

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

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Meeting Date: April 2, 2019	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
	<input type="checkbox"/> Workshop	<input type="checkbox"/> Public Hearing

Submitted By: Department of Airports

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to receive and file: General Aeronautical Services Permit (Permit) with American Sales and Management Organization, LLC (ASMO), commencing March 1, 2019, terminating on September 30, 2019, and automatically renewing on an annual basis each October 1st to September 30th until canceled, permitting ASMO to provide support services to airlines operating at the Palm Beach International Airport (PBI), for payment of service fees in the amount of seven percent (7%) of gross revenues derived from non-signatory airlines.

Summary: The Permit authorizes ASMO to provide aeronautical support to airlines at PBI. Delegation of authority for execution of the standard County Permit above was approved by the BCC in R-2010-0708. Countywide (AH)

Background and Justification: N/A

Attachments: One (1) General Aeronautical Services Permit

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Recommended By:	<u></u>	<u>2-25-19</u>
	Department Director	Date

Approved By:	<u></u>	<u>3/8/19</u>
	County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	<u>(\$500)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$500)</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>	<u>\$-0-</u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes X No _____

Does this item include the use of federal funds? Yes _____ No X

Budget Account No: Fund 4100 Department 120 Unit 8320 RSource 2900
Reporting Category _____

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

The FY2019 fiscal impact for the Permit is a \$250.00 application fee and a \$250.00 Annual Permit Fee. We are unable to estimate the fiscal impact at this time of the seven percent (7%) service fee of gross revenues paid by non-signatory airlines for support services provided. No fees are paid on gross revenues for support services to signatory airlines.

C. Departmental Fiscal Review: LM Swine

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Lisa Kim 3/1/19
OFMB 2/23

Dr. J. Langford 3/5/19
Contract Dev. and Control
3/5/19 TW

B. Legal Sufficiency:

Anne Delgent 3-6-19
Assistant County Attorney

C. Other Department Review:

Department Director

REVISED 11/17

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

AFFIDAVIT OF LIMITED LIABILITY COMPANY

STATE OF Florida


COUNTY OF Palm Beach County

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

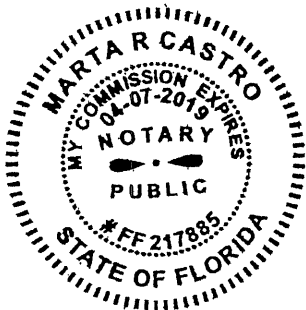
1. The undersigned is the Member managed limited liability company
(title: e.g. Manager, Member, etc.)
of American Sales and Management Organization, LLC, a limited liability company organized and existing under the laws of the State of Florida ("Company").
2. Articles of Organization of the Company have been filed, and are on-file with, the Florida Department of State and such articles are incorporated herein by reference.
3. The Company is in good standing and is authorized to transact business in the State of Florida as of the date hereof.
4. The company is a *[select (a) or (b)]* (a) manager managed or (b) member managed limited liability company.
5. The undersigned is the sole managing member of the Company or has been authorized by majority vote of the managing members to act on behalf of the Company and legally bind the Company and execute contracts and other instruments relating to the transaction of business of the Company.
6. The undersigned has the right and authority to enter into that certain General Aeronautical Services Permit between Palm Beach County, a political subdivision of the State of Florida and the Company (the "Agreement"), which is incorporated herein by reference and made a part hereof, and such other instruments as may be necessary and appropriate for the Company to fulfill its obligations under such Agreement, including amendment(s) and termination of such Agreement.
7. Upon execution and delivery of such Agreement and documents by the undersigned, all of the aforesaid shall be valid agreements of and be binding upon the Company.
8. The transactions contemplated herein will not violate any of the terms and conditions of the Company's member agreement, operating agreement certificate of organization or of any other agreement and amendments thereto of whatever kind between the Company and any third person.

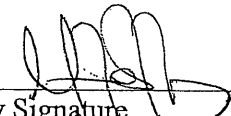
9. The undersigned acknowledges that affiant is familiar with the nature of an oath and the penalties provided by the laws of the State of Florida and that this Affidavit is being given to induce Palm Beach County to enter into the Agreement.

FURTHER AFFIANT SAYETH NAUGHT,


_____, Individually and as
[select one: Manager or Member]

SWORN TO AND SUBSCRIBED before me on this 4th day of February,
2019, by Cristiano Tonini, [select one] Manager/Member of
American Sales and Management Organization, LLC, on behalf of the Company who is
[select one] personally known, to me -OR- who produced
_____, as identification and who did take an oath.





Notary Signature
Marta Castro

Print Notary Name

NOTARY PUBLIC
State of Florida at large

My Commission Expires:

04/07/2019

From: Jackie Binns A.
To: Steve Schlamp
Subject: RE: ASMO COI
Date: Monday, February 11, 2019 12:06:32 PM
Attachments: image001.png

Steve,

The insurance is approved. Remind them that their WC expires next month.

Thank you,

Jackie

Jacqueline Binns, ARM-P
Property & Casualty Insurance and Claims Manager
Palm Beach County
Risk Management Division
100 Australian Av, Suite 200
West Palm Beach, FL 33406
jbinns@pbcgov.org
(561) 233-5422



From: Steve Schlamp <schlamp@pbia.org>
Sent: Friday, February 08, 2019 3:11 PM
To: Risk-InsReq <Risk-InsReq@pbcgov.org>; Jackie Binns A. <JBinns@pbcgov.org>
Subject: ASMO COI

Hi Jackie – American Sales and Management Organization (ASMO) just signed the attached General Aeronautical Services Permit (GASP). See Exhibit "A" on the last page for the insurance requirements. Also attached is ASMO's COI. I believe the COI is sufficient for ASMO to be in compliance but please review as we need to send these docs to the Board. Thank you and have a great weekend.

