joint Use Premises means those Terminal areas and equipment assigned for use by more than one (1) Air Transportation Company and is comprised of the baggage claim area, baggage screening and makeup areas, and tug drive.

1.42 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.

1.43 Landing Area means those portions of the Airport provided for the landing, take-off and taxiing of aircraft, including, but not limited to, approach and turning zones, avigation or other easements, runways, taxiways, runway and taxiway lights, and other appurtenances in connection therewith.

1.44 Landing Fee has the meaning set forth in the Rate and Fee Schedule.

1.45 Lift Device has the meaning set forth in Section 15.01.

1.46 Maintenance Schedule means the maintenance schedule attached hereto as Exhibit "D".

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

1.48 Nonrevenue Landing means any aircraft landing by Airline at the Airport for a flight for which Airline receives no revenue, and shall include Emergency Landings.

1.49 Passenger Facility Charge ("PFC") has the meaning ascribed to it in 49 USC 40117, as may be amended or any successor law authorizing similar fees.

1.50 PBSO means the Palm Beach County Sheriff's Office.

1.51 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.

1.52 Preferential Use means the unrestricted, higher and continuous (but not exclusive) priority of use over all others.

1.53 Preferential Use Premises means those portions of the Terminal and Aircraft Parking Apron licensed to Airline for Airline's Preferential Use, if any, as more particularly identified in the attached Exhibits "B" and "C". If Exhibits "B" and "C" are left blank, no Preferential Use Premises has been licensed for Airline's use hereunder and those provisions of this Agreement related to Airline's use and occupancy of the Preferential Use Premises shall not apply.

1.54 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.

1.55 Rate and Fee Schedule means the Rate and Fee Schedule attached hereto as Exhibit "E".

1.56 Rental Credits has the meaning set forth in Section 8.03(C).

1.57 Requesting Airline has the meaning set forth in Section 14.01(A).

1.58 Revenue Landing means any flight that lands at the Airport for which Airline receives revenue; provided, however, an Emergency Landing shall not be considered a Revenue Landing.

1.59 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.

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

1.61 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.

1.62 Statement of Rates has the meaning set forth in Section 7.01(B).

1.63 Term shall mean the initial term and any renewal term as provided in Section 2.02.

1.64 Terminal means the commercial airline terminal facilities at the Airport.

1.65 Total Passengers means the sum of Enplaned Passengers plus Deplaned Passengers.

1.66 TSA means the Transportation Security Administration of the Department of Homeland Security and its authorized successors.

ARTICLE 2 - TERM

2.01 Effective Date. This Agreement shall become effective upon execution by both Airline and County (“Effective Date”).

2.02 Term. The term of this Agreement shall commence on the Effective Date (“Commencement Date”), and shall terminate on September 30, 2018. The term of this Agreement shall be automatically extended at the end of the initial term on a year-to-year basis thereafter. Either party hereto, with the Department acting on behalf of County, may terminate this Agreement upon sixty (60) days prior written notice to the other party without cause. Upon termination, the parties shall be relieved from all further obligations under this Agreement with the exception of those obligations arising prior to the date of termination or that expressly survive termination of this Agreement

ARTICLE 3 - PREMISES

3.01 Airline Premises. County hereby grants Airline a nonexclusive license to use the Joint Use Premises for the conduct of its Air Transportation Services at the Airport. If Preferential Use Premises has been assigned to Airline in Exhibit “B” or “C”, Airline shall have a nonexclusive license to use the assigned Preferential Use Premises; provided, however, Airline shall have the right of Preferential Use of the Preferential Use Premises.

3.02 Equipment. County shall provide the following equipment and furnishings in the Terminal for Airline’s nonexclusive use in the provision of its Air Transportation Services hereunder; provided, however, Airline acknowledges that equipment and furnishings owned or acquired by County for use by Airline shall remain the property and under the control of County:

- A. One (1) aircraft loading bridge for each of Airline’s aircraft parking positions on the Aircraft Parking Apron, excluding the Commuter Apron.

- B. Centralized aircraft support systems, including 400 Hertz and cabin air systems, at each of Airline's aircraft parking positions at which a loading bridge is installed.
- C. Conveyor systems and devices for baggage make-up and baggage claim activities.
- D. Centralized public Flight Information Display System ("FIDS") and Baggage Information Display System ("BIDS").
- E. Holdroom finishes and furnishings, including gate counter shell, gate backwall, flooring, and chairs, but excluding any other equipment or furnishings required by Airline for its operations hereunder such as counter inserts.

3.03 Potable Water. Potable water shall be available at aircraft parking positions.

3.04 Condition of Airline Premises and Airport. With the exception of those facilities and fixtures that County is required to maintain and repair hereunder, Airline expressly acknowledges that it has inspected the Airline Premises, including, but not limited to, all finishes, furniture, fixtures and equipment therein, and accepts the same "As Is" in the condition existing as of the Effective Date. Airline further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Airport or the Airline Premises including, but not limited to, the physical and/or environmental condition of the Airline Premises, or any improvements located thereon, or the value of the Airline Premises or improvements thereto, their zoning, or the suitability of the Airline Premises, or any improvements thereto, or Airline's legal ability to use the Airline Premises or Airport for Airline's intended use.

3.05 Commuter Operating Area and Apron. Except in the event of an emergency or other unforeseen circumstance beyond the reasonable control of County, Airline acknowledges and agrees that the Commuter Operating Area may only be used by Air Transportation Companies that are operating aircraft that are not compatible with loading bridge operations or have fifty (50) passenger seats or less.

3.06 Federal Inspection Facilities. County shall designate areas in the Terminal, and/or elsewhere on the Airport to be used by agencies of the United States Government, including, but not limited to, the Department of Homeland Security and Department of Transportation, for the inspection of passengers and their baggage, and for the agencies to exercise their responsibilities with respect to the movement of persons, property and cargo to and from and within the United States.

3.07 Employee Parking. County shall use reasonable efforts to ensure that parking facilities are sufficient for all of Airline's personnel employed on the Airport. Employee parking shall be subject to reasonable rules and regulations of County and the Department, as may be amended from time-to-time, for use of the employee parking areas and subject to payment of reasonable fees and charges.

3.08 Public Address System. County shall provide and maintain a public address system in the Terminal, which Airline and others similarly authorized by County shall have the right to use for flight announcements and paging, subject to reasonable rules and regulations established by County and the Department, as may be amended from time-to-time, for the use of the public address system.

3.09 Space Allocations. During the Term of this Agreement, County may re-measure various areas in the Terminal, including those areas located within the Airline Premises, in an effort to more accurately reflect improvements, additions and modifications to the Terminal. In the event the square footage of the Airline Premises identified herein differs from the Airline Premises based on such re-measurement, the parties agree to enter into an amendment to this Agreement to modify the Airline Premises to reflect the actual square footage of the Airline Premises subject to the provisions of this Section. In the event the actual square footage of the Airline Premises is determined to be more than the square footage of the Airline Premises identified herein and will result in an increase of more than five percent (5%) of the monthly fees

and charges payable by Airline hereunder, County agrees that Airline's monthly fees and charges payable hereunder shall only be increased by five percent (5%) as a result of such re-measurement for a period of one (1) year commencing on the date of the re-measurement. Upon the expiration of the aforementioned one (1) year period, Airline's monthly fees and charges payable hereunder shall be based upon the actual square footage of the Airline Premises as determined by the re-measurement. The parties agree that any increase or decrease in the monthly fees and charges payable hereunder resulting from the re-measurement of the Airline Premises shall not be applied retroactively. The Department Director may execute an amendment to this Agreement on behalf of County pursuant to this Section.

3.10 Baggage Handling System Upgrades. Airline acknowledges that County will be installing an upgraded Baggage Handling System during the Term of this Agreement, which may require the temporary relocation of Airline from portions of the Airline Premises, including ticket counter and office spaces. County agrees to coordinate with Airline regarding the timing and schedule of any required relocation in an effort to avoid disruption to Airline's operations to the extent reasonably feasible. The parties shall coordinate to identify the space(s) where Airline will be temporarily relocated, and Airline shall identify equipment and personal property that will require relocation for Airline's continued operations in the relocated space. County shall be responsible for payment of all reasonable and necessary moving and relocation costs associated with the temporary relocation of Airline, including temporary signage and physical moving costs. In the event Airline incurs any direct relocation costs or the relocated space is smaller than the space to be temporarily vacated by Airline, County shall provide reimbursement to Airline in the form of Rental Credits against payments due from Airline to County hereunder. The parties agree that the provisions of Section 8.03(C) shall not apply to costs incurred by Airline pursuant to this Section; however, Airline shall be required to provide County with documentation reasonably satisfactory to County evidencing the relocation costs incurred by Airline, including original invoices and receipts issued by the contractor, vendor or supplier, and a final cost statement certified by an authorized employee of Airline as being true and correct. In the event the project results in a permanent modification of the size of the Airline Premises, County shall cause the space to be re-measured, and the parties shall enter into an amendment to this Agreement in accordance with Section 3.09.

ARTICLE 4 - USE OF AIRPORT AND RELATED FACILITIES

4.01 Use of the Airport. Subject to the terms and conditions of this Agreement, Airline shall have the nonexclusive right to use the Public Airport Facilities for the conduct of Airline's Air Transportation Services at the Airport in common with other Air Transportation Companies operating at the Airport, which includes the nonexclusive right to: (1) use the Airport's Airfield, including, but not limited to, runways and taxiways; (2) the use of the public common areas within the Terminal; and (3) the use of all other facilities and improvements that have been provided for common use at the Airport. The rights provided for herein shall be subject to reasonable and nondiscriminatory rules and regulations established by the Department, as may be amended from time-to-time, and subject to payment of all applicable fees and charges.

4.02 Service/Repair. Airline shall only engage in the servicing, repair, remote overnight storage, long term storage and maintenance of Airline's aircraft in areas on the Airport designated by County for such purposes, which shall be subject to availability and to payment of applicable fees and charges established for the use of such areas.

4.03 Disabled Aircraft. Airline shall promptly remove its disabled aircraft from the Airfield and Terminal aircraft aprons 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.

4.04 Training. Airline may train personnel employed, or to be employed, by Airline and test aircraft and other equipment owned or operated by Airline on the Airport; provided, however, such training and testing, including, but not limited to, practice approaches, shall be incidental to the use of the Airport by Airline for the provision of its Air Transportation Services. In addition, any training and testing by Airline shall not unreasonably hamper or interfere with the use of the Airport by others. County reserves the right to restrict or prohibit any training or testing activities, which it deems to interfere with the use or operation of the Airport.

4.05 Sale of Equipment and Supplies. Airline may sell, dispose of or exchange Airline's aircraft, engines and other equipment and supplies used by Airline in the provision of its Air Transportation Services; provided, however, such activities shall be incidental to the use of the Airport by Airline for the provision of its Air Transportation Services. Airline shall not sell fuel and lubricants at the Airport.

4.06 Passenger Transport Services. Airline may provide passenger transport services (carts or wheelchairs) in the Terminal in connection with its Air Transportation Services for the convenience of the public; provided, however, any equipment utilized for passenger transport services shall be in a neat and clean condition and in compliance with all applicable laws and reasonable and nondiscriminatory rules and regulations established by the Department for such equipment. County shall have no obligation to provide or contribute to passenger transport services. Airline may provide passenger transport services pursuant to this Section alone or in conjunction with other Scheduled Air Carriers or through a designated porter/sky cap; provided, however, Airline shall be obligated to ensure that its designated porter/sky cap remains in compliance with the requirements of this Section.

4.07 Food Service/Vending Machines. Airline shall not maintain or operate in the Terminal or elsewhere at the Airport, a cafeteria, restaurant, bar, cocktail lounge or other similar facility at the Airport. Airline shall not sell or dispense food and beverages at the Airport except in Airline's club room as provided in Section 4.08. Airline may dispense food and beverages on board Airline's aircraft or to passengers boarding Airline's aircraft for consumption on board. Airline may install snack vending machines in its office and break room areas of the Preferential Use Premises that are not accessible to the public for the exclusive use of Airline's employees and agents. In the event of originating flight delays, diverted flights or originating flights that have returned to the Airport, Airline may provide typical onboard beverages (excluding alcohol) and snacks (e.g., peanuts, pretzels, etc.) at no charge to its passengers in Airline's holdroom area(s). Airline may also dispense typical onboard snacks in Airline's baggage service office for customers needing assistance locating lost luggage.

4.08 Club Room. If Airline operates a club room or similar private facility for use by its passengers at the Airport, Airline may, at its sole cost and expense, install, operate and maintain a kitchen or other facilities within the club room for the purpose of preparing and providing food and beverages to Airline's passengers on a complimentary basis. Airline may elect to sell food and/or beverages to its passengers and employees within the club room for consumption within the club room, subject to the terms, conditions and limitations as hereinafter set forth. Airline shall provide prior written notice to County of its intent to sell food and/or beverages within its club room. Airline shall report all gross revenues from the sale of food and/or beverages in its monthly Activity Report and shall pay to County a percentage of the gross revenues from the sale of such food and/or beverages equal to the then current percentage(s) payable by the Airport's food and beverage concessionaire(s) to County. As of the Effective Date, the Airport's food and beverage concessionaire(s) are required to pay 10.1% of gross revenues for all sales from sit down and fast food restaurants (such as Chili's Too and PBI Market), and 15.1% of gross revenues for the sale of snack foods, coffee, pre-packaged grab and go items, and alcoholic beverages. County shall notify Airline in writing in the event the percentage of gross revenues applicable to the sale of food and beverages is modified. Airline may provide wireless internet service to Airline's passengers within its club room on a complimentary basis; provided that such service is not readily available in the public areas of the Terminal.

4.09 Limitations, Exclusions and Reservations.

- A. Except as otherwise approved by County in writing or authorized by an amendment to this Agreement, Airline shall use and occupy the Airline Premises and Airport solely and exclusively for purposes set forth in this

Article and shall not use the Airline Premises or Airport for any other use, business or purpose whatsoever. Airline acknowledges that County shall not have any obligation whatsoever to approve uses not contemplated herein. Furthermore, except as otherwise expressly provided in Sections 4.07 and 4.08, nothing in this Agreement shall be construed to give Airline any right or permission to sell or provide at the Airport any goods or services to the public, its employees and/or passengers other than Air Transportation Services or to conduct any business separate and apart from the provision of Air Transportation Services. The foregoing prohibition includes, but is not limited to, the sale or provision of trip insurance, wireless internet services to the public (excluding Airline's club room pursuant to Section 4.08), advertising and automobile rental.

