

MEMORANDUM

Agenda Item No. 14(A)(7)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 16, 2024

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution approving Development Lease Agreement between the County and Ocean Aviation TMB, LLC (“Ocean Aviation”) with a term of 40 years with one five year renewal option; requiring reliance to invest no less than \$67,200,000.00 into development of aviation and ancillary facilities; authorizing the cost reimbursement for one-half of construction costs for a 32,000 square foot common-use ramp estimated to total \$211,200.00; authorizing the County Mayor to execute such Development Lease Agreement and all rights contained therein, including the termination provisions; and directing the County Mayor to provide the Development Lease Agreement to the County Property Appraiser in accordance with Resolution No. R-791-14

The accompanying resolution was prepared by the Aviation Department and placed on the agenda at the request of Prime Sponsor Commissioner Roberto J. Gonzalez.




Geri Bonzon-Keenan
County Attorney

GBK/jp

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Date: July 16, 2024

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Resolution Approving a Development Lease Site Agreement with Ocean Aviation TMB, LLC to Construct Improvements at Miami Executive Airport

Executive Summary

This item is recommending the County enter into a 40-year Development Lease Agreement (DLA) with Ocean Aviation TMB, LLC (Ocean Aviation) to design, build, finance, and maintain a fixed-base operator (FBO) terminal and ancillary facilities on 39.1 acres of land at Miami Executive Airport (TMB) for a 40-year term with one five-year renewal option. As part of the DLA, Ocean Aviation (a first-time leaseholder) is required to invest a minimum of \$67,200,000.00 to design and construct a development site in three (3) phases that includes a fuel farm, a temporary and a permanent FBO terminal, office and retail space, twenty-seven (27) aircraft hangars as well as a community aircraft hangar with a total of 225,000 square feet to accommodate the Gulfstream G700 jet types with the associated aircraft and vehicle pavement, and all connecting aprons, ramps, taxi lanes and service roadways. The Miami-Dade Aviation Department (Aviation Department or MDAD) estimates the County will receive a minimum of \$41,186,692.11 in land and pavement revenues and improvement rent over the 40-lease year term. Because this DLA involves the lease of County-owned land, compliance with Implementing Order (I.O.) No.: 8-4 which governs the sale, lease, and conveyance of County-owned property is required. As such, all required due diligence under I.O. 8-4 was completed by the Administration and documented by the Aviation Department in Attachment A as attached to this memorandum.

In conjunction with the development of the improvements noted above, at no cost to the County, Ocean Aviation will construct two (2) complementary projects at TMB that include the relocation of the Wings Over Miami Air Museum (Building No. 505) to the New Museum Building, and one 49,109 square foot ramp to provide aircraft parking for the Watson School of Aviation. A second ramp project consisting of 32,000 square feet will also be constructed as a complementary project, however, because it will serve as a common use ramp, Ocean Aviation will be reimbursed for one-half of the construction costs estimated to total \$211,200.00. In addition, a new Federal Aviation Administration (FAA) Air Traffic Control Tower (Control Tower) is expected to be constructed and operational by the 7th anniversary of the commencement date of the DLA. If the new Control Tower is not in operation by the expected date, the type of buildings originally contemplated in the site plan will have to change due to "line-of-sight" issues with the existing Control Tower. Ocean Aviation's ability to expand into all phases of the development is also contingent on the Aviation Department's ability to expand airfield capabilities to meet the design criteria required by Ocean Aviation's aircraft clientele and to timely construct a taxilane further to the east to accommodate the relocation of existing tenants. All of the proposed improvements will help meet the expanding demand for high quality general aviation facilities at TMB and facilitate the airport's future growth.

In Ocean Aviation's estimation, this DLA benefits the County in that it will create approximately 2,900 temporary jobs over the lease term, and 250 permanent jobs with annual salaries ranging between \$60,000.00 and \$250,000.00 to manage, maintain and operate the FBO Terminal, aircraft hangars, and related facilities. Another benefit to be considered are the common-use projects, which include the New Museum Building project at a cost of approximately \$5,000,000.00 and two common-use ramps. One ramp will accommodate the U.S. Custom Border and Protection, and the other the Watson School of Aviation at a total cost of approximately between \$1,200,000.00 - \$1,500,000.00.

Implementation of this DLA is contingent upon the occurrence of the following conditions: 1) MDAD's receipt of the 707 Certificates from both the Traffic Engineers and the Consulting Engineers determining that the improvements to be constructed meet the requirements of the Trust Agreement, and 2) review and approval from the Federal Aviation Administration (FAA). In the event that the FAA were to determine that the provisions of this DLA are inconsistent with federal requirements, the parties will be required to adjust the terms of the lease to meet such requirements; failure to address FAA regulatory concerns could impact MDAD's ability to receive federal and state grant funding for airport projects.

Recommendation

It is recommended that the Miami-Dade Board of County Commissioners (Board) approve the attached DLA entitled: "Development Site Lease Agreement Between Miami-Dade County, Florida, as Lessor, and Ocean Aviation TMB, LLC, as Lessee, at Miami Executive Airport" between Ocean Aviation and the County for a period of 40 years with a one (1) five-year renewal option. The scope of work includes the construction of an aviation site on approximately 1,703,349.60 square feet (or 39.1 acres) of land at TMB that includes a fuel farm, a temporary and a permanent FBO terminal, office, and retail space, and twenty-seven (27) aircraft hangars and a community hangar with the associated aircraft and vehicle pavement and connecting aprons, taxi lanes and service roadways, as well as three (3) complementary projects, at no cost to the County.

The DLA's Development Phases and Milestones

The DLA contains a "Due Diligence Period", which is a 150-day time period provided to Ocean Aviation that begins on the commencement date of the DLA. During this time, Ocean Aviation has the right to conduct environmental, drainage, and other analyses to determine the suitability of the proposed development site for its intended purpose. If Ocean Aviation determines that the site is not adequate, it may terminate this DLA by written notice to the County no later than 60 days during the first 90 days of the 150-day time period. Additionally, this time period may end prior to its set expiration date if Ocean Aviation determines that the conditions of the development site are satisfactory.

The development site will be designed and constructed in three separate (3) phases which include: Phase I - Initial Premises and Areas 1A, and 1B; Phase II - Area 2; and Phase III - Area 3. Each phase requires Ocean Aviation to invest a specific dollar amount in improvement costs by different yearly anniversary dates of the DLA's commencement date. The First Phase requires an investment of \$18,400,000.00 in improvement costs by the 4th anniversary, the Second Phase requires an investment of \$9,600,000.00 by the 7th anniversary and the Third Phase requires an investment of \$39,200,000.00 by the 11th anniversary. The development schedule for each phase is detailed below.

The First Phase - Initial Premises and Areas 1A and 1B – includes the temporary and permanent FBO terminal and office spaces, and six (6) aircraft hangars with the associated aircraft and vehicle pavement. Below are the development milestones for the First Phase.

- a. Submit schematic design plans to MDAD for review no later than six (6) months from the DLA’s commencement date.
- b. Submit 100 percent of the development plans and specifications to MDAD for review no later than 12 months from the DLA’s commencement date.
- c. Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval no later than 18 months from the DLA Commencement Date.
- d. Submit final approved plans for Permitting no later than 24 months from the DLA Commencement Date.
- e. Complete construction/achieve “Beneficial Occupancy” within 54 months of the DLA Commencement Date.

Beneficial Occupancy is defined as the earliest of (i) the date on which substantial completion of the work associated with any improvements constructed and a Certificate of Occupancy (CO) or a Temporary Certificate of Occupancy (TCO) has been issued, or (ii) the date on which Ocean Aviation commences the use of any improvement for its intended use (with or without a TCO or CO), or (iii) the date on which substantial completion of the improvement would have occurred and on which the appropriate code enforcement agency would have issued a CO or Temporary CO but for the occurrence of delays caused by Ocean Aviation, all as determined in the sole reasonable discretion of the County.

1. The Second Phase – Area 2, includes fourteen (14) aircraft hangars with the associated aircraft and vehicle pavement. Below are the development milestones for the Second Phase.
 - a. Submit 100 percent of the development plans and specifications to MDAD for review and approval no later than 72 months from the Due Diligence Period.
 - b. Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval no later than 72 months from the Due Diligence Period.
 - c. Submit final approved plans for permitting no later than 72 months from the Due Diligence Period.
 - d. Complete construction/achieve beneficial occupancy within 84 months of the Due Diligence Period.
2. The Third Phase- Area 3, seven (7) aircraft hangars with the associated aircraft and vehicle pavement. Below are the development milestones for the Third Phase.
 - a. Submit 100 percent of the development plans and specifications to MDAD for review and approval no later than 120 months from the Due Diligence Period.
 - b. Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval no later than 120 months from the Due Diligence Period.
 - c. Submit final approved plans for Permitting no later than 120 months from the Due Diligence Period.
 - d. Complete construction/achieve beneficial occupancy within 132 months of the Due Diligence Period.

3. At the onset of the Due Diligence Period, Ocean Aviation the design and construction of the following complementary projects will be initiated by Ocean Aviation and conveyed to the County upon completion:
 - a. Relocation of the Wings of Miami Air Museum from the existing location in Building No. 505 to three (3) acres as depicted in Exhibit E attached to the DLA. The newly constructed museum will include the following:
 - i. Aircraft Hangar - 23,104 square feet.
 - ii. Exterior Aircraft Ramp Space - 36,000 square feet.
 - iii. Airport Operations Access Area Via Taxi Lane to Taxiway/Runway
 - iv. Automobile Parking – 40 spaces
 - v. Landside Access to S.W. 137th Street
 - vi. Stores, Offices, Restrooms, and Classrooms
 - b. Construction of a +/- 32,000 square foot ramp area on land located to the south of Building No. 501 to provide common use taxi lane and common use ramp for the U.S. Customs and Border Protection.
 - c. Construction of a +/- 49,109 square foot ramp area on land located to the south of Building No. 501 to provide aircraft parking and taxiway access to the Watson School of Aviation.

Scope

TMB is located within District 11, which is represented by Commissioner Roberto J. Gonzalez, however, the impact of this DLA is countywide as TMB is a regional asset.

Delegation of Authority

The County Mayor or County Mayor’s designee has the authority to execute the DLA. Furthermore, under the terms of the DLA, the County Mayor or his designee has the option to (i) terminate the Agreement for any breach, (ii) approve any assignment or subletting of the premises, or (iii) reduce acreage or the leasehold term for Ocean Aviation’s failure to timely or completely construct the required improvements.

Fiscal Impact/Funding Source

There is a positive fiscal impact to the County. As noted below, the Aviation Department estimates the County will receive a minimum of \$41,186,692.11 in land and pavement revenues and improvement rent over the 40-lease year term. The total minimum received will be increased over the lifetime of the new DLA due to various increases in appraised values of the land, pavement and the buildings causing an increase over today’s stated rent.

The rental rates for land and pavement will be evaluated and, if appropriate, increased on an annual basis by an independent appraiser under contract with MDAD and as approved by the Board as part of MDAD’s Annual Rates and Charges as published. Rental rates are established by the Board as a part of the annual budget process and are subject to change each year following appraisals by the County’s appraiser. The current rental rate for aviation-use land is \$0.30 per square foot and for non-aviation-use land is \$0.08 per square foot.

A. Due Diligence Period

Upon the effective date of the DLA, Ocean Aviation shall pay 50 percent of the applicable annual land, building and pavement rent on the entire leasehold comprised of approximately 1,703,349.60 square feet until the end of the 150-day Due Diligence Period, with the exception of Area 1B (that consists of 8.9 acres) until the Wings over Miami Air Museum is relocated to the New Museum Building. It is estimated that Ocean Aviation will pay the County a total of \$119,412.91 over the 150-day Due Diligence Period.

B. Initial Premises and Areas 1A and 1B

1. Initial Premises – during the Due Diligence Period, Ocean Aviation shall pay 50 percent of the land and pavement rent for the Initial Premises for approximately 200,407 square feet, on which the temporary FBO Facility and Fuel Farm will be built in addition to the associated aircraft and vehicle pavement. Once the Due Diligence Period ends, Ocean Aviation shall pay full rent in twelve monthly payments in the amount of \$5,010.18 each, making for a total of \$60,122.10 per year. It is estimated that Ocean Aviation will pay the County a total of \$2,980,736.80 over the 40-year term.
 2. Areas 1A and 1B – once the Due Diligence Period ends, Ocean Aviation will continue to pay 50 percent of land rent and pavement rent for Areas 1A and 1B, that together consist of almost 771,078 square feet and will house the permanent FBO Facility, until Ocean Aviation initiates the preconstruction activities for each area, or no later than 36 months after the commencement date of the DLA. Rental payment obligations do not apply to the portion of Area 1B where the Wings Over Miami Air Museum resides on 56,892 square feet until the structure is relocated to the New Museum Building, or until (i) the County’s TAC-N process is initiated by Ocean Aviation for Area 1B, or (ii) no later than 36 months after the commencement date of the DLA. Once full rent is due, Ocean Aviation shall pay full rent in twelve monthly payments in the amount of \$17,854.65 each, making for a total of \$214,255.74 per year. It is estimated that Ocean Aviation will pay the County a total of \$9,485,329.60 for the remainder of the 40-year term.
- C. Area 2 - once the Due Diligence Period ends, Ocean Aviation shall continue to pay 50 percent of land and pavement rent for Area 2, which measures approximately 422,608 square feet in size, until Ocean Aviation initiates the preconstruction activities for the area or no later than 72 months after the commencement date of the DLA. Once full rent is due, Ocean Aviation shall pay full rent in twelve monthly payments in the amount of \$10,565.21, making for a total of \$126,782.52 per year. It is estimated that Ocean Aviation will pay the County a total of \$5,986,393.60 for the remainder of the 40-year term.
- D. Area 3 - once the Due Diligence Period ends, Ocean Aviation shall continue to pay 50 percent of land and pavement rent for Area 3, which measures approximately 309,256 square feet in size, until Ocean Aviation initiates the preconstruction activities for that area or no later than 120 months after the commencement date of the DLA. Once full rent is due, Ocean Aviation shall pay full rent in twelve monthly rent payments in the amount of \$7,731.41 each, making

for a total of \$92,776.92 per year. It is estimated that Ocean Aviation will pay the County a total of \$4,474,819.20 for the remainder of the 40-year term.