Steve

Steven K. Schlamp
Assistant Airports Properties Manager
Palm Beach County Department of Airports
846 Palm Beach International Airport
West Palm Beach, FL 33406
(561) 471-7456 Fax: (561) 471-7427
E-Mail: schlamp@pbia.org



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/4/2019

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

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

PRODUCER Wilson, Washburn & Forster Insurance 16505 NW 13th Ave Miami FL 33169		CONTACT NAME: certificates@wwfins.com PHONE (A/C, No, Ext): 305-666-6636 FAX (A/C, No): 305-662-7778 E-MAIL ADDRESS: acsr@wwfins.com	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A : Pacific Indemnity Company	
		INSURER B : ACE Property & Casualty Ins.	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES CERTIFICATE NUMBER: 783389007 REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	AAP N16739030 002	8/26/2018	8/26/2019	EACH OCCURRENCE \$ 25,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 25,000,000 GENERAL AGGREGATE \$ 25,000,000 PRODUCTS - COMP/OP AGG \$ 25,000,000 Hangarkeepers \$ 25,000,000
B	X AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS HIRED AUTOS Mobile Equip SCHEDULED AUTOS NON-OWNED AUTOS			AAP N16739030 002	8/26/2018	8/26/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 25,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	9915-4908	3/22/2018	3/22/2019	X PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

CERTIFICATE HOLDER	CANCELLATION
Palm Beach County Board of County Commissioners C/o Department of Airports 846 Palm Beach International Airport West Palm Beach FL 33406	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

This Endorsement effective August 26, 2018
forms part of Policy Number AAP N16739030 002
Issued to American Sales and Management Organization, LLC DBA Eulen America
By ACE Property And Casualty Insurance Company

WAIVER OF SUBROGATION ENDORSEMENT

This endorsement modifies insurance provided under AIRPORT OWNERS AND OPERATORS GENERAL LIABILITY POLICY.

In consideration of the premium paid, it is hereby agreed that Section V, Conditions, Sub-section 8, Transfer Rights of Recovery Against Others to Us, does not apply to any right of recovery against the person or entity named in the Schedule of this endorsement, but only to the extent that you have agreed to waive your rights of subrogation against the person or entity named in the Schedule of this endorsement under written contract between you and the person or entity named in the Schedule of this endorsement.

SCHEDULE

Person or Entity:

Any person or organization when you and such person or organization have agreed in a written contract or agreement to waive your rights of subrogation against the person or organization, but only if such written contract or agreement has been executed prior to the "occurrence" or offense resulting in Injury or damage to which this insurance applies.

All other terms and conditions of this policy remain unchanged.

Authorized Representative

Endorsement No. 25

AAP 293 (06-06)

Page 1 of 1

08/28/2018

This Endorsement effective August 26, 2017
forms part of Policy Number AAP N16739030 001
Issued to American Sales and Management Organization, LLC DBA Eulen America
By ACE Property And Casualty Insurance Company

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION ENDORSEMENT

This endorsement modifies insurance provided under AIRPORT OWNERS AND OPERATORS GENERAL LIABILITY POLICY.

It is agreed that:

SCHEDULE

Name of Person or Organization:

Any Landlord, Municipality, Airport Authority or Financial Institution who you have agreed in a written contract to name as an Additional Insured, providing said contract has been excuted prior to any "occurrence" or "offense., as required by written contract.

- 1. SECTION III - WHO IS AN INSURED, subsection 2. is amended by adding as an insured the person or organization shown in the Schedule above but only with respect to liability to which this insurance applies that is caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your "airport operations".

All other terms and conditions remain unchanged.

Authorized Representative

Endorsement No. 3

AAP 207 (11-04)

08/24/2017

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTORY INSURANCE

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART**

- A. SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance,** and all subparts thereof, as contained in the policy is deleted in its entirety and replaced with the following condition:

4. Other Insurance

If all of the other insurance permits contribution by equal shares, we will follow this method unless the insured is required by written contract signed by both parties, to provide insurance that is primary and noncontributory, and the "insured contract" is executed prior to any loss. Where required by a written contract signed by both parties, this insurance will be primary and non-contributing only when and to the extent as required by that contract.

However, under the contributory approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contributory by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

All other terms, conditions and exclusions under the policy are applicable to this endorsement and remain unchanged.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

ANY ENTITY FOR WHICH THE
INSURED IS REQUIRED TO PROVIDE
A WAIVER UNDER A WRITTEN
CONTRACT WHERE PERMITTED BY

STATE LAW.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium \$

Insurance Company

Countersigned by _____

GENERAL AERONAUTICAL SERVICES PERMIT

THIS GENERAL AERONAUTICAL SERVICES PERMIT (this "Permit") is made and entered into February 20, 2019, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and American Sales and Management Organization, LLC, a Florida limited liability company, having its office and principal place of business at 7200 Corporate Center Drive, Suite 206, Miami, Florida 33126 ("Permittee").