- B. County shall have the right to require any Person providing services to Airline at the Airport to obtain a permit or agreement from County for the privilege of conducting such activity at the Airport, and to abide by all reasonable and nondiscriminatory rules and regulations established by the Department, as may be amended from time-to-time, and to pay all applicable fees and charges.
- C. Except as expressly provided herein, nothing in this Agreement shall restrict County from imposing reasonable and nondiscriminatory fees and charges on any Person, including, but not limited to, Airline's suppliers, agents and contractors, for the use of the Airport when such use constitutes the performance of a commercial business activity at the Airport, or for the provision of any services by County. Notwithstanding the foregoing, County shall not impose a charge for ground transportation provided by or for Airline, at Airline's sole cost and expense, for Airline's passengers and/or employees due to flight delays, diversions or cancellations.
- D. County shall have the right to charge any Person a reasonable and nondiscriminatory fee for the right to sell or serve food and beverages to Airline, its employees or passengers. Notwithstanding the foregoing, in the event Airline maintains a flight kitchen, Airline and its suppliers, providing unprepared food, beverages and supplies for preparation in the flight kitchen, shall not be charged a fee for the preparation of food.
- E. County shall have the right to install, or cause to be installed, advertising and other revenue generating devices in the Joint Use Premises and public areas of the Preferential Use Premises; provided that such installation shall not unreasonably interfere with Airline's operations hereunder. Nothing in this Section shall be construed as precluding County from installing advertising that promotes the Airport, or informational or directional signage.
- F. County shall have the right to install pay telephones in any part of the Terminal, including Airline Premises in a location mutually agreed to by the parties. Airline shall have the right to install pay telephones in Airline's club rooms, if any, subject to the prior written approval of County. All income generated by all pay telephones, excluding those located within Airline's club rooms, shall be retained by County as Revenues. County shall be entitled to reasonable access to the Airline Premises to install or service any pay telephones installed by County.
- G. County may from time-to-time temporarily or permanently close, re-route or restrict the use of any roadway at the Airport; provided, however, County shall use Commercially Reasonable efforts to provide a reasonably equivalent means of ingress and egress. County agrees to provide reasonable advance written notice to Airline prior to instituting such restrictions; provided, however, that such notice shall not be required in the event of an emergency or if required by any security agency with jurisdiction, including, but not limited to, the Department of Homeland Security, Department of Transportation and PBSO. Airline hereby releases

and discharges County from any and all claims, demands, or causes or action that Airline may have arising or alleged to arise out of such a closing, re-routing or restriction. Airline's release of the County shall not apply to claims that arise out of County's failure to use Commercially Reasonable efforts to provide alternative access or County's failure to give Airline reasonable advance notice of a closure, re-routing or restriction.

- H. County may prohibit the use of the Airfield by any aircraft operated or controlled by Airline, which exceeds the design strength or capability of the Airfield as set forth in the current FAA-approved Airport Layout Plan or other engineering evaluations performed subsequent to the then current Airport Layout Plan.
- I. Airline shall not perform, or cause to be performed, any Major Maintenance of its aircraft and other equipment in or on Airline Premises. Airline agrees that all aircraft maintenance shall be performed in accordance with all applicable local, state and federal laws, including, but not limited to, the Florida Building Code and Florida Fire Prevention Code and Life Safety Code, and any local amendments thereto, as now or hereafter amended and supplemented. Airline shall not store inoperative equipment in or on the Airline Premises.
- J. Airline shall not interfere with, or permit interference with, the effectiveness or accessibility of the drainage, sewerage, water, communications, or fire protection systems or any other part of the utility, electrical, or other systems installed or located at the Airport.
- K. Airline shall not store or stockpile personal property or equipment in areas of the Airport, which are not licensed for Airline's use hereunder, including, but not limited to, furniture, recreational equipment, pallets and other similar items. Airline shall be responsible for ensuring that its employees and contractors remain in compliance with the requirements of this Section.

ARTICLE 5 - MAINTENANCE AND OPERATION

5.01 Designation of Maintenance Responsibilities. The parties responsibilities for maintenance, cleaning, and operation of the Airline Premises are set forth in the Maintenance Schedule. Airline agrees to perform the obligations set forth in the Maintenance Schedule, which are assigned to Airline, and County agrees to perform the obligations set forth in the Maintenance Schedule, which are assigned to County.

5.02 County Obligations.

- A. Except as to premises leased to or under the contractual control of others or as otherwise provided for in the Maintenance Schedule, County shall maintain all Airport facilities in good and adequate condition for their intended use and to the extent required by law and the Bond Resolution.
- B. Notwithstanding the foregoing, and except as required by the Bond Resolution, County, in its sole discretion, may abandon facilities, including real property, which are no longer necessary for the proper and adequate operation of the Airport. Nothing in this Agreement shall be deemed to require County to make any improvements to the Airport, including, but not limited to, enlarging the Airport, or making any extensions or additions to the Airfield or other appurtenances of the Airport.

5.03 Airline Obligations.

- A. Airline shall at all times operate the Airline Premises, and any improvements or appurtenances thereto, in a sound, efficient and economical manner and, except as otherwise provided in the Maintenance

Schedule, shall maintain, preserve and keep same in good repair, working order, and in a neat, orderly, sanitary and presentable condition. Airline shall remove, or cause to be removed, at Airline's sole cost and expense, from its Preferential Use Premises all waste, garbage, and rubbish and agrees not to deposit same on any part of Airport; provided, however, that Airline may temporarily store same in appropriate containers in its Preferential Use Premises or in space designated by County in connection with collection for removal. Airline, at its sole cost and expense, shall be responsible for the removal of all oil or other spillages from its Preferential Use Aircraft Parking Apron.

- B. Authorized representative(s) of County shall have the right to enter the Airline Premises, including the non-public areas of the Preferential Use Premises, at any and all reasonable times for the purpose of inspection, including inspection of all County-owned equipment for compliance with manufacturer's specifications regarding servicing and preventive maintenance, or for any other purpose incident to the performance of its obligations hereunder or in the exercise of any of its governmental functions. County shall use its good faith efforts to avoid disruption of Airline's operations and, except in the event of an emergency, shall provide Airline reasonable notice prior to entering the non-public areas of the Preferential Use Premises and Airline shall have the right to have an Airline employee accompany County's representative(s) when entering the non-public areas of the Preferential Use Premises.
- C. 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 Airline Premises and perform such obligations; provided, however, County shall give to Airline reasonable notice and opportunity to cure in accordance with Section 12.02(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 Airline 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.

ARTICLE 6 - PAYMENT OF FEES AND CHARGES

6.01 Payment. Airline shall pay to County all fees and charges set forth in the Rate and Fee Schedule for the rights, licenses and privileges granted hereunder to Airline at rates applicable to non-signatory airlines calculated by County in accordance with methodologies set forth in the Rate and Fee Schedule and this Agreement.

6.02 Additional Fees and Charges. Airline agrees to pay to County reasonable and nondiscriminatory fees and charges for any other services or facilities provided by County or its contractors, which are not specifically provided for in this Agreement, and accepted or requested by Airline.

6.03 Time and Place of Payment.

- A. Payments due to County from Airline hereunder shall be paid in lawful money of the United States of America, by check or electronic payment to Palm Beach County, without any deduction, holdback or set off whatsoever, and shall be made at such places as County may designate in writing to Airline, which as of the Effective Date shall be as follows for payments by mail:

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

For payments by wire or other electronic funds transfer, Airline shall contact the Department's Accounting Section for further information.

- B. Payment for the use of the Preferential Use Premises shall be due in advance, without demand or deduction, in equal monthly installments on the first (1st) Business Day of each month.
- C. Payment of fees and charges, which are based upon Airline's monthly activity, including, but not limited to, Landing Fees, Environmental Operating Fees, Baggage Handling System Fees, Commuter Operating Charges and FIS Facility fees, shall be due within thirty (30) days of the receipt of County's invoice.
- D. Payment of all other amounts due hereunder, including, but not limited to, fees for use of the Joint Use Premises, employee parking charges, maintenance, utility and telephone charges/reimbursements and other miscellaneous charges, shall be due within thirty (30) days of the date of County's invoice.
- E. Interest at the rate of one and one-half percent (1½%) per month shall accrue against any and all delinquent payment(s) from the date due until the date payment is received by County. To the extent permitted by law, this provision shall not preclude County from terminating this Agreement for Airline's default in the payment of fees or charges, or from enforcing any other provisions contained herein or provided by law.
- F. Acceptance by County of any payment from Airline shall not preclude County from verifying the accuracy of Airline's reports on which Airline's fees and charges are based as provided in this Article and shall not be deemed a waiver of any interest penalty due.

6.04 Partial Month Charges. In the event the Effective Date or termination date of Airline's use of the Preferential Use Premises, or any portion thereof, occurs on any date other than the first (1st) or last day of a calendar month, the fees and charges applicable to Airline's use of the Preferential Use Premises, or portion thereof, for that month shall be paid on a pro rata basis based on the number of days in that month.

6.05 Activity Report.

- A. No later than the tenth (10th) calendar day of each month, Airline shall electronically file an accurate and complete Activity Report with County, which contains the information required therein for the preceding month.
- B. In the event Airline fails to provide the Activity Report, within the time period specified herein, or if the data contained in the Activity Report appears to be inaccurate, County may, based on previous reports or other information available to County, estimate Airline's activity for the preceding month and issue invoices based on County's estimation. Airline shall be liable to County for any deficiencies in payments based upon such estimates. If such estimates result in an overpayment by Airline, County shall remit, or at County's option credit, such overpayment to Airline.

6.06 Audit.

- A. Airline shall maintain and keep books, ledgers, accounts, or other records, accurately recording the total number of Revenue and Nonrevenue Landings at the Airport, the Landed Weight of each aircraft, the total number of Enplaned Passengers and Deplaned Passengers, and all other

traffic and activity statistics to be recorded or reported hereunder. Such books, ledgers, accounts, and records related to Airline's operations at the Airport shall be made available in electronic format or otherwise in Palm Beach County for a period of three (3) years subsequent to the activities reported therein. In the event such books, ledgers, accounts and records are made available in an electronic format, they shall be certified by an officer of Airline.

- 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 County. Upon County's written request for examination of such books, ledgers, accounts and records, Airline shall produce such items in Palm Beach County within ten (10) Business Days of County's request or pay all reasonable expenses, including, but not limited to, transportation, food, and lodging, for County's auditor(s) and their representative(s) to perform the audit outside Palm Beach County.
- C. The cost of an audit outside of Palm Beach County, 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 ten percent (10%) of the fees and charges due hereunder, unless such underpayment is the result of a miscalculation by County of the fees and charges payable; or
 - 2. Airline has failed to maintain true and complete books, ledgers accounts and records, and supportive source documentation in accordance with the requirements of this Section.
- D. Any underpayment of amounts due County disclosed as a result of an audit conducted pursuant to this Section 6.06, including interest computed from the original due date of each such amount due shall be paid to County within thirty (30) days from receipt 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.

6.07 Contract Security.

- A. Prior to the Effective Date, Airline shall provide County with a clean, irrevocable letter of credit, surety bond or other security acceptable to County ("Contract Security") in an amount of Twenty-Five Thousand (\$25,000.00) dollars, to guarantee the faithful performance by Airline of its obligations under this Agreement and the payment of all fees and charges due hereunder. 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 Agreement, 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. Notwithstanding the foregoing, 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 or under a substantially similar agreement with County for a period of eighteen (18) consecutive months, County may, in its sole and absolute discretion, agree to waive the requirements of Section 6.07(A) upon prior written request from Airline. Any such waiver shall be in writing and signed by the Department on behalf of County.

- C. If Airline commits an Event of Default hereunder, or upon Airline's election to assume this Agreement under federal bankruptcy laws, County shall have the right to impose or re-impose the Contract Security requirements of Section 6.07(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 after receipt of County's written notice and shall thereafter maintain such Contract Security through the remainder of the Term. 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 Agreement.
- 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) and that all PFCs collected by Airline with respect to Enplaned Passengers at the Airport (other than any portion for Airline's expenses or that is reimbursable to a ticket purchaser), are property of County.
- E. Notwithstanding any provision of this Agreement 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 Agreement in accordance with Section 12.03 of this Agreement.

6.08 Passenger Facility Charges. County shall have the right to assess and collect Passenger Facility Charges in accordance with applicable laws and regulations. Proceeds of Passenger Facility Charges shall be used for projects which have been approved through the procedures established by the FAA.

6.09 Services by Airline. County reserves the right to assess and collect reasonable and non-discriminatory fees and charges for services or concessions provided by Airline to Air Transportation Companies, if such services or concessions would otherwise be available from a concessionaire, permittee or licensee of County.

6.10 No Further Charges. Except as otherwise provided for in this Agreement, no further fees or charges shall be charged against or collected from Airline, its passengers, its shippers and receivers of freight, its suppliers of material, its contractors or furnishers of services, by County, acting in its capacity as Airport proprietor, not in its governmental capacity, for the premises, facilities, rights, licenses, and privileges granted to Airline in this Agreement.

6.11 Accord and Satisfaction. In the event Airline pays any amount that is less than the amount stipulated to be paid under this Agreement, 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 Agreement or under the law.

ARTICLE 7 - ADJUSTMENT OF RATES

7.01 Procedures.

- A. Rates for fees and charges payable hereunder 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 Agreement. 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. Adjustments to rates for fees and charges shall apply without the necessity of formal amendment of this Agreement. County shall prepare and deliver to Airline a statement showing the calculation of the new rates for fees and charges pursuant to the Rate and Fee Schedule ("Statement of Rates") prior to the end of the then current Fiscal Year. The Statement of Rates shall become part of this Agreement without formal amendment hereto upon issuance of the Statement of Rates to Airline.
- C. If the annual adjustment of rates has not been completed by County on or before the beginning of a new Fiscal Year, the rates for fees and charges applicable to the preceding Fiscal Year shall continue to be paid by Airline until the rate adjustments have been completed by County. Upon the conclusion of the rate adjustments by County, 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 Statement of Rates to Airline.

ARTICLE 8 - AIRLINE IMPROVEMENTS

8.01 Installation of Signs/Displays. Airline, at its sole cost and expense, shall have the right to install identification and informational signs regarding Airline's Air Transportation Services on and in the public areas of the Terminal. Signs shall be uniform in size, type and location with those of all other Air Transportation Companies operating at the Airport. The number, type, size, design and location of all signs shall be subject to the prior written approval of County, which approval shall not be unreasonably withheld. Airline acknowledges and agrees that County shall have no obligation whatsoever to approve usage of temporary signage such as banners, placards, or A-frame signs within the public areas of the Airport; the installation of signage or displays within areas of the Airport under the contractual control of others; the installation of advertising signage or displays within the public areas of the Airport; or religious, political or any other displays or signage unrelated to Airline's Air Transportation Services at the Airport. Notwithstanding the foregoing, corporate mark and logo signage installed by Airline on the walls facing the public behind leased ticket counter space and ticket lift shells, if any, shall not be required to be uniform as to type, size and design; provided, however, such signage shall be in accordance with any general standards established by County and subject to prior written approval of County, which approval shall not be unreasonably withheld.