E. Improvement Rent - in addition to the monthly rent payments, Ocean Aviation shall pay an Improvement Rent on an increasing scale. Beginning with the start of the 7th year of the DLA and extending to the end of Year 11, Ocean Aviation shall pay (i) one percent (1%) of the value of the minimum development investment amount of \$18,400,000.00 or \$184,000.00 per year; (ii) beginning on the 12th year of the DLA and extending to the end of the 20th year, Ocean Aviation shall pay one point five percent (1.5%) of the value of the minimum development investment amount of \$28,000,000.00 per year or \$420,000.00 (iii) beginning on the 21st year of the DLA and extending to the end of the 30th year, Ocean Aviation shall pay two percent (2%) of the value of the minimum development investment amount of \$67,200,000.00 per year, or \$1,344,000.00 per year. Improvement Rent terminates upon the commencement of regular Building Rent in the 31st year of the DLA. It is anticipated that Ocean Aviation shall pay a total of \$18,140,000.00 over a 24-year period in Improvement Rent.

F. Building Rent

In order for Ocean Aviation to amortize its investment, Ocean Aviation shall pay annual building rent for the 27 aircraft hangars, one (1) new terminal lobby and pavement constructed during the three development phases at the beginning of the thirty-first (31st) year of the DLA at the then-current rates established an appraisal and approved by the Board.

Track Record/Monitor

MDAD's Division Director for Real Estate Management, Michèle Raymond, will monitor the implementation of the DLA.

Background

Ocean Aviation is seeking Board approval of the attached 40-year DLA with one five-year renewal option to construct a series of aviation-use and non-aviation use facilities on 39.1 acres of land at TMB. Although Ocean Aviation is a first-time leaseholder in Miami-Dade County's airport system, the firm's management team combined has over 70 years of experience as an FBO operator and in-flight operations and has developed aircraft and large FBO facilities hangars throughout the country at Palm Beach International, George Bush International Airport, Dallas Fort Worth International Airport, St. Louis Lambert International Airport, and Hanscom Field Airport in Massachusetts. The firm also has international experience with projects completed at the Sorocaba Airport in Sao Paulo, Brazil and at Dubai International Airport in Dubai.

On an annual basis (no later than February 1st of the preceding year) Ocean Aviation will report to MDAD the total gallonage of fuel sold to its customers and specify the type of fuel sold (i.e., Jet-A vs. AvGas) including fuel sold by its contractors dispensed on its premises, and the fuel sold by any its contractors outside its leasehold.

Because TMB is a noise sensitive airport due to its location, Ocean Aviation agrees to work with the FAA, the County, and MDAD's Noise Abatement Advisory Board (NAAB) to minimize any

potential adverse impacts to surrounding communities, including, noise impacts and to address complaints raised by NAAB members or members of the surrounding communities.

The improvements constructed by Ocean Aviation will attain a Energy and Environmental Design (LEED) Silver Certification for new construction, and will comply with all requirements of the County's Sustainable Buildings Program, as set forth in Sections 9-71 through 9-75 of the County Code as well as Implementing Order 8-8.

The attached new DLA reflects the negotiated terms and conditions between Ocean Aviation and the County, and includes among other things, all small business enterprise provisions applicable to architects and engineers in Section 2-10.4.01 of the Code of Miami-Dade County (Code); small business enterprise provisions applicable to construction activities under Section 10-33.02 of the Code; Art in Public Places under Section 2-11.15 of the Code; the "Little Davis-Bacon Ordinance" under Section 2-11.16 of the Code, Responsible Wages Ordinance under Section 2-11.16 of the Code; Residents First Training and Employment Program under Section 2-11.7; Employ Miami-Dade under Administrative Order (AO) 3-6; Responsible Wages and Benefits for County Construction Contracts - Implementing Order No. 3-24; Guidelines and Procedures for the Sale, Lease, and Conveyance of County Real Property - Implementing Order 8-4, and any other program of the County applicable to Ocean Aviation's activities, including the Department's Tenant Airport Construction Program in effect, as such procedures, programs, ordinances, or code provisions may be amended from time to time.

The development proposed by Ocean Aviation will provide the much-needed aircraft storage capacity at TMB. Throughout the 40-year lease period, Ocean Aviation will pay applicable fair market rental rates on land and pavement as established by the Board, as well as improvement rent. The proposed scope of work will generate at minimum \$41,186,692.11 in revenues to the County, as such, it is in the best interest of the County to proceed with attached DLA, subject to final FAA approval.



Jimmy Morales
Chief Operating Officer

Attachment A

Additional Information pursuant to IO 8-4

Identification of the Property:

Ocean Aviation TMB LLC
C/O Jim Reiher
3250 Grand Avenue – Suite 510
Miami, FL 33133

Use of Premises (Description):

Premises:

The Lessee shall use the Premises leased only for the purposes specifically authorized below, in accordance with the designed and developed buildings and the uses set forth by the CO issued for each improvement, MDAD's Minimum Standards (Operational Directive No. OD 09-01) and Chapter 25 as may be established and amended from time to time.

Such services and uses may only be provided on the premises developed by the Lessee, provided that the services and uses are in compliance with Article 7 (Regulations, Licenses and Permits) of this agreement.

The Lessee shall use the premises for aeronautical purposes. Permitted uses are the following:

1. Fixed Base Operations (FBO) including hospitality areas for passengers and crew.
2. Aircraft storage, tie-down, and ground handling.
3. Aviation office use.
4. Certificate Part 135, and Certificate Part 145 as well as uses incidental thereto, and otherwise permitted under applicable laws.

The Lessee shall use all hangars, and shall require all tenants to use hangars, in compliance with the Lessor's requirements as to proper hangar use, as such requirements may be modified, altered, or added to by the Lessor from time to time.

Prohibited Uses, Products and Services. The Lessee agrees that the Premises shall be utilized solely for the uses permitted herein and for no other purpose whatsoever. The Lessee shall not provide any products or services that are not specifically authorized by this Lease or by the County. The Lessee further agrees that its customers shall only be permitted to park vehicles on the Premises while utilizing Lessee's services or facilities or while providing operations on the Premises.

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Attachment A

Additional Information pursuant to IO 8-4

Past Experience of Requestor:

Ocean Aviation has no past experience at TMB.

Improvements to Premises:

As authorized pursuant to Chapter 125.012(24), Florida Statutes, subject to the provisions of this Article, the Lessee, for its convenience, shall, design, construct and pay for such improvements to the Premises as shall be approved by the Lessor (as hereinafter provided), as shall be necessary to make the Premises suitable for Lessee's use and occupancy for the purposes and uses described, in accordance with all applicable FAA and County requirements and all building, fire and environmental codes and the Americans with Disabilities Act.

Lessee's Investment. The Lessee agrees to invest not less than sixty-seven (67) million dollars (\$67,000,000.00) on approximately 39 acres of land at Miami Executive Airport (TMB) in accordance with this article to design and construct improvements and infrastructure during the Development Phase of the Premises. The Development Phase is to be completed in three (3) phases, the Phase I investment is \$18,400,000.00, Phase II is \$9,600,000.00 and Phase III is \$39,200,000.00. For purposes of this Article 4, Lessee's Improvements on the premises shall be collectively referred to as the "Improvements." Expenditures that satisfy such minimum investment requirement shall be limited to actual expenditures made by Lessee that relate directly to the design and construction of the improvements and infrastructure as reasonably determined by the Lessor, but as further described in Article 4.11 (Final and Approved Improvement Costs) below, specifically excluding (i) costs associated with the design, purchase and installation of personal property, and (ii) accounting, permanent financing fees, and legal fees.

Development Milestones.

Phase I – Initial Area and Area 1A and Area 1B

- (a) Submit Initial Schematic Design Plans to MDAD for review and approval, no later than 6 months from the Commencement Date.
- (b) Submit 100% development Plans as further described in Article 4.04 to MDAD for review and approval, no later than 12 months from the Commencement Date of the DLA.;

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Attachment A

Additional Information pursuant to IO 8-4

- (c) Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 18 months from the Commencement Date of the DLA.
- (d) Submit final approved plans for Permitting, no later than 24 months from the Rent Commencement Date of the DLA.
- (e) Complete construction within 54 months from the Commencement Date of the DLA.
- (f) Contract document 180 days status reports for the construction of their improvements
- (g) Other milestones as listed in this Article 4 (Development and Improvements to Premises).

Phase II – Area 2

- (a) Submit 100% development plans (Plans) as further described in Article 4.04 to MDAD for review and approval, no later than 72 months from the DDP date.
- (b) Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 72 months from the DDP.
- (c) Submit final approved plans for Permitting, no later than 72 months from the DDP.
- (d) Complete construction within 84 months from the DDP.
- (e) Contract Document 180 days status reports for the construction of their improvements
- (f) Other milestones as listed in this Article 4 (Development and Improvements to Premises).

Phase III – Area 3

- (a) Submit 100% development plans (Plans) as further described in Article 4.04 to MDAD for review and approval, no later than 120 months from the DDP.
- (b) Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 120 months from the DDP.

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Attachment A

Additional Information pursuant to IO 8-4

- (c) Submit final approved plans for Permitting, no later than 120 months from the Commencement Date.
- (d) Complete construction within 132 months from the DDP.
- (e) Contract Document 180 days status reports for the construction of their improvements
- (f) Other milestones as listed in this Article 4 (Development and Improvements to Premises).

The Lessee shall provide quarterly notarized status reports to the Lessor, with a copy to the Commission District 11 office in which the property lies, regarding compliance with each milestone set forth in a-f above as provided for in Implementing Orders (IO) 8-4 as may be amended from time to time.

Description

Ocean Aviation plans to construct, at its sole cost and expense, the following Improvements in three (3) phases on approximately 39.1 acres of land at TMB.

The construction of a replacement building and supporting structures (taxilane, aircraft and vehicular parking) for the "Wings Over Miami Air Museum" that is currently located at Building 505.

The demolition of building 505 (Wings Over Miami Museum).

The demolition of Building 102 (should current tenant choose not to relocate the building).

Fixed Based Operator Terminal facility (FBO) with office space and other customer support areas, including a business center, restaurant, catering, and other food and beverage establishments.

Aircraft Hangars, including a community hangar, with a total of 225,000 square feet of hangar space to accommodate up to a Gulfstream G-700 type aircraft (which community hangar will be constructed in the initial phase of construction).

Fuel farm terminal to include 60,000 gallons of Jet A and 12,000 gallons of AVGas;

Lessee will complete an approximately 49,109 square foot ramp area (at Lessee's cost) on land generally to south of Bldg. 501.

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Additional Information pursuant to IO 8-4

Lessee will complete an approximately 32,000 square foot ramp area (at Lessee's cost) on land generally located to the south of Bldg. 501.

Aircraft pavement with taxi lane(s) and supporting roadways.

Apron, ramp and airside and landside aircraft and vehicular parking pavement necessary to support aircraft owners, visitors, employees, and staff.

Associated pavement, associated vehicle parking space together with employee and customer parking, and all associated infrastructure and improvements necessary for the development of the Premises.

All roadways, driveways, turn lanes, intersection improvements, electric, water and sewer improvements, cable, drainage, lighting, removal or relocation of potential obstacles to Lessee and such other utilities necessary for the operation of the Premises.

Air operations, including Airside Operations Area (AOA) perimeter fencing, the relocation or addition of light poles, burying electric lines, trimming vegetation, relocating trees, and security measures as required by the Lessor and any improvements requested by the FAA and FDOT to enable the safe operation to, on and from the Premises.

All safety and navigational aids, markings and signage.

The Lessees shall not make any alterations or modifications to existing facilities without the advance written approval of MDAD. Because the Premises lies within the Urban Development Boundary, Lessees shall connect to the sanitary sewer system within 90 days of the effective date of this Agreement if the property is not currently connected. Development shall not commence until such a connection occurs.

Industrial Waste Facilities:

The Lessees shall be fully responsible for all industrial wastes exiting the Premises and in response thereto shall provide, operate, and maintain adequate facilities on the Premises for separating, neutralizing, and treating industrial waste and foreign materials and the proper disposal thereof, in accordance with applicable laws, rules and regulations.

Modifications or Access to Roof:

The Lessees covenant that it shall not install, attach, suspend or in any manner modify the roof, its members or structures nor shall it permit any person to walk on the roof or its members without the prior written consent of MDAD. In the event Lessees violates this covenant, the County shall not have any responsibility for any

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damages to the property of the Lessees or others inside the leased Premises caused by rain or other hazard in any way related to the roof.

Inspections:

MDAD and/or its designated representatives shall have the right, upon not less than twenty-four (24) hours advanced written notice to Lessees (except in emergencies), during normal working hours, to inspect the Premises to identify those items of maintenance, repair, replacement, modification, and refurbishment required of the Lessees or the County to keep the Premises in good order and condition. The Lessees shall perform all corrective work required of it, identified in such inspection(s) within thirty (30) days of receipt of written notice from MDAD. Trash and debris problems shall be corrected within twenty-four (24) hours following receipt of either oral or written notice from MDAD.

Utilities:

Unless the Premises are separately metered and billed directly to the Lessees by the utility company or included in the rental rates and the Lessees hereby agree to pay monthly, upon billing by MDAD, for utilities consumption in the Premises. This monthly charge will be based on a survey conducted by or on behalf of MDAD of the consumption by the Lessees and current nondiscriminatory rates charged others at the Airport. This monthly charge may also be adjusted and billed retroactively, from time to time, based on changes in consumption and rates. Lessees shall pay for all other utilities used by it. In the event the Premises are metered and billed to MDAD, the Lessees shall pay for utility consumption based on the metered charge. The County shall have no obligation to provide utilities to the Premises other than those existing as of the effective date of this Agreement; provided if any utility is cut off or discontinued due to the willful misconduct of the County or MDAD, and such act(s) prevents Lessees from being able to use any portion of the Premises for more than twenty-four (24) hours, then the Monthly Rent payable hereunder shall be abated based on the area of the Premises Lessees do not use for the operation of their business on account of such utility interruption, on a per diem basis, until Lessee are able to resume business operations or such utility interference stops, whichever is earlier.

Third Party Mortgages:

Third-party mortgages, if applicable, shall be subordinate to the interest of the County, and all proceeds received from such mortgage loan shall be reinvested into the Premises.

Failure to Maintain:

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Additional Information pursuant to IO 8-4

The Lessees shall, at their sole cost and expense, perform or cause to be performed, services which will, at all times, keep the Premises and the adjacent non-leased aircraft ramp clean, neat, orderly, sanitary and presentable.

If it is determined by the Lessor that the Lessee has failed to properly clean, remove trash and debris, maintain, repair, replace and refurbish the Premises as required by this Article 5 (Maintenance and Repairs by Lessee), the Lessor shall provide to the Lessee a list of deficiencies, reflecting the amount of time to be reasonably allowed for the Lessee to correct same. If the Lessee fails to correct such deficiencies within the time allowed, the Lessor, in addition to its right to terminate upon the giving of notice pursuant to section 13.03, shall provide notice of intent to perform repairs or cleanup and may enter upon the Premises and perform all work, which, in the judgment of the Lessor, may be necessary and the Lessor shall add the cost of such work, plus 25% for administrative costs, to the rent due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the rent. Subsequent to receipt of the further notice of intent to perform repairs or cleanup from the Lessor, the Lessee shall not undertake performance of such repairs or cleanup without specific prior written authorization from the Lessor.