WITNESSETH:

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

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

WHEREAS, Permittee has filed a completed application with the Department and has requested to enter into this Permit; and

WHEREAS, Resolution No. R-2010-0708, adopted by the Board on May 4, 2010, authorizes the Department, on behalf of County, to enter into this Permit.

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 expressly acknowledge, the parties hereto covenant and agree to the following terms and conditions.

ARTICLE 1 RECITALS

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

ARTICLE 2 DEFINITIONS

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

2.01 "Aircraft and Equipment Maintenance Service" means repair and maintenance of aircraft, and the repair, fueling and maintenance of ramp equipment, which shall be limited to areas approved in advance in writing by the Department.

2.02 "Aircraft Interior Cleaning and Waste Disposal Service" means providing personnel, equipment and material to clean the interior of Aircraft.

2.03 "Aircraft Ramp Service" means guiding aircraft in and out of aircraft loading and unloading positions; placing in position and operating passenger, baggage and cargo loading and

unloading devices, as required for the safe and efficient loading and unloading of passengers, baggage and cargo to and from aircraft; performing loading and unloading of passengers, baggage and cargo to and from aircraft; providing utility services to aircraft; towing aircraft; delivering aircraft cargo, baggage and mail to and from aircraft to locations on the Airport; and fueling of aircraft.

2.04 “Signatory Airline Agreement” means the then current Signatory Airline Agreement approved by the Board. As of the date of this Permit, the most current version of the Signatory Airline Agreement was approved pursuant to Resolution No. R-2014-1033.

2.05 “Airline Ticketing and Boarding Service” means the processing of passengers, including ticketing, checking-in, boarding and unboarding of air passengers and their baggage.

2.06 “Airport” means the Palm Beach International Airport located in Palm Beach County, Florida.

2.07 “Airport Rules and Regulations” means the Palm Beach County Airport Rules and Regulations adopted by Resolution No. R-98-220, as now or hereafter amended, and any successor ordinance or resolution regulating activities or operations on the Airport.

2.08 “Annual Permit Fee” has the meaning set forth in Section 5.01(B).

2.09 “Authorized Aeronautical Services” means those aeronautical support services set forth in Section 4.01.

2.10 “Baggage Delivery Service” means handling and transportation between the Airport and a passenger’s location, of delayed, misplaced or misrouted baggage or other articles of the passengers of contracting air carriers or aircraft operators.

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

2.12 “Bond Resolution” means the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof.

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

2.14 “Contract Year” means the period of twelve (12) consecutive months ending with the last day of September of each year.

2.15 “Contracted Flights” has the meaning set forth in Section 6.02(E).

2.16 “Department” means the Palm Beach County Department of Airports.

2.17 “Director” means the Director or Acting Director of the Department of Airports.

2.18 “Effective Date” means the date that this Permit is approved by signed by the parties hereto.

2.19 “Environmental Laws” has the meaning set forth in Section 14.04.

2.20 “FAA” means the Federal Aviation Administration.

2.21 “Facility Usage Charges” has the meaning set forth in the Section 5.03.

2.22 “Federal Inspection Services (FIS) Facility” means that portion of Building 1000 at the Airport designated for U.S. Customs facilities.

2.23 “Gross Revenues” means all revenues paid or payable to Permittee for the provision of services in, on, from or about the Airport pursuant to this Permit, including, without

limitation, the Authorized Aeronautical Services. Notwithstanding the foregoing, Gross Revenues shall not include any revenues derived from providing Authorized Aeronautical Services to Signatory Airlines, or sales taxes or similar excise taxes, which are separately stated and collected from Permittee's customers.

- 2.24 "Initial Term" has the meaning set forth in Article 3.
- 2.25 "Insurance Requirements" has the meaning set forth in Article 7.
- 2.26 "Monthly Report" has the meaning set forth in Section 5.04.
- 2.27 "Non-Signatory Airline" means any airline that is not considered a Signatory Airline for purposes of the Signatory Airline Agreement.
- 2.28 "Port of Entry Building" means Building 1612 at the Airport, utilized for U.S. Customs facilities.
- 2.29 "Porter Assistance Service" means handling and transportation, through the use of porters, of baggage and other articles of the passengers of contracting air carriers or aircraft operators, upon request of the passenger, in public access areas of the Port of Entry Building and the Terminal, exclusive of the FIS Facility, as designated and approved by the Department.
- 2.30 "Renewal Term" has the meaning set forth in Article 3.
- 2.31 "Risk Management Department" means the Palm Beach County Risk Management Department.
- 2.32 "Service Fee" has the meaning set forth in Section 5.02.
- 2.33 "Signatory Airline" has the meaning set forth in the Signatory Airline Agreement.
- 2.34 "Term" has the meaning set forth in Article 3.
- 2.35 "Terminal" means the commercial passenger terminal located in Building 1000 at the Airport.
- 2.36 "TSA" means the Transportation Security Administration or any successor agency responsible for airport security.
- 2.37 "Use Agreement" has the meaning set forth in Section 5.03.

ARTICLE 3 **COMMENCEMENT DATE AND TERM OF AGREEMENT**

The term of this Permit shall commence on March 1, 2019 (the "Commencement Date") and expire on September 30, 2019, (the "Initial Term"). This Permit shall be automatically renewed on a year-to-year basis (October 1st through September 30th) thereafter upon the expiration of the then current term (the "Renewal Term"); provided that: (1) Permittee is not in violation of this Permit; and (2) neither party has provided a notice to the other party, with the Department acting on behalf of County, by at least thirty (30) days advance written notice, of its desire or intent to terminate or not renew this Permit. The Initial Term and each Renewal Term are collectively referred to as the "Term".