8.02 Installation of Equipment.

- A. Airline may install, operate and maintain radio communication, meteorological and aerial navigation equipment and facilities within its offices or such other areas within the Airport licensed to Airline for such purposes. All equipment and facilities installed pursuant to this Section shall be in compliance with all applicable laws, rules, regulations and orders.
- B. Airline may install, operate and maintain communications systems, computer networking systems, teletype, telephone, interphone, message or pneumatic tubes, conveyor systems and power lines, which are reasonably required by Airline for the provision of its Air Transportation Services, in and between the Preferential Use Premises and Terminal within rights of way designated by County.
- C. Airline may install, operate and maintain the equipment provided for in this Section alone or in conjunction with other Air Transportation Companies operating at the Airport pursuant to an agreement with County. Any equipment installed, operated or maintained by Airline pursuant to this Article shall be at Airline's sole cost and expense.

- D. Airline shall obtain the prior written approval of County prior to installing or modifying any wireless communication system, which approval shall not be unreasonably withheld.

8.03 Installation of Improvements. Airline shall have the right to construct and install improvements to the Preferential Use Premises as Airline reasonably deems to be necessary for the operation of its Air Transportation Services subject to the terms and conditions of this Agreement. Airline shall obtain prior written approval of County for any improvements to be constructed or installed in the Preferential Use Premises, including associated plans and specifications and construction schedule(s), prior to construction or installation of the improvements, which approval shall not be unreasonably withheld. Airline may also be permitted to construct and install improvements in other areas of the Airport subject to the prior written consent of County, which consent may be granted or withheld in County's sole and absolute discretion. Except as otherwise provided for in this Article, any improvements constructed or installed by Airline shall be at Airline's sole cost and expense.

- A. Any work associated with such construction or installation shall not interfere with the operation of the Airport, Terminal or Aircraft Parking Apron, or otherwise unreasonably interfere with the permitted activities of other Airport tenants and users. Within sixty (60) days of substantial completion of improvements by Airline, as evidenced by a certificate of occupancy or completion, Airline shall deliver to County a complete set of as-built drawings (in hardcopy, PDF and Auto CADD formats).
- B. Any and all construction or installation shall be: (1) at the sole risk of Airline; (2) in accordance with all applicable federal, state and local codes, laws, the construction standards established by County, and the approved plans and specifications; and (3) shall be subject to inspection by County. Any improvements that are constructed in violation of this Article shall be removed or reconstructed in accordance with the requirements of this Article at Airline's sole cost and expense.
- C. Airline may be eligible for reimbursement of all or a portion of its construction costs for improvements constructed pursuant to this Section through credits against payments due from Airline to County hereunder ("Rental Credits"), subject to the prior written approval of County, which approval may be granted, withheld or conditioned in County's sole and absolute discretion. Rental Credits shall not exceed the actual, necessary costs of construction and shall be calculated and credited in a manner mutually acceptable to County and Airline. In the event Airline desires to be reimbursed for all or a portion of its construction costs pursuant to this Section, Airline shall comply with the following requirements:
 - 1. Prior to the commencement of construction, Airline shall submit a written request to County for approval of the proposed improvements with complete plans and specifications for the improvements to be undertaken by Airline. Airline shall indicate in its written request that it desires to be reimbursed for all or a portion of its construction costs through Rental Credits.
 - 2. Prior to commencement of construction, Airline shall solicit at least three (3) price quotations from qualified construction firms for the construction of the approved improvements. Airline shall select the qualified firm having submitted the lowest quotation for all work for which Airline will be requesting Rental Credits, unless otherwise approved by County in advance, which approval may be granted, withheld or conditioned in County's sole and absolute discretion.
 - 3. Each request for reimbursement through Rental Credits shall be accompanied by documentation reasonably satisfactory to County evidencing the costs incurred by Airline to complete the approved improvements and Airline's compliance with the requirements of

this Section 8.03(C), which documentation shall include evidence that Airline complied with the solicitation requirements set forth in Section 8.03(C)(2), a final cost statement and original invoices and receipts issued by the contractor, vendor or supplier. The final cost statement shall be certified as being true and correct by an authorized employee of Airline.

- D. All improvements made by Airline shall be the property of Airline until the expiration or earlier termination of this Agreement, at which time any improvements may, at County's option, become the property of County; provided, however, any trade fixtures, equipment, signs and other personal property of Airline, which are not permanently affixed to the Airline Premises, shall remain the property of Airline, except as otherwise provided in Section 12.05. Removal of or changes to any improvements constructed by Airline under the terms of this Agreement shall require the prior written approval of County, which approval shall not be unreasonably withheld or delayed with respect to Airline's Preferential Use Premises.

8.04 Maintenance of Signs, Equipment and Improvements. Any improvements installed or constructed by Airline pursuant to this Article shall be maintained in accordance with the Maintenance Schedule. In the event the type of improvement to be installed or constructed by Airline is not addressed in the Maintenance Schedule, Airline shall be responsible for maintenance of the improvement unless otherwise agreed to in writing by the Department.

8.05 Construction Bonds. Airline shall cause all improvements to be constructed to completion in accordance with the approved plans and specifications 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.

8.06 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, comprehensive general liability insurance, comprehensive auto insurance, and physical damage insurance on a Builder's Risk form with the interest of County endorsed thereon, in such amounts and in such manner as the Risk Management Department may reasonably require. The Risk Management Department may require additional insurance for any alterations or improvements approved hereunder, in such amounts as the Risk Management Department reasonably determines to be necessary.

8.07 No Liens. Airline covenants and agrees that nothing contained in this Agreement 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, it being expressly understood that County's estate shall not be subject to such liability. Airline shall notify any and all Persons performing work for Airline at the Airline Premises or providing materials relating to any

improvements made by Airline to the Airline Premises of this provision of this Agreement. 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 interest shall not be subject to liens for improvements made by Airline. In the event that a construction lien is filed against the Airline 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 satisfy or transfer such claim within said thirty (30) day period, County may do so and thereafter charge Airline, and Airline shall promptly pay to County upon demand, as Additional Rent, all costs incurred by County in connection with the satisfaction or transfer of such claim, including attorney's fees. Further, Airline agrees to indemnify, defend, and save County harmless from and against any damage or loss incurred by County as a result of any such construction lien.

8.08 Title to Improvements. Except as otherwise provided for herein, all fixtures and improvements that are constructed or placed upon the Airport Premises, excluding furnishings, equipment and trade fixtures, shall become the absolute property of County upon termination or expiration of this Agreement and County shall have every right, title, and interest therein, free and clear of any liens, mortgages or encumbrances. Notwithstanding the foregoing, all fixtures and improvements that are constructed or placed upon the Airport Premises for which Airline is entitled to receive Rental Credits pursuant to this Article, shall become the absolute property of County upon installation and County shall have every right, title, and interest therein, free and clear of any liens, mortgages or encumbrances. Upon the request of County, Airline shall provide County with a bill of sale or other evidence of the transfer of ownership of improvements pursuant to this Section together with evidence satisfactory to County that the improvements are free from liens, mortgages and other encumbrances. In the event Airline receives Rental Credits for the installation or construction of an improvement pursuant to this Article, Airline agrees to assign any warranties applicable to such improvements to County or require that such warranties be made in favor of County.

ARTICLE 9 - DAMAGE OR DESTRUCTION

9.01 Minor Damage. If any portion of the Airline Premises, or adjacent facilities directly and substantially affecting the use of the Airline Premises, shall be partially damaged by fire or other casualty, but such damage does not render the Airline Premises untenable, as reasonably determined by County, County shall repair the damaged portion of the Airline Premises as soon as reasonably practicable under the circumstances, subject to the limitations set forth in this Article. No abatement in the fees and charges payable hereunder shall be provided to Airline so long as the Airline Premises remains tenable and County is actively pursuing repairs to the affected Airline Premises.

9.02 Substantial Damage. If any portion of the Airline Premises, or adjacent facilities directly and substantially affecting the use of the Airline Premises, shall be so extensively damaged by fire or other casualty as to render any portion of the Airline Premises untenable, but capable of being repaired, as reasonably determined by County, County shall use Commercially Reasonable efforts to repair the untenable portion(s) of the Airline Premises subject to the limitations set forth in this Article. In such case, any fees and charges payable hereunder with respect to the portion of the Airline Premises rendered untenable by the casualty shall be paid up to the time of such damage, and shall thereafter be abated equitably in direct proportion as the part and type of the Airline Premises rendered untenable bears to the total Airline Premises until such time as the untenable portion of the Airline Premises shall be repaired adequately, as reasonably determined by County and Airline, for use by Airline. To the extent available, County shall provide Airline with alternate facilities to continue its operations while repairs are being completed, at a rate not to exceed that provided herein for space comparable to that portion of the Airline Premises that was rendered untenable.

9.03 Destruction.

- A. If any portion of the Airline Premises, or adjacent facilities directly and substantially affecting the use of the Airline Premises, shall be damaged by fire or other casualty, and is so extensively damaged as to render any portion of the Airline Premises not economically feasible to repair, as reasonably determined by County, County shall notify Airline within a period of ninety (90) days after the date of such damage of its decision

whether or not to repair the untenable portion(s) of Airline Premises or adjacent facilities ("Election Notice"); provided, however, County shall be under no obligation to Airline to repair the untenable Airline Premises or adjacent facilities. The fees and charges payable hereunder with respect to the untenable portion of the Airline Premises shall be paid up to the time of such damage and thereafter shall abate until such time as the repaired or replacement Airline Premises, if any, shall be available for use by Airline. Any reconstruction or repairs by County shall be subject to the limitations of this Article.

- B. In the event County elects to repair the untenable portion(s) of the Airline Premises, the parties shall meet within sixty (60) days of the Election Notice to coordinate and agree upon a reasonable schedule for repairs. To the extent replacement space is available, County shall provide Airline with replacement space to continue its operations hereunder while repairs are being completed at a rate not to exceed that provided for herein for comparable space.
- C. In the event County elects not to repair the untenable portion(s) of the Airline Premises, the license granted to Airline to use the untenable portion(s) of the Airline Premises shall be terminated, and the parties shall meet within sixty (60) days of the Election Notice to discuss the ways and means to permanently provide Airline with adequate space to replace the untenable portion(s) of the Airline Premises. In event the parties reach agreement regarding the provision of replacement space, the parties agree to amend this Agreement to reflect the modified Airline Premises. If the parties are unable to reach an agreement regarding the provision of replacement space, and the remaining tenable portion of Airline Premises is not sufficient to permit Airline to maintain its current operations at the Airport, Airline may terminate this Agreement upon prior written notice to County, provided that such notice must be given no less than sixty (60) days after the date of County and Airline's meeting to discuss the provision of replacement space.
- D. In the event the Terminal, Airport or substantially all of the Airline Premises is so extensively damaged to render the Terminal, Airport or Airline Premises not economically feasible to repair, as reasonably determined by County, and replacement space is not available, then either party may terminate this Agreement upon thirty (30) days prior written notice to the other party.

9.04 Damage Caused by Airline. Notwithstanding any provision of this Agreement to the contrary, in the event that the Airline Premises is damaged or destroyed due to the willful act, omission, or negligence of Airline or of any Airline Party, there shall be no abatement of the fees and charges payable hereunder during the repair or replacement period, and Airline shall not have the option to terminate this Agreement. To the extent that insurance does not apply, coverage is denied, or the costs of the repairs exceed the amount of any insurance proceeds paid to County by reason of such damage or destruction, Airline shall pay to County the amount of County's cost to repair, replace or reconstruct the Airline Premises less the amount of insurance proceeds paid to County or Airline may, at its option, repair, replace or reconstruct the Airline Premises to the reasonable satisfaction of County.

9.05 Insurance Proceeds. Airline shall use the insurance proceeds received by Airline by reason of damage or destruction of the Airline Premises, if any, to pay for the cost of repairing any improvements made by Airline to the Airline Premises. If the amount of the insurance proceeds received by Airline is in excess of the costs of repair, such excess amount shall be retained by Airline.

9.06 County's Obligation. County's obligations to repair or reconstruct under the provisions of this Article shall be limited to repairing or reconstructing damaged facilities to substantially the same condition that existed prior to any improvements made by Airline and shall further be limited to the extent of insurance proceeds available to County for such repair or reconstruction. County shall in no way be responsible for the repair or replacement of any

equipment, furnishings, trade fixtures, signs or other personal property damaged or destroyed by fire or other casualty, unless such damage was caused by the willful act, omission, or negligence of County or a County Party. In the event County or Airline elects to repair or reconstruct the Airline Premises as provided for in this Article, Airline, at its sole cost and expense, shall reconstruct or replace the improvements installed by Airline in or about the Airline Premises in a manner and in a condition at least equal to that which existed prior to its damage or destruction. Nothing in this Article shall be construed as providing for an abatement of any fees or charges, which are based upon Airline's activity at the Airport, including, but not limited to, Landing Fees, Environmental Operating Fees, Commuter Operating Charges and Federal Inspection Services Facility Fees.

ARTICLE 10 - INDEMNIFICATION

Except as provided in Section 11.02, 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 Agreement or the use or occupancy of the Airline 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 Airline 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 Agreement; 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 Agreement 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 Agreement 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 Agreement.

ARTICLE 11 - INSURANCE

11.01 Insurance Requirements. In addition to such insurance as may be required by law or regulation, Airline, at its sole cost and expense, shall maintain in full force and effect throughout the Term of this Agreement 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. 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.
- B. 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 Agreement 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 Agreement do not involve the operation, ownership or use of any vehicle, then this requirement shall include automobile liability for Hired & Non-Owned vehicles only.

- C. Airline Liability/Commercial General Liability Insurance. Airline shall maintain Airline Liability/Commercial General Liability Insurance at limits of not less than: (1) Fifty Million Dollars (\$50,000,000) in the event Airline is operating aircraft with fifty (50) seats or less, or (2) One Hundred Million Dollars (\$100,000,000) in the event Airline is operating aircraft with more than fifty (50) seats each 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. In the event Airline is authorized to serve alcoholic beverages on the Airport, Airline shall provide an endorsement to the Airline Liability/Commercial General Liability Insurance or separate coverage for Liquor Liability in an amount not less than One Million Dollars (\$1,000,000) per occurrence.

11.02 Waiver of Subrogation. Except as provided in Section 9.04, 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, Airline 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.