Reporting of Fuel Sales:

Lessee shall, on a yearly basis, report the total gallonage of fuel sold to its customers, including but not limited to: i) fuel sold by Lessee, ii) fuel sold by any contractor of Lessee which is dispensed on Lessee's leasehold, and iii) fuel sold by any contractor of Lessee outside of Lessee's leasehold, but which is sold pursuant to a contractual arrangement between Lessee and such contractor. Lessee shall specify the types of fuel sold for each category (i.e., Jet-A vs. AvGas). This report shall be provided no later than February 1 for the preceding year.

Proposed Rental Rates:

Rent is due as follows:

- A. Beginning on the Commencement Date and until the DDP is ended, 50% applicable rent is due on the entire Premises (minus Area 1B until the Wings over Miami Museum has relocated to the New Museum Building).
- B. Beginning no later than the end of the DDP, full rent will be due on the Initial Premises and 50% applicable rent on the entire premises (minus Area 1B until the Wings over Miami Museum has relocated to the New Museum Building) as shown in the tables below will be due. Full rent on each of Area 1A and 1B will be due upon Lessee taking possession of each such area and

DRAFT

Attachment A

Additional Information pursuant to IO 8-4

- initiating the TAC-N process on those areas, but in any case no later than 36 months from the Commencement Date.
- C. Regarding Area 2 as shown below in the tables, full applicable rent shall be due upon Lessee taking possession and initiating the Tenant Airport Construction Non reimbursable (TAC-N) process or no later than 72 months (Area 2) from the Commencement Date.
 - D. Regarding Area 3 as shown below in the tables, full applicable rent shall be due upon Lessee taking possession and initiating the Tenant Airport Construction Non reimbursable (TAC-N) process or no later than 120 months (Area 3) from the Commencement Date.

Improvement rent:

Beginning with the start of the: (i) 7th year of the Lease and extending to the end of the 11th year of the Lease, Lessee shall pay 1% of the value of \$18,400,000.00 the minimum development investment amount, beginning the 12th year the (Phase II completed) and extending to the end of the 20th year of the Lease lessee shall pay 1.5% of the value of \$28,000,000.00 the minimum development investment amount to the Lessor; (ii) beginning on the 21st year of the Lease and extending to the end of the 30th year of the Lease, Lessee shall pay 2% of the value of the minimum development investment amount \$67,200,000.00 per year to Lessor. Improvement Rent terminates upon commencement of the Building Rent.

Building rent:

Lessee shall commence paying Lessor a monthly building rent based on an annual appraisal of the new developments starting at the beginning of the thirty-first (31st) year of the Commencement Date of any such improvements divided by twelve.

DRAFT

Attachment A

Additional Information pursuant to IO 8-4

Affidavits



MIAMI-DADE COUNTY SINGLE EXECUTION AFFIDAVIT AND DECLARATION FORM

Rev. August, 2019

Miami-Dade County requires each party desiring to enter into a contract with the County to (1) sign an affidavit as to certain matters and (2) make a declaration as to certain other matters. This form contains both an Affidavit form for matters requiring the entity to sign under oath and a Declaration form for matters requiring only an affirmation or declaration for other matters.

The Affidavit form and the matters covered by the Affidavit are in the first portion of this document. The Declaration form and the matters covered by the Declaration are in the last portion of this document.

(A). THE FOLLOWING MATTERS REQUIRE THE ENTITY TO SIGN AN AFFIDAVIT UNDER OATH:

STATE OF Florida
COUNTY OF Miami Dade
STATE OR PROVINCE N/A
COUNTRY USA

Before me the undersigned authority appeared Jim Reicher (Print Name), who is personally known to me or who has provided license as Identification and who did swear to the following:

That he or she is the duly authorized representative of Ocean Aviation TMB LLC (Name of Entity) 3250 Grand Ave. Miami FL 33133 (Address of Entity)

913-422-8702 Federal Employment Identification Number

(hereinafter referred to as the contracting "entity"), and that he or she is the entity's

CEO President (Sole Proprietor)(Partner)(Member)(President or Other Authorized Officer)

That he or she has full authority to make this affidavit, and that the information given herein and the documents attached hereto are true and correct; and That he or she says as follows.

I. OWNERSHIP DISCLOSURE AFFIDAVIT

Section 2-8.1(d) of the Code of Miami-Dade County requires the contracting entity to disclose under oath the following information.

Check this box if the entity is a publicly-traded corporation which makes the entity exempt from the requirement of disclosing information in questions 1-9.

Check this box and answer the following questions if the entity is not a publicly-traded corporation:

1. The full legal name and business address* of the person or entity (Contractor) contracting or transacting business with Miami-Dade County is:

Ocean Aviation TMB LLC 3250 Grand Ave Suite 510 Miami FL 33133

2. If the contract or business transaction is with a Corporation**, provide the full legal name and business address* and title for each officer.

Jim Reiber - CEO/President
3250 Grand Ave Suite 510 Miami FL 33133

3. If the contract or business transaction is with a Corporation**, provide the full legal name and business address* for each director.

N/A

4. If the contract or business transaction is with a Corporation**, provide the full legal name and business address* for each stockholder who holds directly or indirectly five percent (5%) or more of the corporation's stock and state the percentage.

Jim Reiber - 100%
3250 Grand Ave Suite 510 Miami FL 33133

5. If the contract or business transaction is with a Trust, provide the full legal name and address* for each trustee and each beneficiary. All such names and addresses are:

N/A

6. If a Corporate Joint Venture, list the names and titles of the Officers of the Corporate Members of the Joint Venture:

(a) President:	<u>N/A</u>	(b) President:	<u>N/A</u>
Vice-President:	<u>N/A</u>	Vice-President:	<u>N/A</u>
Secretary:	<u>N/A</u>	Secretary:	<u>N/A</u>
Treasurer:	<u>N/A</u>	Treasurer:	<u>N/A</u>

7. If a Non-Corporate Partnership or Joint Venture, list the names of the Principals of the Non-Corporate Partnership or Joint Venture:

(c) N/A (Name) (d) N/A (Name)
(c) N/A (Title) (d) N/A (Title)

8. If the contract or business transaction is with an LLC, please complete the LLC Affidavit form and proceed to the next question.

9. The full legal name and business addresses of any other individuals (other than subcontractors, material men, suppliers, laborers, or lenders) who have, or will have, any interest (legal, equitable, beneficial or otherwise) in the contract or business transaction with Miami-Dade County are:

N/A

10. State whether the person or entity (Contractor) contracting or transacting business with Miami-Dade County has a collective bargaining agreement with its employees (Yes No)

11. State whether the person or entity (Contractor) contracting or transacting business with Miami-Dade County provides health care benefits to its employees performing work under this Contract. (Yes No)

12. Attach a list reflecting the current breakdown of the Contractor's work force and ownership as to race, national origin, and gender. N/A

(ADD EXTRA SHEETS IF NEEDED)

• Post Office Box addresses not acceptable.

** If a Joint Venture, list this information for each member of the Joint Venture

II. **EMPLOYMENT DRUG-FREE WORKPLACE CERTIFICATION (Section 2-8.1.2 of the Miami-Dade County Code)**

All persons and entities that contract with Miami-Dade County are required to certify that they will maintain a drug-free workplace and such persons and entities are required to provide notice to employees and to impose sanctions for drug violations occurring in the workplace.

In compliance with Ordinance No. 92-15 of the Code of Miami-Dade County, the above named firm is providing a drug-free workplace. A written statement to each employee shall inform the employee about:

1. Danger of drug abuse in the workplace.
2. The firms' policy of maintaining a drug-free environment at all workplaces.
3. Availability of drug counseling, rehabilitation and employee assistance programs.
4. Penalties that may be imposed upon employees for drug abuse violations.

The firm shall also require an employee to sign a statement, as a condition of employment that the employee will abide by the terms of the drug-free workplace policy and notify to employer of any criminal drug conviction occurring no later than five (5) days after receiving notice of such

conviction and impose appropriate personnel action against the employee up to and including termination. Firms may also comply with the County's Drug Free Workplace Certification where a person or entity is required to have a drug-free workplace policy by another local, state or federal agency, or maintains such of its own accord and such policy meets the intent of this ordinance.

Check this box if, pursuant to Section 2-8.1.2(e) of the Code of Miami-Dade County, the entity has read the aforementioned requirements and the entity is in compliance.

III. ARREARAGE AFFIDAVIT (Section 2-8.1 of the Code)

The entity verifies that the entity submitting this affidavit is current in its obligations to the County and is not otherwise in default of any County contract. In addition, the entity verifies that the entity submitting this affidavit is not in arrears under any individual contract with the County in excess of \$25,000 and which arrearage has been delinquent for greater than 180 days, or if such arrearage exists, the County has agreed in writing to a repayment schedule.

IV. CODE OF BUSINESS ETHICS AFFIDAVIT

The contracting entity has adopted a Business Code of Ethics that complies with the requirements of Section 1 of Ordinance No. 01-96, codified as Section 2-8.1(i) of the Code of Miami-Dade County.

The above named entity hereby affirms its understanding that its failure comply with its Code of Business Ethics shall render any contract between it and the County voidable, and subject it to debarment from future County work pursuant to Section 10-38(h)(2) of the Code of Miami-Dade County. The Inspector General shall be authorized to investigate any alleged violation by a contractor of its Code of Business Ethics. Nothing contained herein shall be construed to limit the powers and duties of the Inspector General as stated in other sections of the Code of Miami-Dade County.

This single execution shall have the same force and effect as if each of the above four affidavits had been individually executed.

Ocean Aviation TMB LLC
Full name of entity
By: [Signature] CEO/Pres. 3/27/24
Signature of Representative Title Date
Jim Reiber
Print Name of Representative

STATE OF Florida
COUNTY OF Miami Dade
STATE OR PROVINCE N/A
COUNTRY USA

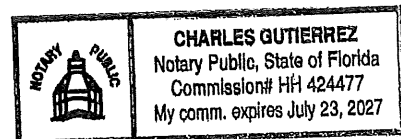
SUBSCRIBED AND SWORN TO (or affirmed) before me 27th day of March, 2024
by James Reiber, of Ocean Aviation TMB LLC, who is personally
(Authorized Representative)

known to me or who has produced New York DL as
(Type of Identification)

And who has taken an oath.

[Signature] HH424477
(Signature of Notary) (Notary Commission Number)

Notary Public – State or Country of FL, USA Notary Stamp or Seal:
(State/Country)



(B). **THE FOLLOWING MATTERS REQUIRE THE ENTITY TO MAKE A DECLARATION OR STATEMENT AS TO THE MATTER COVERED BY THIS DECLARATION FORM:**

1. FAMILY LEAVE PLAN DECLARATION (County Code Chap. 11A, Art V)

The entity hereby acknowledges the provisions of Section 11A-29 of the Miami-Dade County Code that requires each entity having more than fifty (50) employees working in Miami-Dade County to comply with the Family Leave ordinance set forth in Section 11A-29, and that Section 11A-29 provides that an employee who has worked for the above firm at least one year shall be entitled to 90 days family leave during any 24 month period for medical reasons, for the birth or adoption of a child, or for the care of a child, spouse or other close relative who has a serious health condition without risk of termination of employment or employer retaliation, among other things provided in such section. In addition, the entity declares that, if less than 50 are employed in Miami-Dade County by the entity at the time of execution of this Declaration, the entity will comply with the provisions of Section 11A-29 when it employs 50 or more employees in Miami-Dade County.

2. DISABILITY AND NONDISCRIMINATION DECLARATION

The entity is in compliance with, and agrees to continue to comply with, and assures that any subcontractor, or third party contractor under an agreement to which this Declaration applies, complies with, all applicable requirements of the laws listed below including, but not limited to, those provisions pertaining to employment, providing programs and services, transportation, communications, access to facilities, renovations, and new construction:

The Americans with Disabilities Act of 1990 (ADA), Pub. L. 101-336, 104 Stat 327, 42 U.S.C. 12101-12213 and 47 U.S.C. Sections 225 and 611 including Title I, Employment; Title II, Public Services; Title III, Public Accommodations and Services Operated by Private Entities; Title IV, Telecommunications; and Title V, Miscellaneous Provisions. The Rehabilitation Act of 1973, 29 U.S.C. Section 794; The Federal Transit Act, as amended, 42 U.S.C. Section 1612; The Fair Housing Act, as amended, 42 U.S.C. Section 3601-3631

3. CRIMINAL RECORD AFFIDAVIT (Section 2-8.6 of the Code)

The entity affirms its awareness of Section 2-8.6 of the Code of Miami-Dade County that requires the entity to disclose whether, during the past ten years, the entity or any officer, director or executive thereof has been convicted of a felony, and that such disclosure must be made at the time of bid or proposal submission, Any such applicable disclosure is attached to this Affidavit and Declaration form.

4. DECLARATION AS TO PUBLIC ENTITY CRIMES (Florida Statutes, § 287.133(3)(a))

The entity is aware of the provisions of Section 287.133 of the Florida Statutes that prohibits the entity from transacting business with the County if the entity or any affiliate, as defined in the statute, has been placed on the convicted vendor list following a conviction for a public entity crime.

As to Section 287.133, the entity understands that:

A. A "public entity crime" as defined in Paragraph 287.133(1) (g), Florida **Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation;

B. "Convicted" or "conviction" as defined in Paragraph 287.133 (1)(b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication

of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere;

C. An "affiliate" as defined in Paragraph 287.133(1) (a), **Florida Statutes**, means:

1. A predecessor or successor of a person convicted of a public entity crime: or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

D. A "person" as defined in Paragraph 287.133(1) (e), **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in management of an entity.

5. DECLARATION OF OWNERSHIP INTEREST IN PROPERTY TO BE LEASED.

If this Affidavit and Declaration Form applies to property owned by the County to be leased to the entity, the entity declares its awareness of the obligation to identify the extent of the entity's ownership interest—if any—in the property to be leased to the entity. Any such ownership interest is reflected in a document attached to this Affidavit and Declaration Form.