ARTICLE 4 **PRIVILEGES AND AUTHORIZED SERVICES**

4.01 Authorized Aeronautical Services. County hereby authorizes Permittee to provide, on a non-exclusive basis, under written contract with Signatory Airlines, Non-

Signatory Airlines, or Airport tenants serving the Airport and having validly executed agreements with County, the following aeronautical support services:

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

Permittee shall not provide any other services whatsoever at the Airport, including, but not limited to, other aeronautical support services, without the prior written consent of County, which may be granted or withheld in County's sole and absolute discretion.

4.02 Description of General Privileges, Uses and Rights. County hereby grants to Permittee, the following non-exclusive general privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants hereinafter set forth below:

- A. The general use, in common with others, of all public Airport facilities and improvements in connection with its operations hereunder. For the purpose of this Permit, "public Airport facilities" shall include all necessary roadways, sidewalks, or other public facilities appurtenant to the Airport, not specifically leased to or under the contractual control of others.
- B. The right of ingress to and egress from the Terminal over and across public roadways serving the Airport for Permittee, its agents and employees, patrons and invitees, suppliers of service and furnishers of material, if any. Said right shall be subject to such laws, rules, regulations and orders as now or may hereafter have application at the Airport.

Nothing contained in this Section 4.02 shall be construed to grant to Permittee the right to use any space or area, improved or unimproved, which is leased to a third party.

ARTICLE 5 **FEES, CHARGES AND REPORTS**

5.01 Permit Fees.

- A. Permittee shall pay a non-refundable application fee of Two Hundred Fifty Dollars (\$250.00) with submission of Permittee's application for this Permit. In the event this Permit expires or is otherwise terminated, Permittee shall be required to pay an additional application fee at the then current rate.
- B. Permittee shall pay an annual permit fee of Two Hundred Fifty Dollars (\$250.00) ("Annual Permit Fee"). The Annual Permit Fee shall be paid on or before October 1 of each year, without demand, deduction or setoff, throughout the Term of this Permit. Payment of the Annual Permit Fee shall be in addition to payment of the Service Fee as provided in Section 5.02 and Facility Usage Charges as provided in Section 5.03.

5.02 Service Fee. Permittee shall pay to County seven percent (7%) of monthly Gross Revenues, together with applicable sales taxes thereon ("Service Fee"). The Service Fee shall be paid to County on or before the fifteenth (15th) day of each and every month, without demand, deduction or setoff, throughout the Term of this Permit.

5.03 Facility Usage Charges. Permittee shall pay to County reasonable and non-discriminatory fees and charges ("Facility Usage Charges") as set forth in the then current Signatory Airline Agreement, for the use of any Airport facilities and/or equipment, including, but not limited to, baggage makeup areas and devices and passenger loading bridges. Notwithstanding the foregoing, County may require Permittee to enter into a separate agreement for the use of Airport facilities and equipment ("Use Agreement"). Except as otherwise provided in any Use Agreement with County, Facility Usage Charges shall be paid to County on or before the fifteenth (15th) day of each and every month, without demand, deduction or setoff, throughout the Term of this Permit.

5.04 Monthly Report. On or before the fifteenth (15th) day of each month throughout the Term of this Permit, Permittee shall submit to County, in a form and in detail satisfactory to County, a written report that: (1) details Gross Revenues for the preceding month; (2) details Service Fees payable to County for the preceding month; (3) details any Facility Usage Charges payable to County in connection with services provided by Permittee pursuant to Section 4.01(F); (4) separately identifies any exclusions from Gross Revenues; and (5) identifies the airlines, aircraft operators and/or other tenants at the Airport that Permittee provided services for during the preceding month (the "Monthly Report"). The Monthly Report shall be signed by a responsible officer of Permittee, certifying the accuracy of the information contained in the Monthly Report. County may require reports required by this Article 5 to be submitted in an electronic format.

5.05 Payment of Taxes. Permittee shall pay any and all taxes and other costs as may be lawfully assessed against its operations under this Permit. Permittee shall have the right to contest the amount or validity of any tax or assessment payable by its appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying, or extending Permittee'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, Permittee shall pay the amount of any such tax or assessment, or part thereof, as finally determined in such proceedings, the payment of which may have been deferred during the prosecution thereof, together with any costs, fees, interest, penalties, or other liabilities in connection therewith.

5.06 Unpaid Fees and Charges. In the event Permittee fails to make timely payment of any amounts due and payable in accordance with the terms of this Permit, then interest at the rate of one and one half percent (1.5%) per month shall accrue against the delinquent payment(s) from date due until the date payment is received by Department.