11.03 Additional Insured. Airline shall endorse County as "Additional Insured" on all liability policies, with the exception of Workers Compensation/Employers Liability, to the extent of Airlines contractual obligations hereunder. The "Additional Insured" endorsements shall provide coverage on a primary basis. Each "Additional Insured" endorsement shall read: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Insurance Tracking Services, Inc., P.O. Box 20270, Long Beach, CA 90801", or as otherwise approved or modified by County.

11.04 Certificate of Insurance. Airline shall deliver to County or County's designated contractor certificate(s) of insurance, evidencing the coverages and amounts required hereunder prior to the Commencement Date. Airline shall promptly deliver to County or its designated contractor certificate of insurance(s) with respect to each renewal policy, as necessary, to demonstrate continued compliance with the requirements of this Article. Renewal certificate(s) shall be delivered to County or its designated contractor not less than five (5) business days prior to the expiration date of any policy. Each insurance policy must be endorsed to provide that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases, has been given to County. The foregoing notice requirement shall not be construed to waive the insurance requirements contained herein. County may change the contractor designated for receipt of required insurance certificate(s) hereunder and modify endorsement language required pursuant to this Article from time-to-time upon written notice to Airline.

11.05 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 11.01 (A) – (C) 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 Agreement. All insurance policies required hereunder may be written to include a reasonable deductible or self-insured retention, unless otherwise stated or limited. Limits on said deductible amounts may be subject to review and approval. When requested, Airline shall submit a copy of most recent financial statement in order to justify a particular deductible or self-insured retention amount.

11.06 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.

11.07 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 Agreement; 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 after 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 Agreement shall not constitute approval or acceptance by County that the insurance requirements have been met.

11.08 Invalidation of Policies. Airline shall not knowingly use or permit the use of the Airline Premises for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Airline 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.

11.09 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.

11.10 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 Agreement or otherwise.

ARTICLE 12 - EXPIRATION, DEFAULTS, REMEDIES AND TERMINATION

12.01 Expiration/Termination. This Agreement shall terminate upon expiration of the then current term, unless terminated earlier in accordance with the provisions of this Agreement.

12.02 Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this Agreement by Airline (“Event of Default”):

- A. The vacation or abandonment of the Airline Premises by Airline 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.
- B. 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.
- C. The failure by Airline to observe or perform any of the covenants, conditions or provisions of this Agreement 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.
- D. 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 Airline Premises or of Airline’s interest in this Agreement, 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 Airline Premises or of Airline’s interest in this Agreement, where such seizure is not discharged within thirty (30) days.
- E. The discovery by County that any material information given to County by Airline relating to this Agreement was false, and Airline knew such information to be false at the time it was given to County.
- F. The failure of Airline to provide and keep in force insurance coverage in accordance with Article 11.
- G. The failure of Airline to remit PFCs within the time frame required by 14 CFR Part 158 where such failure continues for a period of sixty (60) days after receipt of written notice thereof from County to Airline.
- H. Any other material default and breach of this Agreement specifically identified as an Event of Default.

12.03 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 license to use the Airline Premises by any lawful means and reenter and retake possession of the Airline Premises for the account of Airline, in which case the 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 Airline Premises,

which deficiency shall be paid by Airline. Upon the reassignment of the Airline 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 Airline Premises, including reasonable attorney's fees, and reasonable expenses relating to the renovation or alteration of the Airline 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 Agreement and reenter and retake possession of the Airline Premises for the account of County, thereby terminating any further liability under this Agreement 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 Airline Premises for the account of County.
- C. Stand by and do nothing, holding Airline liable for the fees and charges as they come due.
- D. 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 Agreement in its entirety, County shall have the right to bring an action for its damages.

12.04 Termination by Airline. Airline may terminate this Agreement, if Airline is not in default of this Agreement (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 Airline 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.

12.05 Surrender of Premises. Airline expressly agrees that it shall immediately surrender the Airline Premises to County in good and fit condition upon expiration or earlier termination of this Agreement, depreciation and wear from ordinary use for the purpose for which the Airline 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 Airline Premises in accordance with the requirements of Section 12.06. County may require Airline to return the Airline Premises free and clear of some or all

improvements made by Airline, at Airline's sole cost and expense. 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 Airline Premises to good and fit condition as provided above, County may remove the improvements and restore the Airline 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 Agreement until County has received full reimbursement.

12.06 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.

12.07 Holdover. In the event Airline fails to surrender possession of the Airline Premises, or any portion thereof, after the expiration or earlier termination of this Agreement, 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. The foregoing provisions shall not serve as permission for Airline to holdover, nor serve to extend the Term of this Agreement; provided, however, Airline acknowledges and agrees that, Airline shall remain bound to comply with all the provisions of this Agreement during any holdover period until Airline vacates the Airline 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 Agreement. 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 Airline Premises upon the expiration or earlier termination of this Agreement.

ARTICLE 13 - ASSIGNMENT, SUBLICENSING AND HANDLING AGREEMENTS

13.01 Assignment by Airline. Except as otherwise provided for herein, Airline shall not in any manner assign, transfer, mortgage, pledge, encumber, hypothecate or otherwise convey an interest in this Agreement, or any portion of the Airline Premises, without the prior written consent of County ("Assignment"), which consent may be granted or withheld in County's sole and absolute discretion. Notwithstanding the foregoing, the consent of County shall not be withheld for an Assignment of this Agreement in its entirety where all or substantially all of the assets of Airline are acquired by another entity by reason of a merger or consolidation or where the Assignment will be in favor of a corporation controlling, controlled by or under common

control with Airline; provided that the successor entity agrees to assume all obligations of Airline hereunder and to comply with terms and conditions set forth in this Agreement. Airline further agrees to provide County with such documentation relating to the merger or consolidation of Airline and the successor entity as County requires in its reasonable discretion.

13.02 Sublicensing by Airline. Airline shall not grant a sublicense authorizing a third party to use the Airline Premises, or any portion thereof, without the prior written consent of County, which consent may be granted or withheld in County's sole and absolute discretion. In the event County gives its consent to a sublicense and County has substantially similar space available that is not under the contractual control of another or if County can make such space available for use within a reasonable period of time, Airline acknowledges and agrees that its sublicensee shall be required to pay a Per Use Gate Fee to County for use of Airline's gate and a Per Use Ticket Counter Charge to County for use of Airline's ticket counter. Use of the Preferential Use Premises, or any portion thereof, by any Person other than Airline or its service providers shall be deemed to be a "sublicense" for purposes of this Agreement.

13.03 Assignment and Sublicensing Documents.

- A. In the event Airline requests permission to enter into an Assignment or sublicense, the request shall be accompanied by a copy of the proposed agreement. The portion of the Airline Premises to be sublicensed and the amount to be charged shall be specified for sublicenses, and the consideration and parties in interest shall be specified in a request for Assignment. Airline shall promptly provide any other information reasonably requested by County pertaining to the sublicense or Assignment. Airline shall deliver a fully executed copy of such agreement to County no later than thirty (30) days prior to the occupancy of the Airline Premises, or any portion thereof, by the sublicensee or assignee.
- B. In the event of a sublicense in which the fees and charges for the sublicensed premises exceed the fees and charges payable by Airline for the sublicensed premises pursuant to this Agreement, Airline shall pay to County the excess of the fees and charges received from the sublicensee over that specified to be paid by Airline herein; provided, however, that Airline may charge a reasonable fee for administrative costs in an amount not to exceed twenty five percent (25%) of the specified sublicense fee, which fee shall not be considered excess fees and charges. Airline shall also have the right to charge a reasonable fee to others for the use of Airline's capital equipment and to charge for use of utilities and other services being paid for by Airline.

13.04 Handling Agreements. In the event Airline agrees to ground handle any portion of the operations of another Scheduled Air Carrier, Airline shall provide County advance written notice of such proposed handling services, including a description of the type and extent of services to be provided. Notwithstanding the foregoing, Airline shall not ground handle another Scheduled Air Carrier without the prior written consent of County if such Scheduled Air Carrier does not have a validly executed operating agreement with County, which consent may be granted or withheld in County's sole and absolute discretion.

13.05 General.

- A. No Assignment or sublicense agreement shall release Airline from its obligations hereunder, including, but not limited to, the obligation to pay the fees and charges provided herein.
- B. This Article shall be applicable to licenses and any other arrangements by which a third party may obtain any benefits of Airline's rights and privileges hereunder; provided, however, for purposes of clarification and not by way of limitation, this Article is not intended to apply to a Person using the Airline Premises to provide services to Airline. Notwithstanding the foregoing, subject to County's prior written consent, other Air Transportation Companies having prior arrangements with Airline may

use the Airline Premises on a temporary basis pursuant to and in accordance with the provisions of this Article.

- C. This Article shall be construed to include a prohibition against any assignment, mortgage, pledge, encumbrance or sublicense by operation of law, legal process, receivership, bankruptcy or otherwise, whether voluntary or involuntary.

ARTICLE 14 - AVAILABILITY OF ADEQUATE FACILITIES

14.01 General.

- A. Airline acknowledges County's objective to offer to all Air Transportation Companies desiring to serve Airport access to the Airport and to provide adequate facilities at the Airport. Recognizing that physical and financial limitations may preclude timely expansion of the Airport to meet the stated requests of Air Transportation Companies ("Requesting Airline") for additional facilities at the Airport, Airline acknowledges that it may be necessary for Air Transportation Companies operating at the Airport, including Airline, to share gate positions and other Airport facilities from time to time. Airline further acknowledges that County may also have a need to accommodate the immediate, non-recurring needs of an Air Transportation Company, such as charters, and flights delayed or diverted due to weather or mechanical reasons.
- B. It is the policy of County, to the extent reasonably practicable, to accommodate an Airport Transportation Company's need for additional facilities at the Airport in the following manner: (1) first, by entering into a direct agreement for the use of unassigned facilities with the Air Transportation Company; (2) second, by approving a sublicense agreement between an Air Transportation Company with an existing agreement with the County and a Requesting Airline; (3) third, by requiring an Air Transportation Company to accommodate a Requesting Airline; (4) fourth, through the reassignment of an existing Air Transportation Company's Preferential Use Premises in accordance with the provisions of this Article; and (5) fifth, through the expansion of Airport facilities, unless in the opinion of County, the physical, financial, or time limitations make expansion impractical.
- C. The parties acknowledge and agree that any accommodation agreement made by Airline with a Requesting Airline voluntarily, or pursuant to a directive from County, shall recognize Airline's right of Preferential Use to the Preferential Use Premises and the necessity that the Requesting Airline's operations be compatible with those of Airline.

14.02 Accommodation of Air Transportation Companies.

- A. Upon receipt of a request for an accommodation by a Requesting Airline, County will require the Requesting Airline to first coordinate directly with the Air Transportation Companies currently operating at the Airport if the Airport facilities being requested, such as gate positions, are not available. Airline shall cooperate in good faith with County to accommodate the needs of a Requesting Airline by permitting such Requesting Airline to utilize Airline's Preferential Use Premises for such time period(s) as reasonably necessary to permit the Requesting Airline's scheduled operations at such times when the use of such facilities will not interfere with Airline's operations, approved sub-licensees or Air Transportation Companies being handled by Airline.
- B. In the event a Requesting Airline and the Air Transportation Companies currently operating at the Airport are unable to reach an agreement regarding the Requesting Airline's requested accommodation, County will

determine whether any Air Transportation Company operating at the Airport, including Airline, has the ability to accommodate any or all of such Requesting Airline's proposed operations. If County determines that Airline has the ability to accommodate the Requesting Airline's proposed operations, County will notify Airline in writing of its determination. In the event Airline objects to County's determination, Airline may notify County of its objection within fifteen (15) days of the date of County's notice, which shall include the reasons why Airline believes that it will be unable to accommodate the Requesting Airline. In making its final determination, County shall consider Airline's capabilities, capacity, facilities, plans for future operations, and personnel, Airline's requirements and contractual obligations, the compatibility of the Requesting Airline's proposed operations with those of Airline, and the need for labor harmony. If County, after considering the information, if any, provided by Airline, reasonably determines that Airline has the capability to accommodate a Requesting Airline, County may direct Airline, in writing, to accommodate the Requesting Airline to the extent of, and during those periods when, County deems reasonable and shall provide Airline and the Requesting Airline with a written statement specifying the terms and conditions of the accommodation.

- C. Notwithstanding the foregoing, in no event shall the requirements of this Section be construed to authorize County to require Airline to alter its scheduled operations, or those of its sublicensees and Air Transportation Companies that are ground handled by Airline, in order to accommodate a Requesting Airline.

14.03 Accommodation of Specific Flights.

- A. Airline shall cooperate in good faith with County to accommodate specific flights of other Air Transportation Companies from time to time, as deemed necessary by County, for situations, including, but not limited to, the following:
 - 1. Unscheduled flights, including charters, diversions due to weather and other circumstances not otherwise accommodated or handled by other Air Transportation Companies operating at the Airport.
 - 2. Scheduled flights for which the Air Transportation Company has no assigned gate(s) or its assigned gate(s) are occupied at the time its flight arrives.
- B. Airline shall not be required to accommodate other Air Transportation Companies pursuant to this Section if all of Airline's gate positions are occupied by Airline's flights or flights of other Air Transportation Companies already being accommodated or ground handled by Airline at the time a flight requiring accommodation will arrive; provided, however, the overnight parking of Airline's aircraft at a gate position, or at any other time beginning ninety (90) minutes following the arrival of an aircraft and ending one (1) hour before its scheduled departure shall not be deemed an occupied gate position for the purposes of this Article, provided that County has designated an alternative parking position for such aircraft.
- C. If Airline accommodates another Air Transportation Company pursuant to this Section, Airline may charge such Air Transportation Company reasonable fees and charges for use of Airline's Preferential Use gate position, not to exceed one hundred twenty five percent (125%) of Airline's actual costs. Actual costs may include any costs incurred by Airline to move its aircraft from its Preferential Use gate position to accommodate the other Air Transportation Company.

14.04 Accommodation of Airline. Airline shall be entitled to the same rights of accommodation of its needs for use or lease of additional facilities as specified in this Article at any time that Airline requests accommodation or has individual flights needing to be accommodated pursuant to Section 14.03.

14.05 Indemnification Obligations. During the period of use of Airline's facilities by an Air Transportation Company at County's request or direction pursuant to this Article, Airline shall be relieved of its obligations under this Agreement to indemnify and save harmless County and the County Parties with regard to any claim for damages or personal injury arising out of or in connection with the accommodated Air Transportation Company's use of the Airline Premises unless such damage or personal injury is caused by the willful misconduct or negligence of Airline or any Airline Party. Airline shall have the right to require the accommodated Air Transportation Company to indemnify and insure Airline; provided that such requirements are consistent with the requirements of this Agreement.