6. AFFIRMATIVE ACTION PLAN/PROCUREMENT POLICY

The entity has a current Affirmative Action Plan and/or Procurement Policy as required by Section 2- 8.1.5 of the Code; or

The contracting entity has a Board of Directors which is representative of the population make-up of the nation and hereby claims exemption in accordance with the requirements of Section 2-8.1.5 of the Code. Said contracting entity has a current Board of Directors Disclosure form as required by Section 2-8.1.5, processed and approved for filing with Miami-Dade County Office of Capital Improvements under File No. _____ and the expiration date of _____; or

The requirements of Section 2-8.1.5 are not applicable to the entity because the entity has annual gross revenues less than or equal to \$5 million; or

The contracting entity is a foreign air carrier as defined under federal law and has been granted an exemption under U.S. Department of Transportation Docket No. _____ to engage in air carrier service within the United States.

Ocean Aviation TMB LLC
Full name of Entity

[Signature]
Signature of Entity Representative

Jim Kocher
Print Name of Entity Representative

AFFIRMATION

My name is James Reiber and I acknowledge that I have been duly sworn to make this affirmation:

I hereby affirm that I am the President/Principal of Ocean Aviation TMB LLC and that I have full corporate authority to enter into and execute

Lease Agreement No. TBD with Miami-Dade Aviation Department on behalf of Ocean Aviation TMB LLC

Ocean Aviation TMB LLC
(Entity Name)

By: [Signature]
President

Date: 3/27/24

James Reiber
Print Name

STATE OF: FL
COUNTY OF: Miami Dade

SUBSCRIBED AND SWORN TO (or affirmed) before me this 27th day of March, 2024 by James Reiber,

(Authorized Representative)

of Ocean Aviation TMB LLC, who is personally known to me or has produced New York DC as
(Type of Identification)

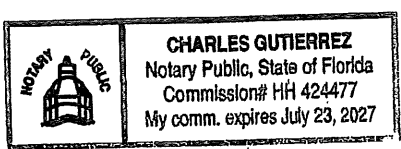
and who did / did not take an oath.

[Signature]
(Signature of Notary)

HA 424477
(Notary Commission Number)

Notary Public – State of FL
(State)

Notary Stamp or Seal:



**AFFIDAVIT OF MEMBERS, MANAGING MEMBERS,
AND MANAGERS OF FLORIDA LIMITED LIABILITY COMPANY**

WE, (Print full name(s) and all title(s) of person(s) or entity(s) in the following spaces; if more space needed print additional names and title(s) on separate paper marked as Exhibit A and attach Exhibit A to this Affidavit; the list of names and titles shall include all names on the list required by Section 608.4101(1)(a), Fla. Stat. (2004), as same may be amended from time to time)

<u>Full name</u>	<u>Title(s)</u>
<u>James Reicher</u>	<u>CEO / President</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

hereby swear or affirm that :

1. The foregoing persons or entities set forth above and on Exhibit A, if applicable, which Exhibit A is attached hereto and incorporated herein by reference hereto, constitute and are all of the Members, Managing Members, and Managers, as those terms are defined in Section 608.402, Fla. Stat.(2004), as same may be amended from time to time, of the Florida Limited Liability Company known as OCEAN AVIATION TMB LLC (Print name of the Florida Limited Liability Company as the name appears in the Articles of Organization currently filed with the Secretary of State of the State of Florida);
2. There are no Members, Managing Members or Managers of the aforesaid Florida Limited Liability Company other than the persons or entities set forth above and on Exhibit A, if applicable.
3. There are no provisions in any Articles of Organization of the aforesaid Florida Limited Liability Company or in any operating agreement, written or oral, of the aforesaid Florida Limited Liability Company, as those terms are defined in Section 608.402, Fla. Stat.(2004), as same may be amended from time to time, which prohibit, restrict or limit in any way or in any manner the execution of the instrument or document attached hereto and incorporated herein by reference hereto, to wit, Affidavit of Member (Print the title of the instrument or document) by any of the foregoing persons or entities set forth above and on Exhibit A, if applicable, for and on behalf of the aforesaid Florida Limited Liability Company and to bind and obligate the aforesaid Florida Limited Liability as set forth in the foregoing instrument or document.

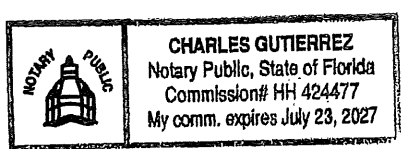
4. All of the foregoing persons or entities set forth above and on Exhibit A, if applicable, are authorized by the foregoing Florida Limited Liability Company, to execute the instrument or document attached hereto and incorporated herein by reference hereto, to wit, _____
 (Print the title of the instrument or document) for and on behalf of the aforesaid Florida Limited Liability Company and to bind and obligate the aforesaid Florida Limited Liability Company as set forth in the foregoing instrument or document.
5. All of the provisions of this Affidavit shall be construed in accordance with the laws of the State of Florida.

Signature <i>[Handwritten Signature]</i>	Title(s) <u>CEO/President</u>
Signature <u>N/A</u>	Title(s)
Signature <u>N/A</u>	Title(s)
Signature <u>N/A</u>	Title(s)

Sworn to and subscribed before me this 27th day of March, 2024
 (year) by James Reiber (print name legibly), who is personally known to me or who has produced New York DL (type of identification).

[Handwritten Signature] (Signature of Notary Public)
Charles Gutierrez (Print, type or stamp name of notary public)

(Add additional Signature, Title(s), and Notary Public areas for all other LLC Members, Managing Members, and Managers, as needed)



APPLICATION & QUESTIONNAIRE

1. Name of Applicant: Ocean Aviation TMB LLC
2. Principal Office Address: 3250 Grand Ave Suite 50 Miami Fl
Phone: 631-375-8888 Fax: 33133
3. Official Representative: Jim Reiber
Title: CEO / President
Address/Folio Number: N/A
Billing Address: N/A 3250 Grand Ave Suite 510
Miami Fl. 33133

4. a. Individual Partnership Corporation

If company is a corporation, is applicant a subsidiary? Yes No

If yes, please provide name and address of Parent Corporation:

N/A

- b. If applicant is a corporation, complete the following:

When Incorporated: 2023

In what State: Florida

If not a Florida Corporation, date of registration with Florida Secretary of State along with name and address of Florida Registered Agent:

N/A

- c. If Partnership, complete the following:

Date of Organization: N/A

General or Limited Partnership: N/A

Name and address of each Partner:

<u>Name</u>	<u>General/Limited Partnership</u>	<u>Address</u>
N/A		

(Attach a copy of: Partnership Agreement and if applicable, the certificate evidencing compliance with the Florida Fictitious Name Statute).

5. Bank References:

<u>Bank</u>	<u>Address</u>
BANK of America	3211 GRAND Ave MIAMI FL 33133

6. The Department reserves the right to request the financial statements of the corporation, partnership or individual making application for lease or contract. If the corporation or partnership is newly formed for the purpose of this lease or contract and not in business for a period of time greater than one year, the Department reserves the right to request the financial statements of stockholders of the corporation or the partners in a partnership of those holding more than 5% ownership interest in such partnership or corporation. In addition, the Department also reserves the right to review financial statements, or any other material presented to a bonding company for the purpose of obtaining a Performance Bond.

7. The Applicant(s) understands that the information contained in this Application and Questionnaire Form is to be relied upon by the County in its consideration for entering into lease or contract and such information is warranted by the Applicant(s) to be true. The undersigned agrees to furnish upon request any additional information as may be required by the County.

8. The Applicant(s) understands that the County has the right to verify the information submitted and to seek any additional information relating to the Applicant(s). The discovery of any misrepresentation, which, in the sole opinion of the County, materially affects the qualifications of the Applicant to perform under the lease or contract, without liability shall result in the County's withdrawal of its offer to enter a lease or a contract.

9. The Applicant(s), if a corporation, must be authorized to do business in the State of Florida and must be incorporated under the laws of one of the States of the United States.

10. Please select the airport you are interested in:

Miami International Airport
Kendall-Tamiami Airport

Opa-locka Airport
Homestead Airport

11. Purpose of which applicant intends to use space:

FBO Aviation Development

12. Specify the amount of space needed (Offices, Warehouses, Ramps, Etc.)

4-39 Acres

13. Number of years of experience applicant has had in operation of similar business: 30 plus

14. Give the names, locations and dates operation of similar business conducted by applicant in the last 5 years.

<u>Name of Company</u>	<u>Location</u>	<u>Type of Business</u>	<u>Date</u>
Ocean Aviation	Austin Texas	FBO Development	2019

15. Provide an estimate of the construction, operating, and maintenance costs, as well as the funding source: if applicable

\$67,200,000. Funding through Pangiam and Signature Bank - Previously vetted by MBDAD

16. Provide an estimated period of the construction/ renovation process, including development timeframe: if applicable

Maximum of 11 years to complete 3 Phases
of construction

17. Describe the projected ideas for building, renovations, and development: if applicable

21st Century - State of the Art -
Aviation Campus

18. How will space contribute to the interest of the community? Ocean Aviation TMB

will be building and a new Aviation Museum and handing over to Miami Dade in addition to doubling the size of the Customs ramp (32K SF) and building an Aircraft ramp for the Watson College.

19. Provide names of personnel, developers, contractors, and consultants: if applicable

Architects - Arquitectonica - Bernardo Fort-Brescia
Contractors - Lemartec Corp - Maira Suarez

APPLICANT:

Jim Reihan
Name:

CEO / President
Title:


Signature:

NOTE: An Officer or Owner(s) must sign all questions or requests for information. If development or construction is complete, please answer the following:

**DEVELOPMENT SITE LEASE AGREEMENT
MIAMI-DADE COUNTY, FLORIDA
MIAMI EXECUTIVE AIRPORT**

MIAMI-DADE COUNTY

and

OCEAN AVIATION TMB, LLC

[_____], 2024

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**DEVELOPMENT LEASE AGREEMENT
BETWEEN MIAMI-DADE COUNTY, FLORIDA, AS LESSOR,
AND OCEAN AVIATION TMB, LLC, AS LESSEE,
AT MIAMI EXECUTIVE AIRPORT**

THIS DEVELOPMENT LEASE AGREEMENT (this "**Agreement**" or "**Lease**") is made and entered into as of the _____ day of _____, 2024 (the "**Commencement Date**"), by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida ("**Lessor**" or sometimes "**County**"), and OCEAN AVIATION TMB, LLC, a limited liability company authorized to do business in the State of Florida ("**Lessee**").

WITNESSETH

WHEREAS, the County is the owner of Miami Executive Airport (known as the "**Airport**" or "**TMB**") and operates it through the County's Aviation Department ("**Department**" or sometimes "**MDAD**"), and Lessee desires to develop a specific portion of such Airport; and

WHEREAS, Lessee responded to an Expression of Interest in July of 2019, proposing to develop +/- 39 acres at TMB; and

WHEREAS, as set forth in the Expression of Interest, Lessee desires to cause to be constructed at TMB, for Lessee's use and occupancy, a new Fixed Based Operator Terminal (FBO), fuel farm, office space, hangars and associated aircraft and vehicle pavement and service roadways (henceforth collectively referred to as the "**Improvements**"), as generally described on **Exhibit "A"** attached hereto, such Improvements to be constructed in multiple phases (the "**Project**"); and

WHEREAS, Lessor and Lessee desire to enter into an agreement to permit the Lessee to lease the Premises (as such Premises are described below in Section 1.02) and design, build, finance, operate and maintain the Project on the Premises in accordance with the terms and conditions hereof; and

WHEREAS, Lessee acknowledges that all development activities must occur in strict compliance with requirements of the Federal Aviation Administration (FAA) and with all regulatory requirements of the State of Florida and the County, and that the Lessee's failure to comply with such regulatory reviews and acceptances, in accordance with the provisions of this Agreement, shall constitute a material default of this Agreement;

NOW, THEREFORE, for and in consideration of the foregoing premises, and of the mutual covenants and agreements contained herein, the parties agree as follows:

ARTICLE 1
Lease; Term, Premises and Financing

1.01 TERM:

Subject to the terms and conditions of this Lease, in accordance with Section 125 of the Florida Statute and the authority to lease real property belonging to the County, Lessor leases to Lessee, and Lessee leases from Lessor, the Premises for the Term, for the purposes and uses set forth in Article 2 (Use of Premises) and Article 4

(Improvements to Premises), with the right of Lessee to construct or cause to be constructed and thereafter occupy and make use of those Improvements described in Article 4, in strict accordance with the terms and conditions of this Lease.

(A) The term shall begin on the Commencement Date and shall continue for forty (40) years from the Commencement Date (the "**Term**," as may be extended pursuant to Section 1.01(B)).

(B) Extensions.

1. Upon mutual consent of the parties, the Term of this Agreement may be extended for one (1) additional extension term of five years, from the expiration of the immediately prior Term as long as the Lessee is not in any default of this agreement. Lessee shall request the term by written notice to the Lessor to exercise this additional option 180 days prior to the end of the first extension, If all extension options are exercised, the aggregate Term of the Lease shall be forty five (45) years from the Commencement Date.

(C) Lessee also acknowledges that the Term of this Agreement, as it applies to the entire Premises, may be reduced in accordance with Section 1.07 (Development Schedule and Failure to Develop) if Lessee fails to complete construction pursuant to the deadlines set forth therein or fails to make the Minimum Investment required by the dates required herein.

1.02 Premises:

The Premises consist of the parcels of Land described below and as more specifically reflected on the site plan (Exhibit A) which improvements shall be constructed in phases. The phase includes Phase I - initial premises, areas 1A, 1B, Phase II – area 2, and Phase III – area 3 as depicted on Exhibits "**B-1**":

Initial Premises (IP)	Parcel ID	Description	Area SF
	IP	Approx. Aircraft Pavement	99,344.00
	IP	Approx. Vehicle Pvmnt & Lscape.	80,610.00
	IP	Temporary Facilities Office	3,000.00
	IP	Fuel Farm & Equipment Storage	17,453.00
		Total Acres	4.60
		Approx. Land Area	200,407.00
AREA 1	Parcel ID	Description	Area SF
	1A & 1B	Approx. Aircraft Pavement	488,087.80
	1A & 1B	Approx. Vehicle Pavement	153,390.00
	1A	Hangars, Trans. A & B	81,600.00
	1B	FBO Terminal / Offices	23,000.00
	1B	Car Park Storage	25,000.00
			17.70
		Approx. Land Area	771,077.80
AREA 2	Parcel ID	Description	Area SF
	2	Approx. Aircraft Ramp Pavement	189,232.40
	2	Approx. Vehicle Pvmnt. & Landscape	96,736.00
	2	Hangars D, E, F, G	136,640.00
	2	Hangar C built later in initial lease area	
			9.70
		Approx. Land Area	422,608.40
AREA 3	Parcel ID	Description	Area SF
	3	Approx. Aircraft Pavement	167,193.40
	3	Approx. Vehicle Pavement	71,478.00
	3	Hangars H	21,600.00
	3	Maintenance Hangar I	48,985.00
			7.10
		Approx. Land Area	309,256.40
		Approximate Total Land Area	1,703,349.60
		Acres	39.10

The approximate boundaries and location of the Premises are outlined on the sketch attached as **Exhibit "B-1,"** and incorporated herein by reference. The "Legal Description of the Property" as well as the precise acreage and number of square feet for each parcel shall be determined by a survey prepared by the Lessee (the "**Survey**") and comply with all present and future FAA mandated setbacks along with proposed north taxiway, as well as Lessor's requirements for adherence to the Airport Layout Plan and rules and regulations. The leasehold AOA boundaries shall be coordinated with MDAD Planning during the survey process.