5.07 Audit Requirement. On or before December 31 of each year, Permittee shall provide to County an audit report in accordance with the requirements of this Section 5.07 for the preceding Contract Year. The first such audit report shall commence as of the Commencement Date and the last audit report shall cover through Permittee's last day of

operation under to this Permit. In the event the Gross Revenues for the preceding Contract Year are Twenty-Five Thousand Dollars (\$25,000) or less, the audit report may be prepared by an employee of Permittee and shall be signed and certified under oath by the chief financial officer of Permittee as being true and correct. In the event the Gross Revenues for the preceding Contract Year are more than Twenty-Five Thousand Dollars (\$25,000), the audit report shall be prepared by an independent Certified Public Accountant, not a regular employee of Permittee, in accordance with Generally Accepted Auditing Standards prescribed by the American Institute of Certified Public Accountants or any successor agency thereto. The audit report shall be in a form acceptable to the Department. The audit report shall include the following:

- A. Schedule of Gross Revenues by month.
- B. Schedule of Service Fees by month.
- C. Schedule of Facility Usage Charges by month (if any).
- D. Schedule of payments made to County by month.
- E. A calculation of the total amount of Service Fees payable to County for the preceding Contract Year.

In the event Permittee is required to submit an audit report prepared by an independent Certified Public Accountant, the audit report shall include an opinion on the required schedules. Failure to deliver an audit report, or delivery of an audit report containing a qualified opinion, an adverse opinion, or a disclaimer of opinion, as defined by the American Institute of Certified Public Accountants or any successor agency thereto, shall be deemed to be a material default of this Permit. If the audit report indicates that the amount due and owing for any Contract Year is greater than the amount paid by Permittee to County during such Contract Year, Permittee shall pay the difference to County with the audit report. If the amount actually paid by Permittee to County during any Contract Year exceeds the amount due and owing for such Contract Year, County shall credit the overpayment in the following order: (1) against any past due amounts owed to County by Permittee, including interest and late fees; (2) against currently outstanding, but not yet due, amounts owed to County by Permittee; (3) against future amounts that will become due during the succeeding Contract Year; and (4) against any other sums payable by Permittee to County. Notwithstanding the foregoing, in the event of an overpayment by Permittee during the last Contract Year, County shall credit the overpayment against any remaining amounts owed to County, including interest and late fees, and refund to Permittee any overpayment amount in excess of the credit.

5.08 Address for Payments. All payments required to be made by Permittee under this Permit shall be made payable to "Palm Beach County." All reports and payments shall be delivered to the following address: Finance Division, Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406-1470, or to such other office or address as may be substituted therefor.

5.09 Accounting Records. Permittee shall maintain all books of account and records customarily used in this type of operation, in accordance with Generally Accepted Accounting Practices (GAAP). County, at all times, throughout the Term and for no less than three (3) years following termination of this Permit, shall have the right to audit and examine during normal

working hours all such records and books of account relating to Permittee's operations hereunder, provided that Permittee shall not be required to retain such books of account and records for more than three (3) years after the end of each Contract Year of this Permit. Upon County's request for examination of such books of account and records and should the books of account and records be kept at locations other than the Airport, Permittee shall arrange for them to be brought to a location convenient to the auditors for County in order for County to conduct the audits and inspections as set forth in this Article 5. If, as a result of the audit, County determines that Permittee has understated the amounts due to County hereunder by five percent (5%) or more, the entire expense to County of the audit shall be assumed by and be the sole responsibility of Permittee. All amounts due County and reasonable expenses associated with said audit (if any) shall forthwith be paid by Permittee to County, with interest thereon calculated in accordance with Section 5.06 hereof.

5.10 Service Contracts. Upon County's request, Permittee shall provide to County legible, written copies of any and all contracts entered into between Permittee and any other person or entity for the provision of services under this Permit ("Service Contracts"), including, but not limited to, airlines serving the Airport. Permittee shall also provide to County copies of any and all renewals, modifications, amendments and cancellations to the Service Contracts.

5.11 Adjustment of Fees and Charges. Permittee acknowledges and agrees that the fees and charges payable hereunder may be modified from time to time and that Permittee shall be responsible for payment of such modified fees without formal amendment to this Permit.

ARTICLE 6

OBLIGATIONS OF PERMITTEE

6.01 Maintenance of Facilities and Equipment.

- A. Permittee shall, at its sole cost and expense, maintain all facilities and equipment provided by County to Permittee for use at the Airport in carrying out the Authorized Aeronautical Services, in good and fit condition consistent with good business practice and in accordance with all applicable laws, regulations and rules of any government agency. Permittee shall repair any damage to the Airport caused by its employees, patrons, invitees, suppliers of service or furnishers of material, or any other persons whomsoever, and all damages caused by or resulting from or in any way arising out of Permittee's operations thereon. Permittee hereby agrees that it shall abide by the decision of County with respect to any and all maintenance or repair requirements. County shall be the sole judge of Permittee's performance under this Section 6.01(A), as to the quality of maintenance or repair. Upon written notice by County to Permittee, Permittee shall perform the required maintenance or repair in accordance with County's decision. If Permittee has not made a good faith effort, as determined by County, to begin to perform the required maintenance or repair within ten (10) days of the date of the written notice, and to diligently pursue the same to completion, County shall have the right to perform the maintenance or repair, and Permittee hereby

expressly agrees that it shall fully assume and be liable to County for payment of the costs therefor, plus a twenty-five percent (25%) administrative overhead. Permittee shall pay all costs incurred by County, plus the administrative overhead, within thirty (30) days of the date of County's invoice.

- B. Permittee shall maintain its equipment utilized at the Airport in good condition and repair. In addition, any equipment utilized within the public areas of the Terminal shall be in a safe, neat and clean condition at all times, including, but not limited to, carts used to transport passenger luggage and wheelchairs. County may require Permittee to remove, repair or replace any equipment from the Airport that is in an unsafe or unsightly condition upon written notice. In the event Permittee fails to remove, repair or replace the equipment as required by County's notice within three (3) business days of the date of the notice, Permittee shall pay County a penalty fee of Fifty Dollars (\$50.00) per day from the date of County's notice until the violation has been corrected. Permittee shall pay County within ten (10) days of the date of the violation.