14.06 Reassignment of Preferential Use Premises. County reserves the right to reassign one or more of Airline's gates located within Airline's Preferential Use Premises to another Air Transportation Company if: (1) Airline's scheduled average for any individual gate utilization falls below three (3) flights per gate per weekday (including flights of approved sublicensees, Air Transportation Companies that are ground handled by Airline, and other Air Transportation Companies accommodated by Airline); (2) County determines that there is a reasonable need for the Preferential Use of such gate(s) by another Signatory Airline; (3) the other Signatory Airline meets the required three (3) flights per gate per weekday minimum; (4) County has no available gate to assign to the other Air Transportation Company; and (5) there are no unassigned gates or other gates used by other Air Transportation Companies with lower average weekday utilization. Prior to such reassignment becoming effective, Airline shall have a ninety (90) day period to adjust its schedule to three (3) or more flights per gate per week day to avoid reassignment. In the event of reassignment, Airline will be entitled to reimbursement, in the form of Rental Credits, for the replacement cost of improvements installed or constructed by Airline in Airline's existing Preferential Use Premises, if any, and reasonable relocation costs. The costs associated with extraordinary tenant improvements will not be reimbursed by County, unless approved in advance in writing by County, which approval may be granted or withheld in County's sole and absolute discretion. When determining specific Preferential Use Premises to be reassigned, County shall coordinate with Airline to ensure that the space Airline retains will be sufficient to support Airline's operations at the Airport.

14.07 Relocation Expenses. In an effort to optimize passenger flow and use of the Airport and/or to minimize the need for construction of improvements, County may request Airline to relocate its operations to alternate areas within the Terminal. Subject to the terms and conditions of this Agreement, and subject to Airline's consent to proposed relocation, Airline shall be eligible for reimbursement of its reasonable and necessary relocation costs, as approved by County, through Rental Credits. Relocation costs may include moving expenses, construction, signage, rewiring, and other costs incidental to the relocation. Prior to relocation, Airline shall submit a proposal outlining the necessary costs for the relocation, including any plans or specifications for construction, if any. Airline shall use Commercially Reasonable efforts to minimize costs. County shall retain the right to require competitive quotes for work submitted in the relocation proposal. Airline's request for reimbursement shall include documentation reasonably satisfactory to County evidencing the costs incurred by Airline to complete the relocation, including the documentation listed in Section 8.03(C)(3).

ARTICLE 15 - MOBILE LIFT DEVICES

15.01 Mobile Lift Devices. Airline and County acknowledge that they may be required to enter into an agreement allocating responsibility for meeting the boarding assistance requirements of 14 CFR Part 382 and 49 CFR Part 27, as may be amended. In the event Airline does not provide passenger boarding by level-entry loading bridges, County shall make available to Airline, on a nonexclusive basis, a mechanical boarding assistance device ("Lift Device") to be used solely for the purpose of loading and unloading passengers from aircraft owned or operated by Airline at the Airport.

15.02 Training. Any person who will be providing boarding assistance to passengers for or on the behalf of Airline shall be trained in the proper use and operation of the Lift Device and shall attend all training sessions as to the proper use of the Lift Device as may be provided by County or manufacturer of the Lift Device.

15.03 Maintenance of Lift Device.

- A. County agrees to maintain the Lift Device in proper working condition subject to the terms and conditions of this Agreement, and, if requested, to provide a copy of maintenance records for the Lift Device.
- B. Airline shall inspect the Lift Device prior to each use to ensure that the Lift Device is operating properly. If at any time Airline becomes aware of the need for maintenance or repairs to the Lift Device, Airline shall promptly notify County in writing of the nature of the maintenance and repairs required and shall refrain from using the Lift Device until such time as the repairs or maintenance have been completed. Airline's right to use the Lift Device shall be suspended during the period in which repairs or maintenance of the Lift Device is being made.
- C. Airline shall promptly notify County if: (1) the Lift Device is damaged in any way while in Airline's possession; or (2) the Lift Device is lost or stolen while in Airline's possession. In the event the Lift Device, or any part thereof, is damaged while in the possession of Airline due to the willful misconduct or negligence of Airline or any Airline Party, Airline shall pay County on demand for the cost of the repairs to the Lift Device or have the Lift Device repaired to the condition it was in prior to its damage. In the event the Lift Device is destroyed, lost, stolen, damaged beyond repair or otherwise rendered unfit for use while in the possession of Airline due to the willful misconduct or negligence of Airline or any Airline Party, Airline shall pay County on demand the replacement value of the Lift Device.
- D. Airline acknowledges and agrees that County may establish, in its discretion, reasonable nondiscriminatory fees and charges for the use and maintenance of the Lift Device.
- E. County and Airline reserve the right to assign all of the obligations to maintain and operate the Lift Device, as provided for in this Agreement, on behalf of County and Airline, to a provider of ground handling services.

15.04 Disclaimer of Liability. Airline acknowledges that County is not the manufacturer of the Lift Device or the dealer in similar property and has not made and does not make any representation, warranty or covenant, express or implied, with respect to the condition, quality, durability, suitability or merchantability of the Lift Device. County shall not be liable to Airline for any loss or damage caused or alleged to be caused directly or indirectly by the Lift Device by any inadequacy thereof or defect therein or by any incident in connection therewith, except to the extent caused by the negligence or willful misconduct of County or a County Party.

ARTICLE 16 - SUBORDINATION AND SAVINGS CLAUSE

16.01 Subordination.

- A. This Agreement 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 Agreement and

Bond Resolution. In the event of a conflict between this Agreement and the Bond Resolution, the terms of the Bond Resolution shall prevail.

- B. This Agreement and all provisions hereof shall be subject and subordinate to all the terms and conditions of any instruments and documents under which County acquired the land or improvements thereon, of which the Airline 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 Agreement 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 17 - NON-DISCRIMINATION

17.01 Non-Discrimination in County Contracts. Airline warrants and represents to County that all of its employees are treated equally during employment without regard to race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information. Airline has submitted to County a copy of its non-discrimination policy, which is consistent with the above, as contained in Resolution R-2014-1421, as may be amended, or in the alternative, if Airline does not have a written non-discrimination policy, it has acknowledged through a signed statement provided to County affirming their non-discrimination policy conforms to R-2014-1421, as may be amended.

17.02 Federal Non-Discrimination Covenants.

- A. Airline, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:
1. In the event facilities are constructed, maintained, or otherwise operated on the Airline Premises for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Airline will maintain and operate such facilities and services in compliance with all requirements imposed by the nondiscrimination acts and regulations listed in the Nondiscrimination Authorities (as hereinafter defined), as may be amended, such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
 2. No person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of County property, including, but not limited to, the Airline Premises.
 3. In the construction of any improvements on, over, or under the Airline Premises and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.
 4. Airline shall comply with, and use the Airline Premises in compliance with, the requirements imposed by or pursuant to the Nondiscrimination Authorities.
- B. In the event of breach of any of the above nondiscrimination covenants, County shall have the right to terminate this Agreement and to enter, re-enter, and repossess the Airline Premises, and hold the same as if this Agreement had never been made or issued. This Agreement shall not be terminated pursuant to this

paragraph until the procedures of 49 CFR Part 21 are followed and completed, including, the exercise or expiration of appeal rights.

- C. For purposes of this Article, the term “Non-Discrimination Authorities” includes, but is not limited to, the non-discrimination statutes, regulations and authorities listed in Appendix “E” of Appendix “4” of FAA Order 1400.11, Non-discrimination in Federally-Assisted Programs at the Federal Aviation Administration, as may be amended.
 - D. Airline shall comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates Airline for the period during which Federal assistance is extended to the Airport through the Airport Improvement Program. In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates Airline for the longer of the following periods: (a) the period during which the property is used by County or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which County or any transferee retains ownership or possession of the property.
- 17.03 Airport Concession Disadvantaged Business Enterprises (“ACDBE”). This Agreement is subject to the requirements of the U.S. Department of Transportation’s regulations, 49 CFR Part 23. It is the policy of County that ACDBEs shall have the maximum practicable opportunity to participate in the performance of contracts. Airline agrees that it will not discriminate against any business owner because of the owner’s race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. Airline agrees to include the aforementioned statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those business to similarly include the statements in further agreements.

ARTICLE 18 - AMERICANS WITH DISABILITIES ACT

Airline shall comply with all applicable requirements of the Americans with Disabilities Act, the State of Florida Accessibility Requirements Manual, and Section 504 of the Rehabilitation Act of 1973 and all implementing rules, regulations and orders, including, but not limited to 28 CFR Parts 35 and 36 and 49 CFR Parts 27 and 37, and shall cooperate with County to ensure Airline remains in compliance with such requirements throughout the Term of this Lease.

ARTICLE 19 - NONEXCLUSIVE RIGHTS

Notwithstanding anything herein contained, the rights, privileges and licenses granted under this Agreement are nonexclusive and County reserves the right to grant similar but no greater privileges to other Air Transportation Companies. Notwithstanding any provision of this Agreement to the contrary, including, but not limited to, the use of the terms “rent” or “rentals”, Airline acknowledges that the Airline Premises is being made available for Airline’s use hereunder on a license basis and nothing herein shall be deemed to grant Airline any title, leasehold interest or estate in the Airline Premises.

ARTICLE 20 - GOVERNMENTAL RESTRICTIONS

20.01 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 Airline 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.

20.02 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 Airline 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.

20.03 County Tax Assessment Right. None of the terms, covenants and conditions of this Agreement shall in any way be construed as a release or waiver on the part of County, as a political subdivision of the State of Florida, or any of the public officials of 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.

20.04 Governmental Review. Airline acknowledges that this Agreement 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 Agreement 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 Agreement 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.

20.05 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 Airline Premises are located, for public purposes, then this Agreement 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 21 - LAWS, REGULATIONS, PERMITS, TAXES AND COMPLIANCE

21.01 General.

- A. Airline agrees that throughout the Term of this Agreement, Airline shall at all times be and shall remain in full and complete compliance with all applicable 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.

21.02 Permits and Licenses. Airline agrees that it shall, at its sole cost and expense, obtain, maintain current, and fully comply with, 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 Airline 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.

21.03 Air and Safety Regulation. Airline agrees that it shall conduct its operations and activities under this Agreement 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 Airline 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 that 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.

21.04 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 that 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 after receipt by Airline. Airline's obligations under this Section shall survive the expiration or earlier termination of this Agreement.

21.05 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 Agreement.

21.06 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 Agreement, Airline shall dispose of all of Airline's hazardous wastes and containers 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 Agreement.

- 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 Airline Premises that occurs by reason of the migration or flow of contamination onto Airport or Airline Premises from a site located off the Airport or off the Airline 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 Airline 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.

21.07 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.

21.08 Security. Airline acknowledges and accepts full responsibility for the security and protection of Airline's Preferential Use Premises and any and all inventory, equipment, and facilities now existing or hereafter placed on or installed in or upon the Airline Premises and for the prevention of unauthorized access to the Airline Premises and 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 Airline 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 Airline 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.

21.09 Payment of Taxes. Airline shall pay any and all taxes and other costs lawfully assessed against its interest in the Airline Premises, the improvements, whether owned by Airline or County, personal property or its operations under this Agreement including, but not limited to, tangible, intangible, sales and ad valorem taxes, general or special assessments. In the event this Agreement or Airline's use of the Airline Premises renders the Airline 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.

21.10 Compliance by Other Tenants. County shall, whenever possible, make reasonable efforts to obtain uniform compliance with its rules and regulations; however, County shall not be liable to Airline for any violation or non-observance of such rules and regulations by any Airport user, tenant, concessionaire or Air Transportation Company or their officers, agents, or employees.

ARTICLE 22 - 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 AGREEMENT 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 AGREEMENT OR THAT OF A COUNTY PARTY OR 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 AGREEMENT. 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 AGREEMENT, WAS AT ITS SOLE RISK.

ARTICLE 23 - GENERAL PROVISIONS

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

23.02 Relationship of Parties. Airline, or any successor in interest to this Agreement, 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 Agreement 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.

23.03 County Not Liable. Except as provided for in this Agreement, County shall not be under any duty or obligation to Airline to repair or maintain the Airline 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 or 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.

23.04 Authorized Uses Only. Notwithstanding anything to the contrary herein, Airline shall not use or permit the use of the Airline 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 Airline Premises or the Airport for County or Airline.

23.05 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 Agreement, Airline shall peacefully and quietly have, hold and enjoy the Airline Premises, free from any eviction or unauthorized interference by County or a County Party or County contractor, during the Term hereof.

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

23.07 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.

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

23.09 No Third Party Beneficiaries. No provision of this Agreement 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 Agreement, including, but not limited to, any citizen or employees of County and/or Airline.

23.10 Annual Budgetary Funding. This Agreement 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.

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

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

23.13 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 Agreement. Airline shall immediately notify County, in writing, of the name and address of said agent. The service shall be made as provided by the laws of the State of Florida for service upon 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 23.21.

23.14 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 Agreement, or because of any breach thereof, or because of its or their execution or attempted execution.

23.15 Governmental Authority. Nothing in this Agreement shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Airline or its operations. County's obligations under this Agreement 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 Airline Premises, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of County's governmental authority.

23.16 Rights Reserved to County. All rights not specifically granted to Airline by this Agreement are reserved to County.

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

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

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

23.20 Consents and Approvals. Whenever this Agreement 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 Agreement 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 Agreement 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.

23.21 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 mail, 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 mail, 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:

Canadian North, Inc.
Attn: Nick Samuel
580 Palmer Road NE
Calgary, Alberta T2E 7R3 Canada

Any party may from time to time change the address to which notice under this Agreement 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.

23.22 Construction. No party shall be considered the author of this Agreement since the parties hereto have participated in extensive negotiations and drafting and redrafting of this document to arrive at a final Agreement. Thus, the terms of this Agreement 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 Agreement and the same shall remain in full force and effect.

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

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

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

23.26 Public Entity Crimes. As provided in Section 287.132-133, Florida Statutes, by entering into this Agreement 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.

23.27 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Agreement 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 Agreement may be terminated and a civil penalty equal to the greater of Two Million Dollars (\$2,000,000) or twice the amount of this Agreement shall be imposed, pursuant to Section 287.135, Florida Statutes.

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

23.29 No Broker. Airline represents and warrants that Airline has not dealt with any real estate salesperson, agent, finder or broker in connection with this Agreement 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.

23.30 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.

23.31 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.

23.32 Survival. Notwithstanding any early termination of this Agreement, 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.

{Remainder of page intentionally left blank.}

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

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

[Signature]
Witness Signature
Jeffrey S. Bolton

(Typed or Printed)
Debra Reese
Witness Signature

Debra Reese
(Typed or Printed)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Anne Delgado
County Attorney

ATTEST:

By: _____
Secretary

(Corporate Seal)

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

[Signature]
Witness Signature

Nick SAMUEL
(Typed or Printed)

[Signature]
Witness Signature

Trevor Wile
(Typed or Printed)

PALM BEACH COUNTY, FLORIDA

By: [Signature]
Director, Department of Airports

AIRLINE: Canadian North, Inc.