Lessee shall have temporary use of the designated premises 132,651 sq. ft. as depicted on Exhibit P for the relocation and development by Lessee of the new Wings Over Miami museum. Lessee shall not be charged rent for the square footage shown on Exhibit during the development and construction of the museum; Lessee shall, however, pay rent

on all other properties leased under this Agreement. Lessee, upon completion (TCO or CO) and acceptance by the MDAD of the new facility, shall immediately convey the building over to MDAD without any additional compensation. The premises as shown on the exhibit shall at the same time be deemed to be removed from the lease and no rent shall be due on such portion of the Premises (Exhibit B1 - Section 1B) by Lessee until the new Wings Over Miami has relocated to the New Museum Building-

1.03 Relocation and Modification of Premises:

(A) *Relocation and Modification of Premises.* The Premises are subject to relocation, modification, or deletion in whole or in part on Airport property at the mutual consent of the Department and Lessee and, upon such mutual consent, this Agreement may be administratively revised to reflect such relocation, modification, or deletion, upon at least 60 days advance written notice to the Lessee by the Department.

(B) *Intentionally Deleted.*

(C) *Intentionally Deleted*

1.04 Suitability of Premises:

The Lessee, upon acceptance of the Premises at the end of the Due Diligence Period (as defined below), acknowledges that (a) the Lessor has made no representations as to the Premises or the suitability of the Premises, (b) the Premises are suitable for the Lessee's proposed use, (c) the Lessor has no obligation to perform or cause to be performed any relocation of others, maintenance, repairs, renovations, cleanups, painting, or the like of the existing facilities on the leased facilities which are leased in an as is condition, except to the extent of Lessor's responsibilities for curing existing environmental conditions which shall be limited to \$800,000.00 under Article 9 (Environmental Compliance), (d) Lessee has made whatever site inspections it deems necessary so as to be apprised of the conditions of the Premises, both above ground and below ground, and has made its own determination that the Premises are suitable for its intended use (e) Lessee has reviewed all documents provided by Lessor, applicable to the Premises and the adjacent areas of TMB, and (f) Lessee has otherwise satisfied itself that the conditions of the Premises, and utilities in their current state are satisfactory to the Lessee. The Lessee's obligation under this Agreement, such as in Article 7.01(C) (Permits and Licenses), to obtain all land use, construction, and operating permits and approvals required of the Lessee at the Lessee's sole cost and expense, shall not require the Lessor to take any action or perform any tasks within the Premises to enable the Lessee to obtain such permits and approvals, including, but not limited to, certificates of occupancy, which shall remain the Lessee's exclusive obligation to take or perform in order to obtain such permits and approvals. The Lessee further acknowledges that, by executing this Lease, the Lessee at its own cost, risk, and expense must make the necessary investments and all improvements to the Premises, including all infrastructure improvements and utilities services necessary for Lessee's construction and use of the Premises, to make the Premises suitable for the Lessee's use and to satisfy the Lessor's building, life, safety, fire and occupancy requirements, and that the Lessor shall have no obligation to Lessee to compensate or reimburse Lessee for such cost, risk, expense, investment, and improvements. Notwithstanding the foregoing and anything to the contrary contained in this Lease, Lessee shall have ninety (90) days after the Commencement Date to conduct whatever inspections and assessments of the Premises to insure its suitability for the Improvements to be built by Lessee, and Lessor grants Lessee such access as is necessary to conduct such inspections, provided however, any damage to the Premises in making such inspections and assessments shall be the responsibility of Lessee which shall reimburse the Lessor for the cost of repairs. If Lessee determines in its sole discretion that such Improvements are financially unacceptable, it may terminate this Lease by written notice to Lessor no later than 60

days after the 90-day assessment period above (such aggregate 150-day period, the "Due Diligence Period" or DDP).

1.05 Title to Improvements; Standards of Construction; Demolition of Improvements at Termination:

Unless Lessee's Financing Documents require otherwise, Lessee shall have the option, to be exercised not later than sixty (60) days from the Possession Date (as such term is defined in Section 1.08 below), of (i) placing in the name of the Lessor all improvements installed or constructed by Lessee upon the Premises, free and clear of all liens and encumbrances, except for any financial interests or liens specifically approved by the Department under the loan documents as provided under Section 11.04(B) (Lessor Approval of Financing Documents), or (ii) retaining title to such improvements in Lessee's name for the duration of the Term of this Lease. For any improvement whose title is to be placed in the Department's name, (new Wings Over Miami Museum and common use ramp and taxilane areas), Lessee shall comply with the more stringent design and construction standards set forth by the Department from time to time to assure that the improvement will remain in satisfactory condition during the Term of this Lease and will have a reasonable useful life following termination of this Agreement. For any improvement whose title is to remain in Lessee's name, Lessee shall be entitled to use modified standards for its design and construction, as approved by the Department, but must nonetheless comply with all applicable building, fire, and life/safety codes, comply with the Department's requirements under Section 4.14 (Standards of Construction; Removal of Improvements at Termination) as to the useful life of the improvement, and must remove any such improvement upon termination of this Lease for any cause, unless the Department directs otherwise as to such improvement. To the extent that the Tax Collector determines that the Premises, or the Agreement, are taxable, Lessee shall pay all taxes thereon, irrespective of whether such improvements have been conveyed to the Lessor.

1.06 Minimum Investment Amount; Development Schedule; Failure to Develop:

(A) *Minimum Investment Amount:* The Lessee shall spend no less than Sixty Seven Million Two Hundred Thousand Dollars (\$67,200,000) in Approved Improvement Costs with respect to the construction of the Improvements (the "**Minimum Investment**") in such amounts on or before the following dates: Phase I, \$18,400,000 in Approved Improvement Costs by the fourth (4th) anniversary of the Commencement Date; Phase II, an additional \$9,600,000 in Approved Improvement Costs by the seventh (7th) anniversary of the Commencement Date; and Phase III an additional \$39,200,000 in Article 4.11 - Approved Improvement Costs by the eleventh (11th) anniversary of the Commencement Date. The Minimum Investment includes the value of Complementary Projects as further described in Section 4.02 (B).

(B) *Development Schedule:*

Phase I – Initial Area and Area 1A and Area 1B

Submit Initial Schematic Design Plans to MDAD for review and approval, no later than 6 months from the Commencement Date. Submit 100% development Plans as further described in Article 4.04 to MDAD for review and approval, no later than 12 months from the Commencement Date. Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 18 months from the Commencement Date. Submit final approved plans for Permitting, no later than 24 months from the Commencement Date. Complete construction within 54 months from the Commencement Date. Contract document 180 days status reports for the construction of their improvements. Other milestones as listed in this Article 4 (Development and Improvements to Premises).

Phase II – Area 2 - Submit 100% development plans (Plans) as further described in Article 4.04 to MDAD for review and approval, no later than 72 months from the DDP date. Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 72 months from the DDP. Submit final approved plans for Permitting, no later than 72 months from the DDP. Complete construction within 84 months from the DDP. Contract Document 180 days status reports for the construction of their improvements. Other milestones as listed in this Article 4 (Development and Improvements to Premises).

Phase III – Area 3

Submit 100% development plans (Plans) as further described in Article 4.04 to MDAD for review and approval, no later than 120 months from the DDP. Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 120 months from the DDP. Submit final approved plans for Permitting, no later than 120 months from the Commencement Date. Complete construction within 132 months from the DDP. Contract Document 180 days status reports for the construction of their improvements. Other milestones as listed in this Article 4 (Development and Improvements to Premises).

(C) *Failure to Develop*: If Lessee fails to either:

(i) make the Minimum Investment within the period provided for in Section 1.06(A); or

(ii) construct the Improvements necessary to achieve the phases and required investment amount by the Date of Beneficial Occupancy within the period provided for in Section 1.06(B); then Lessor shall be entitled to terminate this Agreement in the manner set forth in Article 13 (Termination). Alternatively, upon the election of the Lessor, the Term of this Agreement shall be automatically reduced to twenty-five (25) years. The deadlines set forth in Section 1.06(B) shall be extended or adjusted due to excusable delays, including the failure of the Lessor to timely make available the Museum Relocation Property and timely issue permits related thereto, in which case Lessor and Lessee shall in good faith negotiate an extension or adjustment of such deadlines accordingly; provided, further, that such deadlines shall be extended automatically in case of occurrence of "Force Majeure Events," as defined in Section 20.18 (Force Majeure). In the event the Lessor elects to decrease the Term and otherwise allow Lessee to complete or commence construction, the Lessee shall be allowed an additional 365 days to achieve substantial completion of the improvements from the date the Lessor provides Lessee notice of such election. In the event Lessee does not achieve substantial completion within such extended time frame, the Lessor shall have the discretion to terminate the Agreement as provided for in Article 13. In such case, the Lessee shall also provide Lessor one copy of all maintenance manuals, pamphlets, charts, parts lists and specified spare parts, operating instructions and other necessary documents required for all installed materials, equipment, or machinery, as well as all applicable warranties and guarantees.

(D) Lessee shall provide notarized reports, on a quarterly basis, to the County Mayor or County Mayor's designee, with a copy to the District Commissioner in which the Premises lie, at appropriate intervals regarding compliance with each milestone in the Development Schedule.

1.07 Conditions of Lease

(A) Review by FAA:

This Agreement is subject to Federal Aviation Administration (FAA) review with no objection and shall not be effective until completion of such FAA review and the parties' acceptance of any changes hereto required or necessary as a

result of the FAA review. If the FAA indicates that any portion of this Agreement is not consistent with the requirements of federal law or grant assurances, or else raises an objection to any portion of this Agreement, the Department shall have the right in its sole discretion to either declare this Agreement to be null and void or else to change the terms of this Agreement so as to overcome the reasons for the FAA's statements or objections and submit to the Lessee this Agreement as so changed. In the latter event, Lessee shall respond to such proposed changes promptly and in any case not later than sixty (60) days from the date of submission by the Department. If the Lessee accepts such changes, the parties will execute a new Agreement as changed, subject again to FAA review. At any time following the FAA's initial review of this Agreement in which the FAA made statements or else raised concerns about the terms of the Agreement, the Department shall negotiate in good faith with Lessee to make such modifications to this Lease as may be required to address the FAA's requirements for a period of ninety (90) days). In the event the Parties cannot reach an agreement on such modifications within such 90-day period, the Department may determine that it is in the best interests of the County to lease the Premises to another party on terms that would be acceptable to the FAA, and upon such determination, whatever rights Lessee may have hereunder shall cease upon Lessee's receipt of such statement of determination. No compensation of any sort shall be payable to Lessee in the event that (a) the Department declares this Agreement to be null and void, (b) the Department makes a determination to lease the Premises to another party, or (c) the parties are unable to agree to the terms of a revised Agreement that will overcome the concerns raised by the FAA.

(B) Review by Others:

This Agreement and the enforcement of each party's obligations hereunder are contingent upon Lessor's receipt of certificates under Section 707 of the Lessor's Restated and Amended Trust Agreement (the "707 Certificates") from both the Traffic Engineers and the Consulting Engineers determining that the improvements to be constructed by Lessee meets the standards provided in Section 707.

1.08 Possession Date:

On the Commencement Date, the Lessor shall deliver possession of the parcel identified as the "Initial Premises" on **Exhibit "B-1"** (the "**Initial Premises**") and, at such time, the Lessee shall take possession thereof. By no later than thirty-six (36) months after the date upon which the Lessee accepts the Premises on or before the end of the Due Diligence Period (DDP), the Lessee shall notify the Lessor in writing of its intent to take possession of Parcel 1A and Parcel 1B (as identified on **Exhibit "B-1"**).

The Due Diligence Period as defined in Article 1.04 Suitability of Premises is no later than 150 days from the Commencement Date.

1.09 Early Termination for Airport Purposes:

(A) At any time during the term of this Agreement, if the Premises leased and developed hereunder are required for airport development purposes or any other purpose as determined by the Miami-Dade Aviation Department (MDAD) in its sole discretion, MDAD shall have the right to terminate this Agreement as to all or any portion of the Premises upon notice to the Lessee as provided herein

(B) In the event such notice is given prior to completion of construction of any improvement to be terminated under the notice, the notice shall specify the effective date of termination and the Lessor shall have the option of

requiring the Lessee to complete construction of the improvement and to obtain a CO or requiring the Lessee to cease all construction activity as of the date set forth in the notice. The Lessee shall submit to the Lessor all construction costs incurred by the Lessee as of the effective date of termination. The determination of costs eligible for reimbursement to the Lessee shall be based on the calculation of approved improvement costs as of the effective date of the notice as determined under Article 4.11 (Final and Approved Improvement Costs). Within sixty (60) days of the Lessor's acceptance of the approved costs, the Lessor shall pay the Lessee the amount of the approved improvement costs which the Lessee agrees shall be the Lessor's sole obligation under this Agreement to compensate the Lessee for termination of this Agreement at this stage.

(C) In the event such notice is given after completion of any improvement, the notice shall provide the Lessee with a reasonable period of time to vacate the improvement, which shall be not less than sixty (60) days after the Lessee's receipt of the notice. The Lessor shall be responsible for paying to the Lessee the fair market value of the improvement, determined by a qualified appraiser selected and paid for by the Lessor. If the Lessee does not accept the appraised value of the Lessor's appraiser, the Lessee shall have the right to select and pay for its own appraiser. If Lessor does not accept the Lessee's appraised value determined by the Lessee's appraiser, the two appraisers shall select a third appraiser, whose costs shall be paid equally by the Lessor and the Lessee. Any appraiser selected hereunder must be a member of the Master Appraisal Institute or equivalent. All three appraised values shall be added together and divided by three to obtain the appraised value Lessor is required to pay the Lessee. The Lessor shall cause the Lessee to be paid the appraised value within sixty (60) days of determining the appraised value in accordance with this sub article, but the Lessor shall have no obligation to pay the Lessee any compensation for the land taken back by the Lessor. The Lessee agrees that such payment shall be the Lessor's sole obligation under this Agreement to compensate the Lessee for termination of this Agreement at this stage.