6.02 Service Standards. Permittee shall only provide Authorized Aeronautical Services in a first class professional manner, consistent with good business practice and shall at all times observe and comply with the following service standards:

- A. Permittee shall hire and assign a full-time manager or managers, qualified and experienced in the management and control of the services authorized to be performed herein. Manager(s) shall be delegated sufficient authority to ensure proper performance of the terms and conditions of this Permit. Permittee shall also provide at least two (2) twenty-four (24) hour telephone numbers to enable the Department to contact the manager or supervisory personnel whenever necessary. Permittee shall be responsible to inform the Department of any change in name(s) and/or number(s) of the managers and supervisory personnel.
- B. Permittee shall properly control the conduct, demeanor and appearance of its employees. Permittee shall cause its employees to discharge their duties in a professional, courteous and efficient manner, be suitably uniformed and wear appropriate identification. Permittee shall ensure that its employees' uniforms are at all times in good, neat and clean condition.
- C. Permittee's employees shall at all times be under the control and supervision of Permittee, including during slack periods, between job assignments, and during break periods and meals. Permittee shall not permit its employees to loiter in the public areas of the Terminal, including, but not limited to, the baggage claim level and public passenger lounge areas.

- D. Permittee shall not provide Porter Assistance Service within the U.S. Customs facilities located at the Port of Entry Building, or the FIS Facility at the Terminal, without the specific prior written approval of County.
- E. Permittee shall only be permitted to provide Porter Assistance Services in the baggage claim level of the Terminal for flights Permittee is servicing for a particular airline pursuant to Permittee's Service Contract with such airline ("Contracted Flights") upon the request of a passenger of such airline. Permittee shall not permit its employees to loiter or solicit passengers for Porter Assistance Services in the baggage claim level of the Terminal during periods between Contracted Flights. Permittee shall not permit its employees to block or prevent passengers from accessing self-service baggage carts. In the event Permittee or its employees is found to be in violation of the requirements of this paragraph, Permittee shall pay County a penalty fee of Fifty Dollars (\$50.00) per violation within ten (10) days of the date of the violation. County shall provide Permittee with a written notice of each such violation, which shall include the name of the employee, date and time of the violation and any other pertinent information related to the violation.
- F. Permittee shall not permit its employees to solicit or request tips or gratuities, directly or indirectly from Airport passengers.
- G. Permittee shall cause its employees to dispose of found property in accordance with Department approved procedures.
- H. Permittee shall not permit its employees to annoy, harass or disturb any Airport passengers, tenants or users of the Airport.
- I. Permittee shall be responsible, at Permittee's sole cost and expense, for providing appropriate break and meal areas for its employees and contractors.
- J. Permittee shall furnish good, prompt and efficient service adequate to meet all the demands for its service at the Airport, and furnish services on a fair, equal and non-discriminatory basis to all users thereof. Permittee shall charge fair, reasonable, and nondiscriminatory prices for its services at the Airport.

6.03 Removal of Employees. County shall have the right to require the removal of any employee of Permittee who fails to comply with the requirements of this Permit. County shall also have the right to revoke the security badge of any employee who fails to comply with the requirements of this Permit.

ARTICLE 7 INSURANCE

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

ARTICLE 8
AIRPORT SECURITY

8.01 General. Permittee shall observe all security regulations and other requirements of County and any agency of the Federal government, including, but not limited to, the FAA and TSA, applicable to Permittee, as such regulations or requirements have been or may be amended, including without limitation, Title 14, Part 139 of the Code of Federal Regulations and Title 49, Part 1540, et seq., of the Code of Federal Regulations. Permittee agrees to comply with the Airport Security Program and the Air Operations Area (AOA) Vehicle Access Program, and amendments thereto, and to comply with such other rules and regulations as may be prescribed by County, and to take such steps as may be necessary or directed by County to insure that Permittee's employees, invitees and guests observe these requirements. County shall have the right to conduct background checks of Permittee's employees and contractors to the extent required by any federal, state or local law or as required by County. Permittee shall be responsible for the costs of all background checks. County shall have the right to require the removal or replacement of any employee of Permittee at the Airport that County has determined may present a risk to public safety or the security of the Airport. If as a result of the acts or omissions of Permittee or its employees, invitees or guests, County incurs any fines and/or penalties imposed by the FAA or TSA; any expense in enforcing the regulations of the FAA or TSA or the rules or regulations of County; or any expense in enforcing the Airport Security Program, then Permittee agrees to pay to County all such costs and expenses, including all costs of administrative proceeding, court costs, and attorneys fees and all costs incurred by County in enforcing this provision. Permittee further agrees to rectify any security deficiency or other deficiency as may be determined by County, the FAA or TSA. In the event Permittee fails to remedy any such deficiency, County may do so at the cost and expense of Permittee. Permittee acknowledges and agrees that County may take whatever action is necessary to rectify any security deficiency or any other deficiency identified by County, the FAA or TSA.