By: [Signature]
Typed or Printed Name of Corporate Officer

Title: Vice President, Operations

EXHIBIT “A” - FORM OF ACTIVITY REPORT

Non-signatory Airline Agreement - PBI

Exhibit "A"
Form of Activity Report

Palm Beach International Airport
Monthly Statistical & Fee Report
Fiscal Year _____

Airline Name	
Month	

	Domestic	Int'l	Total
Flight Operations			
Depart	-		-
Arrive	-		-
Total	-	-	-

	Domestic	Int'l	Total
Passengers			
Depart	-		-
Arrive	-		-
Total	-	-	-

	Domestic	Int'l	Total
Mail (tons)			
Two decimal places			
Depart	-		-
Arrive	-		-
Total	-	-	-

	Domestic	Int'l	Total
Freight (tons)			
Two decimal places			
Depart	-		-
Arrive	-		-
Total	-	-	-

Exhibit "A"
Form of Activity Report

Palm Beach International Airport
Monthly Statistical & Fee Report
Fiscal Year _____

Airline Name: _____
Month: _____

Aircraft Landing Data

[illegible]

** These are the approach and takeoff noise levels for our aircraft as given in FAA Advisory Circular 36-3H. AC 36-3H specifically states, 'the reported levels [in the Advisory Circular] are estimates and do not represent actual certificated values. AC 36-3H does not contain every aircraft/engine/weight configuration that exists. In regards to our aircraft, none are an exact match to any in the AC. Because of that, the noise levels that we are providing are for those aircraft in the AC that most closely match our configuration for each type. The B767-400 is not represented in AC 36-3H. The B767-400 values for approach and takeoff noise levels were provided to us by Boeing.'

Grand Totals

Total Non-Exempt Stage III Daytime Landings:

Total Landing Fees:

Exhibit "A"
Form of Activity Report

**Palm Beach International Airport
Monthly Statistical & Fee Report
Fiscal Year _____**

Airline Name: _____
Month: _____

Charter Operations Required Data

[illegible]

Exhibit "A"
Form of Activity Report

Palm Beach International Airport
Monthly Statistical & Fee Report
Fiscal Year _____

Airline Name: _____
Month: _____

FIS Facility – Usage Report

Number of Deplaning Passengers Requiring Federal Inspection	_____
Fee Per Passenger	_____
FIS FACILITY USAGE FEE	<u>\$ -</u>

Exhibit "A"
Form of Activity Report

Palm Beach International Airport
Monthly Statistical & Fee Report
Fiscal Year _____

Airline Name: _____
Month: _____

Commuter Operating Area

Number of Enplaning Passengers

* Number of Deplaning Passengers

Total Passengers

Fee Per Passenger

COMMUTER OPERATING AREA USAGE FEE

\$ -

* Note: Deplaning passengers are calculated by taking the total number of arriving passengers and subtracting those (if any) that deplaned at the FIS facility and which are accounted for on page 4 of this report.

Exhibit "A"
Form of Activity Report

Palm Beach International Airport
Monthly Statistical & Fee Report
Fiscal Year _____

Airline Name: _____
Month: _____
PBIA Customer #: _____

<u>Gate</u>	<u>Individual Gate Use</u>
	Number of Aircraft {Parking at Gate} Fee Per Parking _____
	Number of Aircraft {Parking at Gate} Fee Per Parking _____
	Number of Aircraft {Parking at Gate} Fee Per Parking _____
	Number of Aircraft {Parking at Gate} Fee Per Parking _____
GATE FEES:	=====

<u>Gate</u>	<u>Overnight Gate Parking</u>
	Number of Aircraft {Overnight Parking at Gate} Fee Per Parking _____
	Number of Aircraft {Overnight Parking at Gate} Fee Per Parking _____
	Number of Aircraft {Overnight Parking at Gate} Fee Per Parking _____
	Number of Aircraft {Overnight Parking at Gate} Fee Per Parking _____
GATE FEES:	=====

	<u>Overnight Remote Parking</u>
	Number of Aircraft {Overnight Remote Parking at Ramp} Fee Per Parking _____
REMOTE FEES:	=====

TOTAL FEES:

**EXHIBIT “B” - PREFERENTIAL USE PREMISES
(Terminal Areas)**

No Preferential Use Terminal Areas have been assigned

**EXHIBIT “C” - PREFERENTIAL USE PREMISES
(Gate Areas)**

No Preferential Use Gate Areas have been assigned

EXHIBIT “D” - MAINTENANCE SCHEDULE

Non-signatory Airline Agreement - PBI

EXHIBIT "D"
to Signatory Airline Agreement

Maintenance Schedule

A - AIRLINE	AIRLINE PREMISES								
C - COUNTY									
NA - NOT APPLICABLE	AIRLINE PREFERENTIAL USE PREMISES							JOINT USE PREMISES	
	Ticket Counters	Ticket Offices/Baggage Service Offices	Club Rooms	Operations Areas	Commuter Operating Area	Holdrooms & Loading Bridges	Aircraft Parking Aprons	Baggage Claim	Baggage Makeup
1. Air Conditioning Systems									
a. County owned systems & equipment	C	C	C	C	C	C	NA	C	NA
b. Chilled air distribution	C	C	C	C	C	C	NA	C	NA
c. Airline installed systems & equipment	NA	A	A	A	NA	NA	NA	NA	NA
2. Heating System									
a. County owned systems & equipment	C	C	C	C	C	C	NA	C	NA
b. Warm air distribution	C	C	C	C	C	C	NA	C	NA
c. Airline installed systems & equipment	NA	A	A	A	NA	NA	NA	NA	NA
3. Lighting									
a. Bulb & Tube Replacement	C	A	A	A	C	C	C	C	C
b. General maintenance & repair	C	A	A	A	C	C	C	C	C
4. Electrical Systems									
a. County owned systems & equipment	C	C	C	C	C	C	C	C	C
b. Airline owned systems & equipment	A	A	A	A	A	A	A	A	A
5. Water, Sewer & Plumbing									
a. Distribution/collection systems	NA	C	C	C	C	C	C	NA	NA
b. Fixtures	NA	A	A	A	C	C	C	NA	NA
c. Grease traps	NA	NA	A	NA	NA	NA	NA	NA	NA
6. Structural Building Repairs & Maintenance									
a. Overhead roll up doors	C	C	C	C	C	C	C	C	C
	NA	NA	NA	A	NA	NA	NA	NA	NA

EXHIBIT "D"
to Signatory Airline Agreement

Maintenance Schedule

A - AIRLINE	AIRLINE PREMISES								
C - COUNTY									
NA - NOT APPLICABLE	AIRLINE PREFERENTIAL USE PREMISES							JOINT USE PREMISES	
	Ticket Counters	Ticket Offices/Baggage Service Offices	Club Rooms	Operations Areas	Commuter Operating Area	Holdrooms & Loading Bridges	Aircraft Parking Aprons	Baggage Claim	Baggage Makeup
7. Exterior Building Maintenance & Repair	NA	NA	NA	C	C	C	NA	C	C
a. Window Cleaning - Exterior	NA	A	C	A	C	C	NA	C	C
b. Window Cleaning - Interior	A	A	A	A	C	C	NA	C	C
8. Fire Suppression Systems									
a. Sprinklers	C	C	C	C	C	C	NA	C	C
b. Fire Extinguishers	A	A	A	A	C	C	A	C	C
9. Other^{1,2}									
a. Public Address System	C	NA	NA	NA	C	C	NA	C	NA
b. Custodial Service ³	A	A	A	A	C	C	A	C	C
c. Furnishings	NA	A	A	A	C	C	NA	NA	NA
d. Pavement ground markings	NA	NA	NA	NA	NA	NA	A	NA	NA
e. Stanchions	A	NA	NA	NA	A	A	NA	NA	NA
f. Podium desk inserts/cabinetry (including keys)	A	NA	NA	NA	NA	A	NA	NA	NA
g. Airline installed signage	A	NA	A	NA	A	A	NA	NA	NA
h. Pavement Markings	NA	NA	NA	NA	NA	NA	A	NA	C
i. Baggage scales (including calibration)	A	NA	NA	NA	NA	NA	NA	NA	NA
j. Finishes (ie., flooring, wall coverings, etc...)	C ⁴	A	A	A	C	C	NA	C	C
k. Pest Control	C	C	C	C	C	C	C	C	C

1. Airline shall be responsible for repair and maintenance of all Airline owned equipment, including televisions, computers, cabling and utility connections.
2. Airline shall be responsible for repair and maintenance of all tenant controlled alarm systems.
3. County shall be responsible for custodial service of common hallways located in ticket office and operations areas. Common hallways are limited those hallways that have been designated as "common hallways" by County and are shared by more than one tenant.
4. Airline shall be responsible for back wall (i.e., painting, signage and coverings) at ticket counter locations.

EXHIBIT “E” - RATE AND FEE SCHEDULE

Non-signatory Airline Agreement - PBI

EXHIBIT "E"
to Signatory Airline Agreement for
Palm Beach International Airport

RATE AND FEE SCHEDULE

SECTION I - DEFINITIONS

The following words, terms and phrases used in this Exhibit "E" shall have the meanings set forth in this Section and the meanings shall apply to both the singular and plural forms of such words, terms and phrases. Additional words, terms and phrases used in this Exhibit "E", but not defined in this Section, shall have the meanings ascribed to them in the individual sections of this Exhibit "E", Signatory Airline Agreement or Bond Resolution. The specific methodologies for calculating the rates, fees and charges defined below can be found in Section II of this Exhibit "E".

1. Airfield Cost Center means the Direct Cost Center further described in **Table E-6** of this Exhibit "E".
2. Aircraft Parking Fees mean a fee assessed by County for each aircraft parking operation that occurs on any portion of the Aircraft Apron Area located outside of an Air Transportation Company's Preferential Use Premises. Three (3) types of Aircraft Parking Fees are imposed by County for aircraft parking: Overnight Gate; Overnight Remote and Transient Remote. For purposes of determining applicable Aircraft Parking Fees, (i) "Transient" means aircraft parking for a duration of two (2) hours or less; (ii) "Remote" means those portions of the Aircraft Parking Apron, which are not located adjacent to an aircraft gate (commonly referred to as east/west remote aircraft parking areas); and (iii) "Overnight" means a period from 10:00 p.m. to 6:00 a.m., or eight (8) hours of continuous duration.
3. Amortization Charges means the annual amount to recover Capital Expenditures that are paid for with County funds exceeding Three Hundred Thousand Dollars (\$300,000). Amortization Charges shall be calculated by County based on the expected useful life of the Capital Expenditure and shall include a reasonable rate of return, as determined by Department. Amortization Charges shall not be recovered by County before the completion of the applicable project.
4. Baggage Handling System (BHS) Cost Center means the Direct Cost Center further described in **Table E-6** of this Exhibit "E".
5. Baggage Handling System (BHS) Fee means a fee assessed by County on a per Enplanement basis for use of the Baggage Handling System.
6. Commuter Operating Charge means a charge assessed by County for the use of the Commuter Operating Area.
7. Cost Center means those areas or functional activities of the Airport used for the purposes of accounting for Revenues, Operation and Maintenance Expenses, Debt Service, Non-amortized Capital Expenditures and Amortization and for calculating and adjusting certain fees and charges described herein, as they now exist or may hereafter be modified, changed, or developed.
8. Debt Service means any principal, interest, premium, and other fees and amounts either paid or accrued for Bonds (exclusive of capitalized interest) or Other Indebtedness.
9. Debt Service Coverage means twenty five percent (25%) of Debt Service in a Rate Setting Period.
10. Debt Service Reserve Requirement has the meaning set forth in the Bond Resolution.
11. Direct Cost Centers includes the Cost Centers listed in **Table E-6** of this Exhibit "E".
12. Federal Inspection Services (FIS) Facility Fee means a fee assessed by County for use of the FIS Facility by an Air Transportation Company transporting international passengers.
13. Fuel Flowage Fees means the fuel flowage fees that are charged by County for each gallon of aviation fuel and oil sold by or through the fixed base operators at the Airport, but shall not include Aircraft Apron Fees charged pursuant to County Resolution R-2005-0457, as now or hereafter amended or superseded, or any other fee or charge based upon fuel flowage used to recover facility costs.
14. Indirect Cost Centers includes the Cost Centers listed in **Table E-7** of this Exhibit "E".
15. Joint Use Charges means the total charges imposed for use of the Joint Use Premises.
16. Landing Fee means a fee assessed by County on Air Transportation Companies based on the Landed Weight of each Revenue Landing.

17. Net Remaining Revenues means Revenues less Operation and Maintenance Expenses, Operation and Maintenance Reserve, Debt Service and Amortization in the Terminal, Airfield or Baggage Handling System Cost Centers.
18. Non-amortized Capital Expenditures means Capital Expenditures funded with County funds of Three Hundred Thousand Dollars (\$300,000) or less.
19. Non-signatory Airline means an Air Transportation Company operating at the Airport that is not a Signatory Airline.
20. Operation and Maintenance Expenses means County's costs for the operation, maintenance and repair of the Airport System and shall include, but shall not be limited to, salaries and employee benefits, utility costs, ordinary maintenance, administrative and general expenses, security, and all such other expenses as defined and determined in accordance with the Bond Resolution.
21. Operation and Maintenance Reserve means an amount equal to one sixth (1/6) of the amount appropriated in the annual budget for Operation and Maintenance Expenses for the then current Fiscal Year; provided, however, the amount may be reduced by a supplemental resolution in accordance with the Bond Resolution.
22. Other Indebtedness means any debt other than Bonds incurred by County for Airport purposes.
23. Per Use Gate Charge means a charge assessed by County for each use of an unassigned aircraft gate facility for a period not to exceed two (2) hours. The gate facility includes holdroom, loading bridge, pre-conditioned air, and 400 Hertz systems. Per Use Gate Charges shall not apply to the use of gate facilities that are included in an Air Transportation Company's Preferential Use Premises pursuant to an agreement with County.
24. Per Use Ticket Counter Charge means a charge assessed by County for each use of unassigned ticket counter (two (2) positions) and one (1) baggage well for a period not to exceed two (2) hours. Per Use Ticket Counter Charges shall not apply to the use of ticket counter areas that are included in an Air Transportation Company's Preferential Use Premises pursuant to an agreement with County.
25. Rate Setting Period means the Fiscal Year for which the rates, fees and charges are being calculated hereunder.
26. Standard Holdroom Square Footage means a uniform measurement used for the sole purpose of calculating certain fees and charges payable hereunder of one thousand eight hundred (1800) square feet applied to each holdroom located within Concourses B and C. The Standard Holdroom Square Footage shall be used for purposes of determining an Air Transportation Company's rates and charges regardless of the actual physical dimensions of each holdroom.
27. Standard Ticket Counter Square Footage means a uniform measurement of two hundred sixty (260) square feet used for the sole purpose of calculating Per Use Ticket Counter Charges, but does not represent the actual physical dimensions of the ticket counter area.
28. Terminal Cost Center means the Direct Cost Center further described in **Table E-6** of this Exhibit "E".
29. Terminal Rental means the license fees and charges imposed by County on a per square foot basis for the use of the Airline Premises, which is comprised of the Joint Use Premises and Preferential Use Premises.
30. Total Rentable Space has the meaning set forth in **Attachment E-2** to this Exhibit "E".