ARTICLE 2

Use of Premises

2.01 General Privileges, Uses and Rights:

The Lessor hereby grants to the Lessee the following general privileges, uses and rights, all of which shall be subject to the terms, conditions and covenants hereinafter set forth or otherwise applicable to Lessee's use of any portion of the Airport, and all of which shall be non-exclusive on the Airport; for avoidance of doubt, during the Term, Lessee's right to develop and use the Project within the Premises shall be exclusive, but other tenants or Lessor may develop or operate identical or competing facilities at the Airport. Lessee's use rights include:

(A) The right, at Lessee's cost and expense, to develop the Premises and to contract for, or delegate, where expressly authorized elsewhere in this Lease, portions of the development of the Premises to third parties, including but not limited to sub-lessees, and to construct, or contract with others to cause construction of, the Improvements contemplated in this Agreement in connection with the development of the Premises, subject to the terms and conditions of this Lease.

(B) The right, at Lessee's cost and expense, to relocate easements and utility lines within the Premises, if required for the development of the Premises, such relocation to be done with the consent and cooperation of Lessor (which consent shall not be unreasonably withheld, delayed, or conditioned) and the applicable utility company or other third parties in whose favor such easements runs. The County does not warrant or guarantee that any easement holder will consent to vacate or relocate any existing easements, and any increase in costs or disruptions

to Lessee's construction or operation resulting from such instance shall be solely borne Lessee. Lessee acknowledges that utilities serving other airport tenants or Airport operations may be present, and that the Lessor shall have the discretion to require that utility work be staged or sequenced, at Lessee's cost, such that operations at the Airport or Airport tenants are not impacted.

(C) The general use, in common with others, of all public, common-use, Airport facilities and improvements, which are now or may hereafter be connected with or appurtenant to said Airport, to be used by the Lessee in connection with its operations hereunder. For the purpose of this Agreement, "public Airport facilities" shall include all public non-airfield areas, including, but not limited to, automobile parking areas, roadways, sidewalks, or other public facilities appurtenant to said Airport, not specifically leased hereunder or under the contractual control of others.

(D) The right of ingress to and egress from the Premises over and across public roadways serving the Airport for the Lessee, its agents and employees, patrons and invitees, suppliers of service and furnishers of material. Said right shall be subject to such laws, rules, regulations and orders and fees and charges, which are generally applicable to similarly situated parties, as now or may hereafter have application at the Airport.

(E) Except as otherwise set forth in this Agreement, the County does not hereby grant to the Lessee the right to use any other space or area within the Airport, improved or unimproved, which is leased to a third-party or which the County has not specifically leased to the Lessee.

2.02 Use of Premises:

The Lessee shall use the Premises for the purpose of Fixed Based Operations (FBO) and uses incidental thereto, including, but not limited to, routine and emergency services to aircraft and aircraft operators and their guests, aircraft storage, tie-down and aircraft and aircraft equipment maintenance, offices, hospitality areas for passengers and crew, including restaurant, catering, food and beverage and bar services, and vehicle parking, the "Permitted Uses").

MDAD shall consider extending the permitted uses to include a vertiport and electric vertical takeoff and landing aircraft (eVTOL's) once a policy and minimum standards have been established.

Fueling of aircraft shall only be permitted for aircraft and rotorcraft (collectively Aircraft) that are users or clients of Lessee utilizing the Improvements.

All Permitted Uses shall be in accordance with MDAD's Minimum Standards, as may be established and amended from time to time. Such services and uses may be provided on the Premises, provided that the services and uses are provided in compliance with Article 7 (Rules and Regulations) inclusive of MDAD's Minimum Standards.

2.03 Lessee's Rights Not Exclusive:

Notwithstanding anything herein contained that may be, or that may appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this Agreement are non-exclusive and Lessor reserves the right to grant similar privileges and similar leases to other lessees on other parts of the airport and to take any and all actions (including the leasing of property for any lawful purpose) that Lessor is permitted to take under federal, state, and local law pertaining to the airport on which the Premises herein are located.

2.04 Collection of Certain Fees and Charges:

The Lessor reserves the right to establish fees for the landing and parking of all or special classes of aircraft at the Airport. The Lessee, as a further consideration for this Agreement, shall be required, when directed in writing by the Lessor, to collect and promptly remit to the Lessor aviation fees and other aviation charges, approved by the County and payable to the Lessor. The method of collection and remittance of such fees and charges shall be as determined and directed by the Lessor in writing. A failure to collect and pay same shall constitute a default under Article 13.03 (Other Defaults) hereof. The Lessee shall be permitted to retain five percent of such fees and charges collected on behalf of the Lessor, which amount shall be considered as full and final payment to the Lessee for the cost of collecting and remitting the fees and charges and shall not be considered as part of gross revenues earned by Lessee.

2.05 Concession Services:

The Lessor reserves the right to establish fees and require permits for the operation of concessions, restaurants, car rentals, taxicab and other ground transportation services and other commercial activities at the Airport.

2.06 Non-Flyable Aircraft:

In no instance shall any non-flyable aircraft be parked or stored on the Premises (in an area outside of an enclosed hanger) for a period in excess of 120 consecutive days, without the prior written approval of the Department. After such 120-day period, the Lessee shall remove any non-flyable aircraft from the Premises within 15 days after the Department provides written notification to the Lessee to do so, unless such aircraft is then and there undergoing maintenance as authorized herein. Failure of the Lessee to remove non-flyable aircraft shall result in the Department declaring said aircraft derelict and subject to removal pursuant to Chapter 25-10.24 of the Miami-Dade County Code, as well as the Department's termination of this Agreement. Lessee shall be entitled to compensation for its services herein from the owner of the aircraft being moved.

2.07 Fight Operations:

(A) Lessee acknowledges that TMB is a noise sensitive airport and agrees to work with the FAA and County to ensure reasonable procedures are developed to minimize any potential adverse impacts to surrounding communities, including, but not limited, to noise impacts.

(B) Lessee shall timely address any complaints raised by members of the surrounding communities and shall notify the Department's Noise Abatement Office of any such complaints and Lessee's response.

(C) In addition to minimizing impacts to surrounding communities, Lessee shall coordinate with the FAA and County to ensure that all airspace procedures developed for aircraft operations are consistent with MDAD's current operations, do not result in any reduction to TMB's airspace or airfield capacity or future development plans as set forth in the TMB's Airport Layout Plan (ALP) as of the date hereof.

2.08 Reporting of Fuel Sales:

Lessee shall, on a yearly basis, report the total gallonage of fuel sold to its customers, including but not limited to: i) fuel sold by Lessee, ii) fuel sold by any contractor of Lessee which is dispensed on Lessee's leasehold, and iii) fuel

sold by any contractor of Lessee outside of Lessee's leasehold, but which is sold pursuant to a contractual arrangement between Lessee and such contractor. Lessee shall specify the types of fuel sold for each category (i.e., Jet-A vs. AvGas). This report shall be provided no later than February 1 for the preceding year.

ARTICLE 3
Rentals and Payments

3.01 Regular Rent

Rental rates are established by the Board of County Commissioners ("BCC") and are subject to change each year following appraisals by the County's appraiser.

- (A) As annual land, pavement and building rent for the lease of the Premises, the Lessee shall pay to the County Rent as set forth below, plus applicable State sales tax in US funds, on the first day of each and every month, in advance and without billing, at the offices of the Lessor, as set forth in Article 3.06 (Methods of Payment). Said rental is computed as shown in Table 1 below and is subject to annual appraisal changes.

Rent is due as follows:

- A. Beginning on the Commencement Date and until the DDP is ended, 50% applicable rent is due on the entire Premises (minus Area 1B until the Wings over Miami Museum has relocated to the New Museum Building).
- B. Beginning no later than the end of the DDP, full rent will be due on the Initial Premises and 50% applicable rent on the entire premises (minus Area 1B until the Wings over Miami Museum has relocated to the New Museum Building) as shown in the tables below will be due. Full rent on each of Area 1A and 1B will be due upon Lessee taking possession of each such area and initiating the TAC-N process on those areas, but in any case no later than 36 months from the Commencement Date.
- C. Regarding Area 2 as shown below in the tables, full applicable rent shall be due upon Lessee taking possession and initiating the Tenant Airport Construction Non reimbursable (TAC-N) process or no later than 72 months (Area 2) from the Commencement Date.
- D. Regarding Area 3 as shown below in the tables, full applicable rent shall be due upon Lessee taking possession and initiating the Tenant Airport Construction Non reimbursable (TAC-N) process or no later than 120 months (Area 3) from the Commencement Date.

Initial Premises

Exhibit	Parcel ID	Description	Area (SF)	Rate *	Annual *	Monthly *
		Approx. Aircraft Pavement	99,344	\$0.08		\$0.00
		Approx. Vehicle Pvmt & Lscape.	80,610	\$0.08		\$0.00
		Temporary Facilities Office	3,000			\$0.00
		Fuel Farm & Equipment Storage	17,453			\$0.00
		Approx. Land Area	200,407	\$0.30	\$60,122.10	\$5,010.18
Total Rent					\$60,122.10	\$5,010.18

Area 1A and Area 1B

Exhibit	Parcel ID	Description	Area (SF)	Rate *	Annual *	Monthly *
1A & 1B		Approx. Aircraft Pavement	488,088	\$0.08	\$39,047.02	\$3,253.92
1A & 1B		Approx. Vehicle Pavement	153,390	\$0.08	\$12,271.20	\$1,022.60
1A		Hangars, Trans. A & B	81,600			
1B		FBO Terminal / Offices	23,000			
1B		Storage	25,000			
		Current WOM Leasehold	-56,892			
			714,186	\$0.30	\$214,255.74	\$17,854.65

Area 2

Exhibit	Parcel ID	Description	Area (SF)	Rate *	Annual *	Monthly *
		Approx. Aircraft Ramp Pavement	189,232	\$0.08		\$0.00
		Approx. Vehicle Pvmt. & Landscape	96,736	\$0.08		\$0.00
		Hangars D, E, F, G	136,640			
		Hangar C later in initial lease area				
		Total Square Feet	422,608	\$0.30	\$126,782.52	\$10,565.21
Total Rent					\$126,782.52	\$10,565.21

Area 3

Exhibit	Parcel ID	Description	Area (SF)	Rate *	Annual *	Monthly *
		Approx. Aircraft Pavement	167,193	\$0.08		\$0.00
		Approx. Vehicle Pavement	71,478	\$0.08		\$0.00
		Hangars H	21,600			
		Maintenace Hangar I	48,985			
		Total Land Area	309,256	\$0.30	\$92,776.92	\$7,731.41
Total Rent					\$92,776.92	\$7,731.41

As to the new facility and pavement improvements located on the Premises, Lessee shall pay rent on land and existing pavement as calculated above throughout the term of this Agreement, subject to annual rent review and shall be obligated to pay rent on the new facility and pavement improvements for the new Improvements constructed as follows:

(B) Improvement rent: Beginning with the start of the: (i) 7th year of the Lease and extending to the end of the 11th year of the Lease, Lessee shall pay 1% of the value of \$18,400,000.00 the minimum development investment amount, beginning the 12th year the (Phase II completed) and extending to the end of the 20th year of the Lease lessee shall pay 1.5% of the value of \$28,000,000.00 the minimum development investment amount to the Lessor; (ii) beginning on the 21st year of the Lease and extending to the end of the 30th year of the Lease, Lessee shall pay 2% of the value of the minimum development investment amount \$67,200,000.00 per year to Lessor. Improvement Rent terminates upon commencement of the Building Rent.

(C) Building rent: Lessee shall commence paying Lessor a monthly building rent based on an annual appraisal of the new developments starting at the beginning of the thirty-first year of the Commencement Date.

3.02. Sales Taxes and Other County Charges:

The Lessee shall pay to the Lessor, in addition to the foregoing rents, all applicable State sales taxes as well as all federal, state or local taxes arising out of the Lessee's use of the Premises, and all other charges imposed by the County on the Lessee's use of the Premises provided that such lessee charges are applicable to all similarly situated Lessee's at TMB.

3.03 Security Deposit:

Prior to occupancy or use of any improvement on the Premises, the Lessee shall pay to the Lessor an amount equal to two times the required total monthly Land and Pavement Rent as of the date thereof, as determined pursuant to Section 3.01 (Annual Rent) above, as security for the payment of the Lessee's obligations hereunder. Said deposit shall be in addition to any rental payments required hereunder, and the Lessor shall be entitled to apply such payment to any debt of the Lessee to the Lessor that may then exist, as permitted by law, including but not limited to the rentals, fees, and charges imposed by the County hereunder or otherwise. In lieu of the security deposit being made in cash, the Lessor, in its sole discretion, may authorize the Lessee to provide an irrevocable Letter of Credit, in a form approved by the Lessor, in like amount. The amount of the security deposit is subject to adjustment by the Lessor at any time there is a change in the Land and Pavement Rent pursuant to the terms of this Agreement; provided further, that the Lessor shall have the right to demand an increase in the security deposit requirement of up to an additional four months of Land and Pavement Rent to provide the Lessor with adequate assurance of the

Lessee's payment of its obligations, which assurance is required because of the Lessee's defaults in the timely payment of rents, fees and charges due hereunder, or because the Lessor has reasonable basis to believe, based on published reports, that the Lessee's future ability to pay such rentals, fees and charges, on a timely basis, is in jeopardy.

3.04 Rental Rate Review:

(A) Annually as of October 1 of each year during the Term of this Agreement, or such other date as may be established by the BCC, the Land and Pavement Rent applicable to the Premises shall be subject to review and adjustment in accordance with the adjustment of rental rates for the entire Airport per the FAA requirements for collection of fair market rent, as same may be amended from time to time.

(B) When such rental rate adjustments are established by the BCC or as directed by the Director pursuant to Resolution No. R-186-01 or made for annual adjustments and new or revised rental rates applicable in whole or in part to the Premises are established, this Agreement shall be deemed to have been administratively amended to incorporate the revised rental rates effective as of such effective date. Such revised rental rates and the resulting revised Land and Pavement Rent shall be reflected herein by means of a letter between the Department and the Lessee to be attached hereto. Payments for any retroactive rental adjustments shall be due upon billing to the Lessee by the Department and payable by the Lessee within thirty calendar days of same. Notwithstanding anything to the contrary provided herein, the adjustment of rental rates for the Premises and the resulting Land and Pavement Rent shall be based on a non-discriminatory application of the rental rates for the entire Airport as adjusted by the BCC.