8.02 Badges. Permittee shall be responsible for requesting County to issue security badges to all employees who require access to restricted areas on the Airport as part of the employees regularly assigned duties. Permittee shall be responsible for reporting all lost or stolen security badges and the immediate return of security badges of all personnel transferred from the Airport or terminated from the employ of Permittee or upon the termination of this Permit. Permittee shall pay, or cause to be paid, to County charges that may be established from time to time, for issuance of security badges, fingerprinting fees, and lost or stolen security badges.

ARTICLE 9
RELATIONSHIP OF THE PARTIES

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

ARTICLE 10
INDEMNIFICATION

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

ARTICLE 11
TERMINATION OF PERMIT, PERMIT VIOLATIONS AND REMEDIES

11.01 Termination. This Permit shall terminate as provided for in Article 3.

11.02 Permit Violations. The occurrence of any one or more of the following events shall constitute a violation of this Permit by Permittee:

- A. Permittee's failure to make payment of any fees or charges required to be made by Permittee under this Permit, as and when due.
- B. The failure by Permittee to observe or perform any of the covenants, conditions or provisions of this Permit to be observed or performed by Permittee.
- C. The discovery by County that any information given by Permittee to County relating to this Permit was materially false.
- D. A default by Permittee of any other agreement, permit or lease between County and Permittee, which default has not been cured within the applicable cure period provided in such agreement, permit or lease.

11.03 Remedies. In addition to any other remedy available under the law or this Permit, County may terminate this Permit upon written notice to Permittee. Upon such

termination, Permittee shall immediately cease its operations on the Airport. Such termination shall be without prejudice to any of County's remedies for arrearages, payments due herein, or any other damages or remedies whatsoever.

11.04 County's Right to Terminate. This Permit is issued upon the terms and conditions required by County for all Permittees on the Airport that engage in the activities permitted herein. Upon ten (10) days' prior written notice, County may, at any time, terminate this Permit and at County's option issue a new Permit to Permittee upon such modified terms and conditions as County shall uniformly apply to all other similarly situated Permittees.

ARTICLE 12 **ASSIGNMENT**

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

ARTICLE 13 **SIGNS**

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

ARTICLE 14 **LAWS, REGULATIONS, PERMITS AND SAFETY REGULATIONS**

14.01 Compliance with Laws. Permittee shall be and remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature without limitation, as now or hereafter amended, including, but not limited to, FAA Advisory Circulars and Airport Rules and Regulations. Permittee shall ensure that its agents, contractors, employees, invitees and guests entering the Airport with or without Permittee's consent or knowledge comply with all applicable laws on the Airport.

14.02 Permits and Licenses. Permittee shall, at its sole cost and expense, be strictly liable and responsible for obtaining, paying for, fully complying with, and maintaining current any and all permits, licenses or other governmental authorizations, however designated, as may be required at any time throughout the Term of this Permit by any Federal, State or local governmental entity or any court of law having jurisdiction over Permittee or Permittee's operations and activities, for any activity or operation conducted by Permittee on the Airport. Upon written request by Department, Permittee shall provide to Department certified copies of any and all permits and licenses that Department may request.

14.03 Safety Regulations. Permittee shall conduct its activities and operations under this Permit in a safe manner and in compliance with all safety regulations of the Department and with safety standards imposed by applicable Federal, State and local laws and regulations. Permittee shall also require the observance thereof by all employees, agents and invitees. Permittee shall procure and maintain such fire prevention and extinguishing devices as required by County and by law and shall at all times be familiar and comply with the fire regulations and orders of County and the fire control agency with jurisdiction over the Airport. Neither

Permittee, nor employee, agent, or any person working for or on behalf of Permittee, shall require any personnel engaged in the performance of Permittee's operations to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to individual safety or health, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations, and orders relative to occupational safety and health.

14.04 Compliance with Environmental Laws. Permittee shall, at its sole cost and expense, comply with all applicable Environmental Laws. For purposes of this Permit, "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, without limitation, the Federal Clean Water Act, Federal Safe Drinking Water Act, Federal Clean Air Act, Federal Resource Conservation and Recovery Act and Comprehensive Environmental Response, Compensation and Liability Act of 1980. Permittee shall indemnify, defend and hold County harmless from any and all penalties, fines, costs, expenses, suits, claims or damages resulting from Permittee's failure to perform its obligations specified in this Section 14.04. The foregoing indemnification agreement shall survive the expiration or earlier termination of this Permit.

ARTICLE 15 **DISCLAIMER OF LIABILITY**

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

OTHERWISE, IN DETERMINING WHETHER TO ENTER INTO THIS PERMIT, WAS AT ITS SOLE RISK.

ARTICLE 16
GOVERNMENTAL RESTRICTIONS

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

16.02 Federal Review. This Permit is subject to any applicable review by the Federal Aviation Administration to determine satisfactory compliance with federal law. This Permit shall be in full force and effect and binding upon both parties pending review and approval by said Federal Aviation Administration.

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

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

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

ARTICLE 17
NON-DISCRIMINATION

17.01 Nondiscrimination in County Contracts. As a condition of entering into this Permit, Permittee represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770 as amended. As part of such compliance, Permittee shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. Permittee shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. Permittee understands

and agrees that a material violation of this clause shall be considered a material breach of this Permit and may result in termination of this Permit, disqualification or debarment of the Permittee from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

17.02 Federal Nondiscrimination Covenants.

- A. Permittee, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated by on County property by Permittee 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, Permittee 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.
 - 3. In the construction of any improvements on, over, or under County property 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. Permittee shall comply with, and use County property 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 will have the right to terminate this Permit if this Permit had never been made or issued. This Permit 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 "Nondiscrimination Authorities" includes, but is not limited to, the nondiscrimination statutes, regulations and authorities listed in Appendix "E" of Appendix "4" of

FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration, as may be amended.