SECTION II - RATE CALCULATIONS

1. Explanation of Rate Calculation Line Items. The following items are included in the calculation of Terminal Rental Rate, Landing Fee Rate and Baggage Handling System Rate for each Rate Setting Period:
 - A. Operation and Maintenance Expenses. This line item includes those expenses directly assignable to the Terminal, Airfield or Baggage Handling System Cost Centers ("Direct Operation and Maintenance Expenses") and those expenses associated with operation and maintenance of the Airport and assignable to the Indirect Cost Centers ("Indirect Operation and Maintenance Expenses"). Indirect Operation and Maintenance Expenses shall be allocated to the Direct Cost Centers on the basis of the procedures set forth in Section V(3) below. The sum of Direct Operation and Maintenance Expenses and Indirect Operation and Maintenance Expenses are hereinafter referred to as "Operation and Maintenance Expenses".
 - B. Operation and Maintenance Reserve Charge. This line item includes the Operation and Maintenance Reserve for the current Rate Setting Period less the Operation and Maintenance Reserve for the prior Rate Setting Period allocated to the Terminal, Airfield and Baggage Handling System Cost Centers.

- C. Debt Service. This line item includes Debt Service directly assignable to the Terminal, Airfield or Baggage Handling System Cost Centers (“Direct Debt Service”) and Debt Service assignable to the Indirect Cost Centers (“Indirect Debt Service”). Indirect Debt Service shall be allocated to the Direct Cost Centers on the basis of the procedures set forth in Section V(3) below for the distribution of Indirect Operation and Maintenance Expenses. The sum of Direct Debt Service and Indirect Debt Service are hereinafter referred to as “Total Debt Service”. For the purposes of the Signatory Airline Agreement, annual Debt Service costs for the Palm Beach International Airport System Taxable Revenue Refunding Bonds Series 2006B (Series 2006B) shall be allocated as provided in **Table E-1** below. Annual Debt Service costs for the Palm Beach International Airport System Revenue Bonds Series 2006A and 2016 (Series 2006A and Series 2016) shall be allocated one hundred percent (100%) to the Ground Transportation Cost Center. Debt Service costs for future bond issues/series, if any, shall be allocated by the Department based on the estimated benefits to the various cost centers.

Table E-1. Debt Service Cost Center Allocation	
Cost Center	Allocation
Airfield	10%
Terminal	58%
Ground Transportation	22%
Other	10%
Total	100%

- D. Debt Service Coverage. This line item includes Debt Service Coverage attributable to the Terminal, Airfield, or Baggage Handling System Cost Centers.
- E. Debt Service Reserve Requirement. This line item includes allocable portions of required deposits to the Debt Service Reserve Requirement attributed to the Terminal, Airfield, or Baggage Handling System Cost Centers.
- F. Non-amortized Capital Expenditures. This line item includes Non-amortized Capital Expenditures attributable to the Terminal, Airfield, or Baggage Handling System Cost Centers.
- G. Amortization Charges. This line item includes Amortization Charges attributable to the Terminal, Airfield, or Baggage Handling System Cost Centers.
- H. Total Requirement. The Total Requirement is the sum of the following line items: Operation and Maintenance Expenses, Operation and Maintenance Reserve, Debt Service, Debt Service Coverage, Debt Service Reserve Requirement, Non-amortized Capital Expenditures and Amortization Charges. The Total Requirement is applicable to Terminal, Airfield and Baggage Handling System Cost Centers.
- I. Credits. Credits to the Airfield Total Requirement include Non-signatory Airline and General Aviation Landing Fee Revenues, Airfield services Revenues, Fuel Flowage Fees and the prior period Debt Service Coverage. Credits to the Terminal Total Requirement include Per Use Gate Charges, Per Use Ticket Counter Charges, FIS Facility Fees and the prior period Debt Service Coverage. Credits to the Baggage Handling System Total Requirement include the prior period Debt Service Coverage, if any.
- J. Net Requirement. The Net Requirement equals Total Requirement minus Credits.

2. Calculation of Terminal Rental, Landing Fee and Baggage Handling System Rates. The Terminal Rental Rate, Landing Fee Rate and Baggage Handling System Rate for each Rate Setting Period shall be calculated as set forth in this subsection.
- A. Terminal Rental Rate. The Terminal Rental Rate shall be determined by dividing the Terminal Rental Net Requirement by the projected Total Rentable Space. The methodology for calculating the Terminal Rental Rate is set forth in **Table E-2** below. The Terminal Rental Rate Calculation for the current Fiscal Year is set forth in **Attachment E-1, Statement of Rates**, to this Exhibit "E".

Table E-2. Terminal Rental Rate Calculation	
Line Item	(See Section II(1) above for corresponding descriptions)
Operation and Maintenance Expenses	A
Operation and Maintenance Reserve Charge	B
Debt Service	C
Debt Service Coverage	D
Debt Service Reserve Requirement	E
Non-amortized Capital Expenditures	F
Amortization Charges	G
Terminal Total Requirement	H=A+B+C+D+E+F+G
Less: Credits to Terminal Total Requirement	I
Terminal Net Requirement	J=H-I
Total Rentable Space	K
Terminal Rental Rate (per square foot)	L=J/K

- B. Landing Fee Rate. The Landing Fee Rate shall be determined by dividing the Airfield Net Requirement by the projected Landed Weight of all Signatory Airlines ("Signatory Landed Weight"). The methodology for calculating the Landing Fee Rate is set forth in **Table E-3** below. The Landing Fee Rate Calculation for the current Fiscal Year is set forth in **Attachment E-1, Statement of Rates**, to this Exhibit "E".

Table E-3. Landing Fee Rate Calculation	
Line Item	(See Section II(1) above for corresponding descriptions)
Operation and Maintenance Expenses	A
Operation and Maintenance Reserve Charge	B
Debt Service	C
Debt Service Coverage	D
Debt Service Reserve Requirement	E
Non-amortized Capital Expenditures	F
Amortization Charges	G
Airfield Total Requirement	H=A+B+C+D+E+F+G
Less: Credits to Airfield Total Requirement	I
Airfield Net Requirement	J=H-I
Signatory Landed Weight	K
Landing Fee Rate (per 1,000 lb.)	L=J/K

C. Baggage Handling System Fee Rate: The Baggage Handling System Fee Rate shall be determined by dividing the Baggage Handling System Net Requirement by the projected Total Enplanements. The methodology for calculating the Baggage Handling System Fee Rate is set forth in Table E-4 below. The Baggage Handling System Fee Rate Calculation for the current Fiscal Year is set forth in Attachment E-1, Statement of Rates, to this Exhibit "E".

Table E-4. Baggage Handling System Fee Rate Calculation	
Line Item	(See Section II(1) above for corresponding descriptions)
Operation and Maintenance Expenses	A
Operation and Maintenance Reserve Charge	B
Debt Service	C
Debt Service Coverage	D
Debt Service Reserve Requirement	E
Non-amortized Capital Expenditures	F
Amortization Charges	G
BHS Total Requirement	H=A+B+C+D+E+F+G
Less: Credits to BHS Total Requirement	I
BHS Net Requirement	J=H-I
Total Enplanements	K
BHS Fee Rate (per Enplanement)	L=J/K

3. Calculation of Joint Use Charges. Joint Use Charges shall be an amount equal to the product of the Terminal Rental Rate for the Rate Setting Period multiplied by total square footage of the Joint Use Premises. Each Air Transportation Company's share of Joint Use Charges shall be determined by allocating the cost based on each Air Transportation Company's projected relative share of Enplanements for the upcoming Rate Setting Period.
4. Miscellaneous Fees and Charges.
- A. Commuter Operating Charge. Any Air Transportation Company using the Commuter Operating Area will be assessed a fee based on the Total Passengers, as established by the Department to maximize Revenues while maintaining a reasonable cost per passenger for commuter operations.
- B. FIS Facility Fee. The FIS Facility Fee shall be equal to the sum of Operation and Maintenance Expenses, Debt Service, Debt Service Coverage, Debt Service Reserve Requirement, Operation and Maintenance Reserve, Non-amortized Capital Expenditures and Amortization Charges attributable to the FIS Facility divided by projected total international Deplaned Passengers using the FIS Facility during the Rate Setting Period.
- C. Per Use Gate Charge. The Per Use Gate Charge shall be equal to the product of the Terminal Rental Rate multiplied by the Standard Holdroom Square Footage (1,800 square feet) divided by an assumed usage (2.5 times per day). An electric surcharge shall be payable as determined by the Department and may be modified annually.
- D. Per Use Ticket Counter Charge. The Per Use Ticket Counter Charge shall be equal to the product of the Terminal Rental Rate multiplied by the Standard Ticket Counter Square Footage two hundred sixty (260) square feet) divided by the product of eight (8) (i.e., the average number of uses per month) multiplied by twelve (12) months.
- E. Overnight Remote Aircraft Parking Fee. Any Air Transportation Company parking an aircraft in a Remote location Overnight shall be charged a fee per Overnight period as established by the Department.
- F. Overnight Gate Aircraft Parking Fee. Any Air Transportation Company parking an aircraft Overnight at an aircraft gate, which is not licensed to such Air Transportation Company on a Preferential Basis, shall be charged a fee per Overnight period as established by the Department.
- G. Transient Remote Aircraft Parking Fee. Any Air Transportation Company parking an aircraft in a Remote location shall be charged a fee per Transient period as established by the Department.

SECTION III - REVENUE SHARING

1. Revenue Sharing. Revenue Sharing shall be calculated by County in accordance with this Section.
- A. Net Remaining Revenues. For purposes of this Section, Net Remaining Revenues shall be calculated after Settlement. Availability of Revenue Sharing shall be subject to and contingent upon County's ability to satisfy its financial obligations and to meet its Debt Service Coverage requirements in each Fiscal Year.
- B. Revenue Sharing Percentage. The percentage of Revenue Sharing for all Signatory Airlines shall be equal to thirty five percent (35%).
- C. Total Revenue Sharing Amount. The Signatory Airlines' total Revenue Sharing Amount shall be an amount equal to the Net Remaining Revenues after Settlement, if any, multiplied by the Revenue Sharing Percentage (35%).
- D. Total Terminal Revenue Sharing Amount. The total Terminal share of the Signatory Airlines' Revenue Sharing Amount shall be an amount equal to the Total Revenue Sharing Amount multiplied by Terminal Revenue Percentage. Terminal Revenue Percentage shall be an amount equal to the Terminal proportionate share of the sum of Signatory Airlines' Terminal Rental Revenues and Landing Fee Revenues prior to calculating Revenue Sharing.
- E. Total Airfield Revenue Sharing Amount. The total Airfield share of the Signatory Airlines' Revenue Sharing Amount shall be an amount equal to the Total Revenue Sharing Amount multiplied by the Airfield Revenue Percentage. Airfield Revenue Percentage shall be an amount equal to the Airfield proportionate share of the sum of Signatory Airlines' Terminal Rental Revenues and Landing Fee Revenues prior to calculating Revenue Sharing.
- F. Airline's Terminal Revenue Sharing Amount. Each individual Signatory Airline's (including Airline's) Terminal Revenue Sharing Amount shall be an amount equal to the Total Terminal Revenue Sharing Amount multiplied by the individual Signatory Airline's proportionate share of total Signatory Airline Enplanements during the Fiscal Year for which Revenue Sharing has been calculated.
- G. Airline's Airfield Revenue Sharing Amount. Each individual Signatory Airline's (including Airline's) Airfield Revenue Sharing Amount shall be an amount equal to the Total Airfield Revenue Sharing Amount multiplied by the individual Signatory Airline's proportionate share of the total Landed Weight of the Signatory Airlines during the Fiscal Year for which Revenue Sharing has been calculated.
- H. Airline's Total Revenue Sharing Amount. Each individual Signatory Airline's (including Airline's) Total Revenue Sharing Amount shall be an amount equal to the sum of Airline's Terminal Revenue Sharing Amount and Airline's Airfield Revenue Sharing Amount.
2. Table E-5. The methodology for calculating each Signatory Airline's (including Airline's) share of Revenue Sharing is set forth in **Table E-5** below.

Table E-5. Signatory Airline Revenue Sharing Calculation	
Line Item	(See Section III(1) above for corresponding descriptions)
Net Remaining Revenues (calculated after Settlement)	A
Revenue Sharing Percentage (All Signatory Airlines)	B
Total Revenue Sharing Amount (All Signatory Airlines)	C=A*B
Total Terminal Revenue Sharing Amount (All Signatory Airlines)	D=C*Terminal Revenue %
Total Airfield Revenue Sharing Amount (All Signatory Airlines)	E=C*Airfield Revenue %
Airline's Terminal Revenue Sharing Amount (Individual Signatory Airline)	F=D*Airline's % of total Enplanements
Airline's Airfield Revenue Sharing Amount (Individual Signatory Airline)	G=E*Airline's % of total Landed Weight
Airline's Total Revenue Sharing Amount (Individual Signatory Airline)	H=F+G

Exhibit "E" to Signatory Airline Agreement - PBI

SECTION IV - MISCELLANEOUS

1. Airline Incentive Agreement. Any Air Transportation Company may execute a separate airline incentive agreement if the incentive requirements established by County are satisfied. An airline incentive agreement may provide for the waiver of Landing Fees, gate usage charges, or other applicable fees and charges for a prescribed period of time. Gate usage charges may include, but shall not be limited to, Per Use Gate Charges and Aircraft Parking Fees.

SECTION V – COST CENTERS

1. Direct Cost Centers. The Direct Cost Centers include, but are not limited to, those Cost Centers listed in **Table E-6** below.