3.05 Double Rental:

In the event that the Lessee remains in possession of the Premises beyond the expiration or termination of this Agreement, the Lessee shall be bound by all of the terms and conditions of this Agreement to the same extent as if this Agreement were in full force and effect during the time beyond the expiration date of this Agreement. However, during any such possession of the Premises, as a holdover Lessee after the Lessor has demanded the return of the Premises, the Lessee shall be liable for double rentals for so long as the Lessee remains in possession after such demand, such rentals to be based upon the Land and Pavement Rent rates then applicable in whole or in part to the Premises.

3.06 Methods of Payment:

The Lessee shall pay, by any of the four methods described in this article, all rentals, fees and charges required by this Agreement:

By mail:

Miami-Dade County Aviation Department
Accounting Division
P.O. Box 526624
Miami, Florida 33152-6624

By hand delivery to the offices of the Department during normal working hours to the following:

Miami-Dade County Aviation Department

4200 N.W. 36 Street
Miami, Florida 33122

By electronic funds transfer for immediate credit via wire transfer to:

Bank: Bank of America
Miami, Florida
ABA Number: 026009593
Swift Code Number: BofAUS3N (effective 11/18/06)
Account Name: Miami-Dade Aviation Department
Bank Account Number:

Note: Transaction must include the Aviation Department invoice number(s) of charges to be paid.

By electronic funds transfer for next day credit via the ACH (Automatic Clearing House) to:

Bank: Bank of America
Miami, FL
ABA Number: 063100277
Account Number: Miami-Dade Aviation Department
Bank Account Number:

Note: Transaction must include the Aviation Department invoice number(s) of charges to be paid.

3.07 Late Payment Charge:

In the event the Lessee fails to make any payments, as required to be paid under the provisions of this Agreement, within ten days after same shall become due, interest at the rates established from time to time by the BCC (currently set at 1.5% per month), shall accrue against the delinquent payment(s) from the original due date until the Lessor actually receives payment. The right of the Lessor to require payment of such interest and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the rights of the Lessor to enforce other provisions herein, including termination of this Agreement, and to pursue other remedies provided by law.

3.08 Dishonored Check or Draft:

In the event that the Lessee delivers a dishonored check or draft to the Lessor in payment of any obligation arising under this Agreement, the Lessee shall incur and pay a service fee assessed in accordance with the Department's practice for dishonored checks plus penalties as may be imposed by law, such as Sections 832.08 and 125.0105, Florida Statutes, as such statutes may be amended or renumbered. Further, in such event, the Lessor may require that future payments required pursuant to this Agreement be made by cashier's check or other means acceptable to the Lessor.

3.09 Utilities:

The Lessee shall pay, or cause third parties to pay, for all usage charges imposed by utilities with respect to the operations at the Premises or otherwise imposed on Lessee as a matter of law. The Lessor shall have no obligation

to provide utilities to the Premises, except to maintain and repair any utilities on Airport property currently providing service to the Premises, to the extent such utilities continue to be utilized to provide service to the Premises. Notwithstanding, Lessor may abandon or demolish such utilities if Lessor provides alternate utility service to Premises. In no event shall Lessor have any obligation with respect to utilities inside the boundaries of the Premises that are intended to provide service only to the Improvements.

3.10 Other Fees and Charges:

(A) Lessee acknowledges that the BCC has or may establish or direct the establishment, from time to time, of various non-discriminatory fees and charges for the use of various facilities, equipment and services provided by the County and not leased to or specifically provided to the Lessee hereunder, and procedures relating to the payment of same. The Lessee shall pay (to the extent that Lessee pursuant to the applicable ordinance establishing such fees and charges is directly responsible for payment), upon billing, for its use of such facilities, equipment and services those fees and charges, which are billed monthly. For other non-discriminatory fees and charges which are based on usage, the Lessee shall, in writing, report its uses of applicable facilities, equipment and services and simultaneously pay to the extent that Lessee pursuant to the applicable ordinance establishing such fees and charges is directly responsible for payment) the applicable fees and charges at such frequency and in such manner as may be prescribed by the Department. Notwithstanding the absence of any identification in this Agreement of charges to be paid by Lessee for its use of the Premises and the Airport, Lessee agrees to pay whatever lawful charges are imposed by the County on a non-discriminatory basis on all lessees, lessees and users of the Airport.

(B) Lessee shall be solely responsible for payment (to the extent that Lessee pursuant to the applicable ordinance establishing such fees and charges is directly responsible for payment) of all fees and charges applicable to its development and use of the Premises, including, but not necessarily limited to, all concurrency fees, impact fees, permit fees, offsite improvements made necessary or desirable by Lessee's development activities or Improvements, security fees, or charges imposed by or made necessary by federal, state, or local security requirements, as they may be imposed or amended from time to time; provided, however, that the foregoing shall not limit the ability of the Lessee and any other applicable Person or entity to receive a credit or reimbursement from the County or other applicable governmental authority, as may be permitted pursuant to applicable law, related to the foregoing fees and charges. Nothing in this Lease shall require the County to participate in or apply for any such credit or reimbursement, or limit or constrain in any manner the discretion of the County to accept or reject any such request for a credit or reimbursement otherwise provided at law, and Lessee acknowledges that the acceptance or rejection of such request shall not create any liability of any kind on the part of Lessor pursuant this Lease.

3.11 Records and Reports:

The Lessees shall keep in Miami-Dade County, during the Term of this Agreement, all books of account, records and reports used in its operation necessary to report and calculate Gross Revenue payable hereunder and as may, from time to time, be required by MDAD to document its activities pursuant to this Agreement. The form of all such books of account, records and reports shall be subject to the approval of MDAD and/or the auditors of the County (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by MDAD, the County's Department of Audit and Management Services, or auditors of the State of Florida). Recommendations for changes, additions, or deletions to such books of account, records, and reports by the auditors of the County shall be complied with by the Lessees when requested by MDAD. The auditors of the County shall be permitted, during normal working hours, to audit and examine all books of account, records, and reports relating to

the calculation of Gross Revenue, including, but not limited to, balance sheets, profit and loss statements, deposit receipts, Florida State Sales Tax Reports and such other documents as may be determined by MDAD to be necessary and appropriate; provided, however, that the Lessees shall not be required to retain such records in Miami-Dade County, Florida, for more than three (3) years following termination of this Agreement.

3.12 Reporting of Operations and Collection of Fees:

(A) In the event County establishes any fees or charges applicable to the operation of Lessee at the Airport, Lessee agrees to:

- (1) Collect, on behalf of County, all applicable fees and charges (a schedule of the fees and charges shall be provided to Lessee by County, whenever new fees or charges are established or existing fees and charges are revised); to record, in accordance with general industry practice, the receipt of such fees and charges and to remit the amount that was collected, or should have been collected, less any percent retainage as may be authorized and approved by County. The fees and charges set forth in this Article, if any, shall not be collected from United States government military aircraft, unless Lessee is otherwise advised in writing by County, or from the aircraft of commercial air transportation companies having agreements with County providing for direct payment to County of such fees and charges, as indicated on a listing or notice to be provided by County to Lessee from time to time.
- (2) Provide an accurate accounting to County of the fees and charges collected under this Article, in a form and detail reasonably satisfactory to County, on or before the twentieth (20th) day of the month following the month in which the fees and charges were collected or accrued, which accounting shall be certified by an authorized officer of Lessee. Lessee shall pay to County the total amount due to County with the accounting, without demand, deduction or setoff.

(B) Any fees or charges established by County applicable to Lessee's operations at the Airport shall be reasonable and applied in a nondiscriminatory manner to all similarly situated users and shall be commensurate with fees and charges imposed by comparable airports in the United States providing similar services as Lessee. Notwithstanding the foregoing, Lessee acknowledges and agrees that, in the event County incurs additional costs as a result of Lessee's operations at the Airport to provide services to Lessee or comply with regulatory requirements applicable to Lessee's operations, County may establish reasonable fees and charges for the purpose of recovering the costs incurred by County as a result Lessee's operations. County agrees to provide Lessee with no less than sixty (60) days prior written notice of any new fees or charges.

3.13 Audit by County: County or its representative(s) may, perform audits of Lessee's collection and payment of fees and charges collected on behalf of, and payable to, the County hereunder. In order to facilitate the audit performed by County, Lessee agrees to make suitable arrangements with the Certified Public Accountant who is responsible for preparing the Annual Report on behalf of Lessee to make available to County's representative(s) any and all working papers relevant to the report prepared by the Certified Public Accountant. County or its representative(s) shall make available to Lessee a copy of the audit prepared by or on behalf of County. Lessee shall have sixty (60) days from receipt of the audit report from County or its representative(s) to provide a written response

to County regarding the audit report. Lessee agrees that failure of Lessee to submit a written response to the audit report in accordance with the requirements of this Section shall constitute acceptance of the audit report as issued.

ARTICLE 4 **Improvements to Premises**

4.01 Improvements:

(A) As authorized pursuant to Chapter 125.012(24), Florida Statutes, subject to the provisions of this Article, the Lessee, for its convenience, shall, design, construct and pay for such improvements to the Premises as shall be approved by the Lessor (as hereinafter provided), as shall be necessary to make the Premises suitable for Lessee's use and occupancy for the purposes and uses described in Article 2, in accordance with all applicable FAA, Florida law and MDAD requirements and all building, fire and environmental codes and the Americans with Disabilities Act (ADA).

(B) Lessee's Investment. The Lessee agrees to invest not less than Sixty-Seven Million Two Hundred Thousand dollars (**\$67,200,000**) in accordance with this article to design and construct improvements and infrastructure during the Development Phase of the Premises. The Development Phase is to be completed in three (3) phases, the Phase I investment is \$18,400,000, the Phase II is \$9,600,000 and Phase III is \$39,200,000. For purposes of this Article 4, Lessee's Improvements on the premises shall be collectively referred to as the "**Improvements.**" Expenditures that satisfy such minimum investment requirement shall be limited to actual expenditures made by Lessee that relate directly to the design and construction of the improvements and infrastructure as reasonably determined by the Lessor, but as further described in Article 4.11 (Final and Approved Improvement Costs) below, specifically excluding (i) costs associated with the design, purchase and installation of personal property, and (ii) accounting, permanent financing fees, and legal fees. For the avoidance of doubt, costs incurred by Lessee in connection with the Museum and improvements on the Museum Relocation Property shall be counted towards the Lessee's 20% additional investment improvement hereunder.

(C) Development Milestones.

Phase I – Initial Area and Area 1A and Area 1B

- (a) Submit Initial Schematic Design Plans to MDAD for review and approval, no later than 6 months from the Commencement Date.
- (b) Submit 100% development Plans as further described in Article 4.04 to MDAD for review and approval, no later than 12 months from the Commencement Date.
- (c) Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 18 months from the Commencement Date.
- (d) Submit final approved plans for Permitting, no later than 24 months from the Commencement Date.
- (e) Complete construction within 54 months from the Commencement Date.

- (f) Contract document 180 days status reports for the construction of their improvements
- (g) Other milestones as listed in this Article 4 (Development and Improvements to Premises).

Phase II – Area 2

- (a) Submit 100% development plans (Plans) as further described in Article 4.04 to MDAD for review and approval, no later than 72 months from the DDP date.
- (b) Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 72 months from the DDP.
- (c) Submit final approved plans for Permitting, no later than 72 months from the DDP.
- (d) Complete construction within 84 months from the DDP.
- (e) Contract Document 180 days status reports for the construction of their improvements
- (f) Other milestones as listed in this Article 4 (Development and Improvements to Premises).

Phase III – Area 3

- (a) Submit 100% development plans (Plans) as further described in Article 4.04 to MDAD for review and approval, no later than 120 months from the DDP.
- (b) Submit MDAD approved development plans to other governmental agencies (FAA, Zoning etc.) for approval, no later than 120 months from the DDP.
- (c) Submit final approved plans for Permitting, no later than 120 months from the Commencement Date.
- (d) Complete construction within 132 months from the DDP.
- (e) Contract Document 180 days status reports for the construction of their improvements
- (f) Other milestones as listed in this Article 4 (Development and Improvements to Premises).

4.02 The Project

- (A) The Lessee intends to construct on the Premises the Improvements contemplated by the initial plans set forth on **Exhibit "A"**, which include the (i) the Demolition of Buildings 102 (should current tenant choose not to relocate the building) and 505 as identified on attached Exhibit B-2; (ii) the construction of a replacement building for the "Wings Over Miami Air Museum" that is currently located at Building 505 (the **"Museum"**); and (iii) the construction of the following Improvements:
 - 1. Fixed Based Operator Terminal facility (FBO) with office space and other customer support

- areas, including a business center, restaurant, catering, and other food and beverage establishments.
2. Aircraft Hangars, including a community hangar, with a total of 225,000 square feet of hangar space to accommodate up to a Gulfstream G-700 type aircraft (which community hangar will be constructed in the initial phase of construction).
 3. Fuel farm terminal to include 60,000 gallons of Jet A and 12,000 gallons of AVGAS;
 4. Aircraft pavement with taxi lane(s) and supporting roadways.
 5. Apron, ramp and airside and landside aircraft and vehicular parking pavement necessary to support aircraft owners, visitors, employees, and staff.
 6. eVTOL Vertiport shall be considered upon MDADs updated minimum standards and design guidelines implementation.

(B) Complimentary Projects:

Lessee acknowledges that the following complimentary projects will be undertaken in conjunction with the development of the Improvements.

1. Upon the DDP, Lessee shall commence the design and construction of a building to relocate the Museum (the "**New Museum Building**") at the property identified on attached **Exhibit "P"** (the "**Museum Relocation Property**"). The New Museum Building to be constructed by the Lessee, at its sole cost and expense, shall conform to the specifications and dimensions set forth on attached **Exhibit "E"** and shall become the property of the Lessor upon issuance of a CO for the facility and acceptance by the Lessor. Notwithstanding anything to the contrary contained in this Agreement, Lessee shall have priority in the event of any dispute concerning the ability to depreciate the value of the property for income tax purposes. Lessee will construct the New Museum Building on the Museum Relocation Property. The New Museum Building shall have approximately the same size and offer the same internal amenities of the existing Museum.
2. The Lessee shall allow the existing tenant currently occupying lots 1 and 2 to remain. Until such time as the new taxilane is completed or thirty-six months (36) from the DDP. The relocation of the existing tenant from Bldg. 102 (which relocation and demolition costs will be borne by such existing tenant). Rent for any premises occupied by the current tenant at the time of the execution of this DLA shall be reduced for the then current rent.
3. Lessee will complete an approximately 32,000 square foot ramp area (at Lessee's cost) on land generally located to the south of Bldg. 501 and identified on Exhibit B-1, which area upon completion and shall be turned over to MDAD to serve as a common use taxi lane and common use ramp for U.S. Customs and Border Protection.
4. Lessee will complete an approximately 49,109 square foot ramp area (at Lessee's cost) on land generally to south of Bldg. 501 and identified on Exhibit B-1, which area upon completion will be turned over to MDAD to provide aircraft parking and taxiway access to the MDC Watson School of Aviation.