- D. Permittee 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 Permittee 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 Permittee 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.
- E. Permittee 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 Permittee remains in compliance with such requirements throughout the Term of this Permit.

17.03 Airport Concession Disadvantaged Business Enterprises ("ACDBE"). This Permit may be 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. Permittee 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. Permittee 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 **MISCELLANEOUS**

18.01 Non-Exclusive Agreement. Permittee expressly understands and agrees that the rights and privileges granted under this Permit are non-exclusive, and County herein reserves the right to grant similar rights and privileges to others at the Airport.

18.02 County Not Liable. County shall not be responsible or liable to Permittee for any claims for compensation or any losses, damages or injury sustained by Permittee resulting from (1) cessation for any reason of air carrier operations at the Terminal, or (2) diversion of

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

18.03 Authorized Uses Only. Notwithstanding anything to the contrary herein, Permittee will not use or permit the use of the Airport for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on Airport for County or Permittee.

18.04 Waivers. The failure of either party to insist on strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that such party may have for any subsequent breach, default, or non-performance, and such party's right to insist on strict performance of this Permit shall not be affected by any previous waiver or course of dealing.

18.05 Subordination

A. Subordination to Bond Resolution. This Permit and all rights granted to Permittee hereunder are expressly subordinated and subject to the lien and provisions of the pledges, transfer, hypothecation or assignment made by County in the Bond Resolution, and County and Permittee agree that to the extent permitted by authorizing legislation, the holders of the bonds or their designated representatives may exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by Permittee and County with the terms and provisions of this Permit and the Bond Resolution.

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

18.06 Consent, Approval and Governmental Authority. Nothing in this Permit shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Permittee or its operations.

18.07 Rights Reserved to County. All rights not specifically granted Permittee by this Permit are reserved to County.

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

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

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

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

County:

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

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

Permittee:

American Sales and Management Organization, LLC
Attn: Lina Jimenez
7200 Corporate Center Drive, Suite 206
Miami, FL 33126
Fax: (305) 597-0917

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

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

18.13 Binding Effect. The terms, conditions and covenants of this Permit shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns, if any.

This provision shall not constitute a waiver of any prohibitions against or limitations regarding assignment or transfer.

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

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

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

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

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

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

18.20 No Third Party Beneficiaries. No provision of this Permit 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 Permit, including but not limited to any citizen or employees of County and/or Permittee.

18.21 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


Permittee, 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.

18.22 Scrutinized Companies. As provided in Section 287.135, Florida Statutes, by entering into this Permit or performing any work in furtherance hereof, Permittee certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to Section 215.4725, Florida Statutes. When contract value is greater than \$1 million, as provided in Section 287.135, Florida Statutes, by entering into this Permit or performing any work in furtherance hereof, Permittee certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria. If the County determines, using credible information available to the public, that a false certification has been submitted by Permittee, this Permit may be terminated and a civil penalty equal to the greater of \$2 Million Dollars or twice the amount of this Permit shall be imposed, pursuant to Section 287.135, Florida Statutes. The aforementioned certification must also be submitted at the time of any Permit renewal, if applicable.

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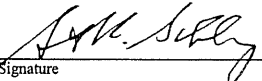
IN WITNESS WHEREOF, County has caused this Permit to be signed by the Director of the Department of Airports pursuant to the authority granted by the Board, and Permittee has caused these presents to be signed in its corporate name by its duly authorized officer, and the seal of said Permittee to be affixed hereto, the day and year first written above.

WITNESSES:



Witness Signature
Shakira Kolb

(typed or printed name)



Witness Signature
Steven K. Schlump


(typed or printed name)

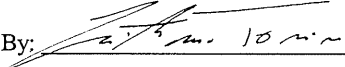
PALM BEACH COUNTY, a political
subdivision of the State of Florida
By: Laura Burke

Director, Department of Airports

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY
By: Anne Delgant

County Attorney

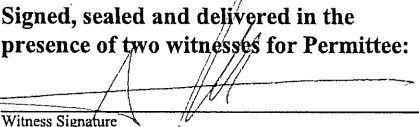
ATTEST:

By: _____
Secretary

PERMITTEE:
AMERICAN SALES AND
MANAGEMENT ORGANIZATION, LLC
By: 

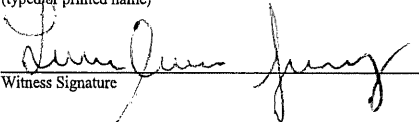
CRISTIANO TONINI

Typed or Printed Name of Corporate Officer
Title: CFO

(Corporate Seal)

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


Witness Signature
Vincent Patel

(typed or printed name)


Witness Signature
Lina Jimenez

(typed or printed name)

EXHIBIT "A"
INSURANCE REQUIREMENTS

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

B. Business Automobile Liability. Permittee shall maintain Business Automobile Liability Insurance if driving is part of performance of services at a limit of liability of not less than One Million Dollars (\$1,000,000) each occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles.

C. Workers' Compensation Insurance & Employer's Liability. Permittee shall maintain Workers' Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440.

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

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

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

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

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