Table E-6. Direct Cost Centers	
Cost Center	Description of Area Included or Functional Activity
Airfield	Those portions of the Airport provided for the landing, taking off, and taxiing of aircraft, including runways, taxiways, approach and runway protection zones, safety areas, infield areas, landing and navigational aids, Aircraft Parking Apron and land areas required by or related to aeronautical use of the Airport.
Terminal	The commercial airline facilities at the Airport, including the Terminal and associated land, facilities, equipment, whether owned, operated or maintained by County. This Cost Center includes the inbound baggage handling system used to deliver checked baggage to arriving passengers, which includes baggage claim areas, systems, equipment and carousels, but excludes the Baggage Handling System as defined herein.
Baggage Handling System	The outbound baggage handling system used to deliver checked baggage to departing aircraft, which includes the baggage makeup areas, systems, equipment and carousels at the Airport, exclusive of the TSA inspection equipment.
Ground Transportation	Areas designated for employee and public automobile parking and rental car operations (excluding rental car ticket counters in the Terminal), and all Airport access roadways.
Non-Aviation	Areas designated for commercial or industrial use.
Aviation	Areas designated for fixed base operator or other aviation uses, including general aviation aprons at the Airport.
General Aviation FIS Facility	The FIS building located on the south side of the Airport.
Lantana Airport (LNA)	All properties and areas associated with Palm Beach County Park Airport ("Lantana Airport").
Pahokee Airport (PHK)	All properties and areas associated with Palm Beach County Glades Airport ("Pahokee Airport").
North County Airport (F45)	All properties and areas associated with the North Palm Beach County General Aviation Airport ("North County Airport").

2. Indirect Cost Centers. The Indirect Cost Centers are Cost Centers to which only Operation and Maintenance Expenses are assigned; no Revenues are attributable to the Indirect Cost Centers. The Indirect Cost Centers include, but are not limited to, those Cost Centers listed in **Table E-7** below.

Table E-7. Indirect Cost Centers	
Cost Center	Description of Area Included or Functional Activity
Administration and Operations	Functions and activities associated with the general Airport Systems administration, certain Indirect Operation, and Medic services.
Maintenance	Functions and activities associated with the general maintenance and repair of Airport properties.
Fire and Rescue	Emergency medical services and functions associated with crash, fire and rescue operations at the Airport. Medic Services costs shall be allocated separately using the administrative Cost Center allocation methodology.

3. Indirect Cost Centers Allocations. Expenses for each Indirect Cost Center shall be allocated to the Direct Cost Centers as provided for in this subsection.
- A. Administration and Operations. Expenses for the Administration and Operations Cost Center shall be allocated to Direct Cost Centers on the basis of each Direct Cost Center's share of total Operation and Maintenance Expenses for all Direct Cost Centers.
- B. Maintenance. Expenses for Maintenance shall be allocated to Direct Cost Centers on the basis of estimated labor costs based on historical data for activity associated with each Direct Cost Center.
- C. Fire and Rescue. Expenses for Fire and Rescue shall be allocated to Direct Cost Centers according to the following percentages as set forth in **Table E-8** below.

Table E-8. Fire and Rescue Allocation	
Cost Center	Allocation
Airfield	70%
Terminal	4.0%
Baggage Handling System	0.0%
Ground Transportation	3.0%
Aviation	12.0%
Non-Aviation	4.0%
Lantana Airport	3.0%
Pahokee Airport	1.0%
North County Airport	3.0%
Total	100%

ATTACHMENT "E-1"
TO EXHIBIT "E"

STATEMENT OF RATES
FISCAL YEAR 2018

(October 1, 2017 through September 30, 2018)

SECTION I – FY 2018 SUMMARY of RATES

1. Terminal Rental Rate: \$73.29 per square foot.
2. Landing Fee Rate: \$1.68 per 1,000 pounds of Landed Weight.
3. Baggage Handling System Fee Rate: \$0.84 per Enplaned Passenger.
4. Commuter Operating Charge Rate: \$2.00 per each passenger (Total Passengers) using the Commuter Operating Area.
5. Federal Inspection Services (FIS) Facility Fee Rate: \$2.45 per international Deplaned Passenger requiring FIS processing.
6. Per Use Terminal Charges:
 - a. Base Gate/Holdroom Charge Rate: \$145.00 per two (2) hour use, or any portion thereof, plus \$25 for electric surcharge.
 - b. Per Use Ticket Counter Charge Rate: \$118.00 per two (2) hour use, or portion thereof, of ticket counter area.
 - c. CUPPS Charge: \$30.00 per two (2) hour use, or portion thereof, to use the Common Use Passenger Processing System either at the ticket counter or gate location.
7. Aircraft Parking Fee Rates:
 - a. Overnight Remote Aircraft Parking Fee Rate: \$125.00 for each Overnight use of Remote aircraft parking area.
 - b. Overnight Gate Aircraft Parking Fee Rate: \$200.00 for each Overnight use of a gate facility for aircraft parking.
 - c. Transient Remote Aircraft Parking Fee Rate: \$50.00 for each Transient use of Remote aircraft parking area.

SECTION II – FY 2018 RATE CALCULATIONS TABLE

Terminal Rental Rate Calculation

Operation and Maintenance Expenses	A	\$21,531,974
Operation and Maintenance Reserve Charge	B	91,457
Debt Service	C	1,983,779
Debt Service Coverage (25%)	D	495,945
Debt Service Reserve Requirement	E	0
Non-amortized Capital Expenditures	F	79,500
Amortization Charges	G	2,724,940
Terminal Total Requirement	H=A+B+C+D+E+F+G	\$26,907,595
Less: Credits to Terminal Total Requirement	I	\$1,145,266
Terminal Net Requirement	J=H-I	\$25,762,328
Total Rentable Space	K	351,500
Terminal Rental Rate (per square foot)	L=J/K	\$73.29

Landing Fee Rate Calculation

Operation and Maintenance Expenses	A	\$7,708,705
Operation and Maintenance Reserve Charge	B	59,204
Debt Service	C	342,031
Debt Service Coverage (25%)	D	85,508
Debt Service Reserve Requirement	E	0
Non-amortized Capital Expenditures	F	246,500
Amortization Charges	G	294,570
Airfield Total Requirement	H=A+B+C+D+E+F+G	\$8,736,518
Less: Credits to Airfield Total Requirement	I	\$2,810,776
Airfield Net Requirement	J=H-I	\$5,925,742
Signatory Landed Weight	K	3,530,250
Signatory Landing Fee Rate (per 1,000 lb.)	L=J/K	\$1.68

Baggage Handling System Fee Rate Calculation

Operation and Maintenance Expenses	A	\$2,121,628
Operation and Maintenance Reserve Charge	B	\$353,605
Debt Service	C	\$0
Debt Service Coverage (25%)	D	\$0
Debt Service Reserve Requirement	E	\$0
Non-amortized Capital Expenditures	F	\$0
Amortization Charges	G	\$237,553
BHS Total Requirement	H=A+B+C+D+E+F+G	\$2,712,785
Less: Credits to BHS Total Requirement	I	\$0
BHS Net Requirement	J=H-I	\$2,712,785
Total Enplanements	K	3,238,450
BHS Fee Rate (per enplanement)	L=J/K	\$0.84

ATTACHMENT “E-2”
TO EXHIBIT “E”

TOTAL RENTABLE SPACE
FISCAL YEAR 2018

Airline Rentable Space

Airline Preferential Space

Ticket Counter	12,166
Ticket & Upper Level Offices	16,814
VIP Rooms	7,249
Hold Rooms	50,400
Curbside Office	1,302
Bag Service Office	3,243
Operations Area	57,595
Total Airline Preferential Space	[A] 148,769

Airline Joint Use Space

Bag Claim	33,618
Concourse Circulation	0
Bag Make-up	59,027
Commuter Operating Area	0
Tug Drive	0
Total Airline Joint Use Space	[B] 92,645

Total Airline Rentable Space	[C] = [A + B]	241,414
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Other Rentable Space

Concessions	57,690
TSA	39,587
Commuter Operating Area	4,829
Tenant Common Area	7,466
Tenant Shared Area	514
Total Other Rentable Space	[D] 110,086

Total Rentable Space	[E] = [C + D]	351,500
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ADDENDUM TO AIRLINE AGREEMENT

THIS ADDENDUM TO AIRLINE AGREEMENT (this "Addendum") is made and entered into this ____ day of SEP 18 2017, 20__, by and between Palm Beach County, a political subdivision of the State of Florida, ("County") and Canadian North, Inc., an Alberta Corporation, having its office and principal place of business at 580 Palmer Road NE, Suite 200, Calgary, Alberta T2E 7R3 Canada ("Airline").

WITNESSETH:

WHEREAS, County, by and through its Department of Airports (the "Department"), is the owner and operator of the Palm Beach International Airport (the "Airport"); and

WHEREAS, the parties entered into that certain Non-Signatory Airline Agreement dated SEP 18 2017 (R____ - ____), as amended (the "Airline Agreement"), which is hereby incorporated herein by reference; and

WHEREAS, Airline requires use of Airport facilities from time-to-time on a short-term, seasonal basis in connection with its aircraft operations at the Airport under the Airline Agreement.

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

ARTICLE 1 BASIC PROVISIONS

1.01 Recitals. The foregoing recitals are true and correct and incorporated herein. Terms not defined herein shall have the meanings set forth in the Airline Agreement.

1.02 Designated License Area. In the event Airline requires additional space such as ticket counter or office space on a short term basis for its seasonal aircraft operations at the Airport, Airline may notify County in writing of the: (a) type and amount of space required for its operations; (b) the anticipated date Airline will commence use of the space; and (c) the anticipated date Airline will return the space. Airline should notify County no less than ninety (90) days prior to its proposed commencement of operations of its space requirements. In the event appropriate space is available, County will notify Airline in writing of the available space and provide the attached Exhibit "A" ("Facilities Use Permit") to Airline for approval. In the event Airline approves of the space(s) designated for Airline's use under the Facilities Use Permit ("License Area"), Airline shall cause an authorized representative of Airline to sign and return the Facilities Use Permit to the County.

1.03 Return of License Area. Upon expiration or earlier termination of Airline's license to use the License Area under a Facilities Use Permit, Airline, at its sole cost and expense, shall surrender the License Area to the County in at least the same condition as the License Area was in as of the Commencement Date of the Facilities Use Permit. Airline shall remove all personal property and signage from the License Area at Airline's sole cost and expense, unless otherwise approved in writing by the Department. 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. In the event Airline fails to timely restore the License Area as provided above, County may restore the License Area at Airline's sole cost and expense. Airline shall reimburse County for County's actual costs plus a twenty five percent (25%) administrative overhead within thirty (30) days of the date of County's invoice. Airline's reimbursement obligations under this Section shall survive the expiration or earlier termination of the Facilities Use Permit, the Airline Agreement and/or this Addendum until County has received full reimbursement.

ARTICLE 2

TERM

The term of this Addendum shall commence on the Effective date of the Airline Agreement and automatically terminate on the date the Airline Agreement expires or is terminated (the "Term"), unless terminated earlier as provided for herein.

ARTICLE 3

FEES AND CHARGES

Airline shall pay County all fees and charges applicable to the License Area identified in the Facilities Use Permit in accordance with the then current Rate and Fee Schedule (as defined in the Airline Agreement), subject to any waiver of fees and charges pursuant to an Airline Service Incentive Program Participation Agreement entered into by the parties.

ARTICLE 4

LICENSE AREA

Airline acknowledges and agrees that Airline's use of the License Areas shall be governed by the terms and conditions of the Airline Agreement, this Addendum and the Facilities Use Permit.

ARTICLE 5

REVOCATION OF ADDENDUM/DEFAULT

5.01 License. Notwithstanding any provision of this Addendum to the contrary, the parties acknowledge and agree the rights granted to Airline under the Facilities Use Permit shall be a non-exclusive license to use the License Area.

5.02 Termination for Convenience. Either party may terminate this Addendum or a Facilities Use Permit for convenience upon fifteen (15) days prior written notice to the other party, whereupon the parties shall be relieved of all further obligations hereunder with the exception of those obligations accruing prior to the date of such termination and which expressly survive termination of this Addendum.

5.03 Default. Failure to perform or observe any of the agreements, covenants or conditions contained in the Airline Agreement, this Addendum or any Facilities Use Permit issued pursuant to this Addendum to be performed or observed by such party upon thirty (30) days prior written notice shall constitute a material default of this Addendum and the Airline Agreement.


ARTICLE 6 EFFECTIVE DATE

This Addendum shall become effective when executed by the parties hereto.

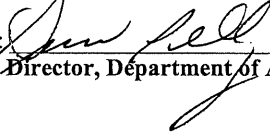
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IN WITNESS WHEREOF, County and Airline have executed this Addendum, or have caused the same to be executed as of the day and year first above written.

WITNESSES:


Signature
Jeffrey S. Bolton
Typed or Printed Name
Debra Reese
Signature
Debra Reese
Typed or Printed Name



PALM BEACH COUNTY, FLORIDA,
A POLITICAL SUBDIVISION OF THE
STATE OF FLORIDA

By: 
Director, Department of Airports

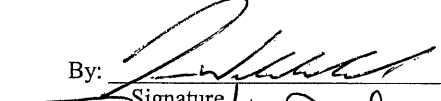
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 
County Attorney

WITNESSES:


Signature
Nicole Samuel
Typed or Printed Name

Signature
Trevor Wice
Typed or Printed Name

AIRLINE: Canadian North

By: 
Signature
Trevor Wakefield
Typed or Printed Name
Title: Vice President, Operations

(Seal)

EXHIBIT "A"
FACILITIES USE PERMIT



FACILITIES USE PERMIT

AIRLINE: _____

ADDRESS: _____

TELEPHONE/E-MAIL: _____

NAME AND TITLE OF
AUTHORIZED REPRESENTATIVE: _____

In accordance with that certain Non-Signatory Airline Agreement dated _____
(R____-____) (the “Airline Agreement”) and Addendum to Airline Agreement dated
_____, 20__ (R-_____) (“Addendum”), by and between Palm Beach County, a political
subdivision of the State of Florida (“County”), and Air Canada, a Canadian Corporation
 (“Airline”), Airline shall have a short-term license to utilize the following space(s) (“License
Area”), which license shall commence and terminate on the dates/times listed below, unless
otherwise agreed to in writing by the Department of Airports:

Space Type	Location	Square Footage	Commencement Date/Time	Termination Date/Time
	See Attachment “I”			
	See Attachment “I”			
	See Attachment “I”			
	See Attachment “I”			

By signing below, I hereby certify that I have the authority to represent and obligate Airline and
that Airline shall comply with all terms and conditions of the Airline Agreement, the Addendum
and this Facilities Use Permit applicable to the use of the License Area.

AIRLINE:

Signature of Authorized Representative of Airline

Title

Date

APPROVED BY:

Director, Department of Airports

Date

TRANSMITTED TO AIRPORT FINANCE DIVISION BY:

Name

Date