Notwithstanding the foregoing, upon completion of the improvements in item 3 above utilizing the Tenant Airport Construction -Reimbursable (TAC-R) process, the Lessee shall be entitled to a reimbursement equal to one half of the construction of the Customs and Border Protection (CBP) ramp/apron not to exceed \$211,200.00.

5. Projects completed on behalf of the County (MDAD) may need to comply with the requirements of the Tenant Airport Construction Reimbursable (TACR) requirements.

(C) Project cost

The Lessee shall bear and be solely responsible for all costs arising out of the Improvements, including, but not limited to, the following:

1. All costs as described in Article 4 (Improvements to the Premises) above.
2. Subject in any case to Lessee's right to terminate under Section 9.04, any and all existing environmental conditions that exist on site and assumes full responsibility for remediating the site to a condition that allows construction of the site as well as all necessary environmental approvals under the National Environmental Policy Act ("NEPA"), provided, however, that Lessor shall contribute up to \$800,000.00 towards the remediation of existing environmental conditions.
3. Any costs arising out of the review and approval of an amendment to the Airport Layout Plan (ALP).
4. Any land use approvals, development fees, concurrency fees, and permit fees for the design, construction, and subsequent use of the improvements and infrastructure land use approvals development fees, concurrency fees, and permit fees for the design, construction, and subsequent use of the Improvements; financing, design, and construction of the Improvements, including but not limited to utilities, roads, parking lots, landscaping.
5. Any traffic studies that may be required by applicable law prior to construction thereof.
6. Financing, construction bonding and insurance, building permits, impact and concurrency fees, utility installations and/or hook-ups or other infrastructure, as may be required to make the Premises suitable for the use of the Improvements.
7. Construction audits (as may be required elsewhere herein);
8. Consultants, accountants, financing charges, legal fees, furnishings, equipment, and other personal property of the Lessee;
9. All other direct or indirect costs associated with the approvals, design, construction, and financing of the Improvements; and
10. The Lessee shall be solely responsible for adhering to the drainage requirements of the most recent storm water master plan (dated April 21, 2022) and shall accommodate the required drainage within the boundaries of its premises.
11. Operation and maintenance of the Project.

Lessee acknowledges that the Lessor shall have no maintenance responsibility for any of the Improvements to be constructed by Lessee that are not otherwise dedicated or transferred to the County.

(D) Additional Project Requirements

1. The Lessee shall provide to Lessor for approval and its use, a survey of the Premises within ninety (90) days of DDP. The acceptance and approval by the Lessor shall be based upon the exhibits approved by the BCC.

2. The Lessee shall provide to Lessor within sixty (60) days of the DDP, a traffic study to determine the impact of the additional traffic of the new development to be generated to the area
3. The Lessee shall be solely responsible for adhering to the drainage requirements of the most recent storm water master plan (dated April 21, 2022) and shall accommodate the required drainage within the boundaries of its premises.
4. Lessee shall provide to Lessor for approval, within (180) days of the DDP, a detailed description, layout and Master Plan for the entire Project site located at TMB.
5. Lessee shall provide any report(s) to Lessor within three hundred and sixty-five (365) days of the DDP pertaining to the current drainage plan and environmental requirements to verify the suitability of the Premises for Lessee's proposed development and the acceptability of this Lease to Lessee.

(E) All Improvements constructed or placed on the Premises, including, but not limited to, drainage and landscaping, shall be of first-class design and construction; comply with any and all applicable governmental laws, regulations, rules, and orders; follow standard construction methods; not interfere with Airport operations or other Airport tenants, and be constructed in accordance with applicable requirements of this Article. After completion of construction thereof, Lessee shall have the right to make such additions, alterations and improvements to the Premises, as Lessee may deem necessary for its operations hereunder, subject to the Department's prior written consent which consent shall not be unreasonably withheld, conditioned, delayed or denied; the rights granted in this Section shall not allow Lessee to utilize the Premises for purposes other than expressly authorized herein. The Lessor is expressly authorized to withhold consent to any additional construction to accommodate material changes in Lessee's operations, or which impact Airport operations or other Airport tenants.

(F) Lessee acknowledges and agrees that there are various improvements currently located on the Premises, including, but not limited to, buildings and vehicular pavement, and to the extent Lessee determines it is necessary for construction of the Project, Lessee shall be responsible for the coordination and removal of any such improvements at Lessee's sole cost and expense and will have no obligation to restore any of these improvements upon termination of this Lease. The current owner of building 102 plans to relocate the existing building prior to the lessee taking possession of the premises. Should the building remain, the lessee shall give the lessor and the owner 30 days' notice prior to demolition.

(G) County shall cooperate with Lessee in the pursuit of the necessary governmental approvals by executing applications and other instruments, promptly upon the request of the Lessee, necessary to obtain the required approvals for the development of the Project on the Premises when the property owner is required to execute such applications or instruments, which may be signed on behalf of County by the Director or the Director's designee (provided, however, that the foregoing obligation shall not require the County to cooperate with any applications or instruments where such cooperation jeopardizes existing airway safety and/or federal grants or otherwise impacts airport operations or finances.). Lessee acknowledges that County shall be acting in its proprietary capacity in executing such applications or instruments and that nothing in this Section shall be construed as obligating or requiring County to take any specific action on such applications or instruments when acting in its governmental or regulatory capacity.

(H) Any and all costs incurred in the pursuit of the approvals shall be borne solely by Lessee. If County, acting in its proprietary capacity, anticipates incurring third-party costs in obtaining any approvals related to the development of the Project on the Premises, including, but not limited to, the application for a categorical exclusion or the preparation of an environmental assessment, if required, under the National Environmental Policy Act

("NEPA"), County shall submit to Lessee for its approval, not to be unreasonably withheld, conditioned, or delayed, a proposed budget and scope of work for such third-party justified and reasonable costs. In the event Lessee does not approve the proposed budget and scope of work, in all or in part, Lessee acknowledges and agrees that County shall have no obligation to pay for any unapproved budget items or pursue any items within the scope of work that have not been approved by Lessee. Following Lessee's approval of such budget, Lessee shall reimburse County for actual, reasonable out-of-pocket third-party costs up to the amount of the approved budget, within thirty (30) days of the date of County's written request for reimbursement, which shall include copies of original invoices and such other supporting documentation as Lessee shall reasonably request.

4.03 Design of Improvements:

(A) Prior to the commencement of any construction of an Improvement on the Premises, Lessor and Lessee shall hold a pre-design meeting to be coordinated through the Project Manager with the participation from all parties deemed by Lessor to be necessary for such meeting, for discussions regarding utilities, grading drainage, airside, security, existing as-built drawings, compliance with the Master Plan, and the terms of the Agreement and any other related item(s). Lessee acknowledges its obligation to assure that FAA approval is obtained, even though MDAD must be involved in such process, and that such FAA approval is communicated to Lessee in writing prior to the commencement of construction of each improvement. The Lessee and its architect/engineer have the responsibility to ensure that the project design shall be in accordance with all applicable laws, codes, regulations, and other requirements of County, State and/or Federal authorities having jurisdiction over the construction of the improvements by law or by contract with the County, including all then current requirements of the County as they relate to Tenant Airport Construction, non-reimbursable projects under Article 4.14 (Tenant Airport Construction Contracts). Specifically, with respect to the "tower line of sight" concerns, all structures shall be designed and built to comply with tower line of sight requirements for an FAA Control Tower applicable at the time of such development commences construction. The Lessee shall be responsible for obtaining and confirming as-built drawings and information pertaining to the design of the facilities.

(B) Lessee acknowledges that before the County's Building Department may issue any permit for an improvement on County-owned property, the Aviation Department must issue a "Letter of Concurrence" that constitutes the owner's authority for the Lessee to apply for and obtain the building permit. The Department shall not be required to issue the Letter of Concurrence until such time as Lessee has complied with all obligations in this Agreement as to the design and construction of the improvements, including compliance with the TAC-N procedures, submission of approved Contract Documents, and compliance with the regulatory provisions of the County's other departments having jurisdiction over the construction, such as, but not limited to, the Fire Department and the Regulatory and Economic Resources (RER) Department. Lessor acknowledges that time is of the essence and agrees to act promptly in response to inquiries from Lessee and its consultants.

(C) As described in subsection (1) and (2) below, the Lessee shall submit to the Facilities Division of the Department Schematic Design Plans and the Contract Documents for each applicable improvement for the Department's review, modifications, and approval. The Department shall designate a single point of contact for all submittals to expedite the process described herein. In no event shall the Department's review hereunder be unreasonably withheld, conditioned or delayed. The Department's failure to submit modifications within fourteen (14) business days from the date the Schematic Design Plans or complete Contract Documents are submitted by the Lessee to the Department shall be deemed as a consent by MDAD for Lessee to apply for permits from the appropriate County Departments; provided, however, that if the Department has requested changes on such

Schematic Design Plans or Contract Documents, Lessee shall not go forward with the project until it has incorporated such changes in its Schematic Design Plans or Contract Documents and resubmitted them to the Department for confirmation that the changes in the Schematic Design Plans or Contract Documents have been made.

1. The Lessee shall submit to the Department ten (10) sets of schematic design plans for the applicable improvements, setting forth conceptual site layouts and plans, sections and elevations with respect to the applicable improvement (the "**Schematic Design Plans**").

2. The Lessee shall submit to the Department ten (10) sets of the Contract Documents consisting of: (i) 100% complete plans and specifications, provided, the Parties may agree to phased submittals to expedite commencement of construction of the Improvements; (ii) project schedule based upon calendar days without dates for the design, bid and construction, hereinafter referred to as "Lessee's Project Schedule"; and (iii) cost estimates for the improvements, prepared by an architect/engineer registered in the State of Florida (collectively, the "**Contract Documents**").

3. The Department may from time-to-time request that other documents be submitted by Lessee as part of the Contract Documents for a particular improvement, and Lessee shall comply with such request. Lessee acknowledges that failure to comply with Lessee's reasonable obligations to submit complete Contract Documents may delay the Department's review of the Contract Documents, which may cause the Lessee to miss other design or construction deadlines contained herein or desired by Lessee. Subject to excusable delays and Force Majeure Events, the Lessee shall continue to be held responsible for meeting the deadlines contained herein and shall be subject to the Department's remedies specified herein for not meeting said deadlines. The Department shall in no way be held responsible for delays resulting from the failure of the Lessee to meet all submittal requirements contained herein.

4. Upon submission of the Schematic Design Plans and 100% complete Contract Documents to the Department for design review; the Department shall, as applicable, also review the plans for compliance with the following:

(a) Conformance with the Airport Master Plan (AMP), Comprehensive Master Development Plan (CDMP), and Airport Layout Plan (ALP), and has the approval of the FAA.

(b) Compliance with environmental requirements, utilities master plan, and storm water master plan and permitting requirements.

(c) Compliance of Implementing Order (IO) 8-4 and BCC Resolution (Reso. 129-22), during the development phase, the Lessee at its sole cost, is required to connect to the existing sanitary sewer system prior to the TCO or CO whichever occurs first.

5. The Department shall comment in writing on the Schematic Design Plans and Contract Documents within fourteen (14) calendar days of such submission. All comments by the Department shall be incorporated into the Schematic Design Plans and Contract Documents, unless Lessee requests reconsideration of any of the Department's comments. Such request shall include documentation supporting the Lessee's position. The Department shall review the request for reconsideration and shall either approve or disapprove the request or alter its initial comments in light of the reconsideration. The determination of the Department at this time

shall be final and binding upon the Lessee and accordingly shall be incorporated in the revised plan for final resubmittal. After the Department reviews and approves the Contract Documents (the "**Final Plans and Specifications**"), the Lessee the Lessee may not make a material change in the Final Plans and Specification or their scope without the Department's further review, which shall not be unreasonably withheld or delayed.

6. The Department's review for Lessee's design and compliance with all applicable codes and regulations does not constitute certification or warranty by the Department (a) as to the quality of the Schematic Design Plans or Contract Documents prepared by the Lessee's architect/engineer(s), (b) that the Schematic Design Plans or Contract Documents are free of design errors or omissions, or (c) that they are in compliance with applicable laws, codes, rules or regulations of the authorities having jurisdiction over the construction of the improvements. Such review shall not be unreasonably withheld or delayed by the Department.

(D) Assuming timely review of all submittals by the Lessee, the Department and all governmental agencies, if the Lessee fails to provide the complete Contract Documents for review to the Department or delays the start of the construction by more than 60 calendar days from the agreed upon project schedule, any reviews theretofore provided by the Department will become null and void and will require Lessee's re-submission of the documents for Lessor's review.

4.04 Development schedule

Except as otherwise provided for herein, prior to constructing any improvements on or alterations to the Premises (including, but not limited to, the Project), the Lessee, without cost to County, shall prepare detailed preliminary construction plans and specifications for the improvements, including, but not limited to, a Layout Plan to be incorporated into the Airport Layout Plan or as a separate plan as required by the FAA, (hereinafter collectively referred to as the "Plans") in accordance with standards established by the Lessor and deliver the preliminary Plans to the Lessor for review, comment and adjustment.

County reserves the right, in its sole and absolute discretion, to withhold approval of any improvements within the Premises determined to be a potential hazard to air navigation by the Lessor, County and/or the FAA or which the Lessor, County and/or FAA determines, in their reasonable discretion, would affect the current or future Airport operations or development as set forth on the FAA-approved Airport Layout Plan or in the TMB Master Plan as of the date hereof or decrease Miami Executive Airport's airfield or airspace capacity.

The parties acknowledge that the Lessee has elected to pursue development of the Premises prior to the establishment of final design standards on airports by governmental agencies with jurisdiction over the Airport, including, but not limited to, the FAA and FDOT. The Lessee acknowledges and agrees that the Lessee shall be responsible, at the Lessee's sole cost and expense, for any required improvements, modifications or alterations required to be made to the Premises to ensure compliance with applicable design standards.

(A) Submission of Certain Documents and Fees Prior to Commencement of Construction:

1. At least ten (10) days prior to commencing construction Lessee shall comply with the following requirements and shall submit the following to the Lessor's Facilities Project Manager, who will be assigned to this Agreement:

- a. A copy of the building permit(s).
- b. All construction bonds including performance, payment, contract completion bonds or their substitute and Insurance Certificates required under Article 4.07 (Construction Bonds and Insurance Required), and Article 12 (Insurance).
- c. Proof of the Pollution and Remediation Legal Liability Insurance required under Article 12.
- d. Consents from Lessee's general contractor and architect to the assignment of Lessee's rights under its contracts with such parties to the County.

2. Unless the Lessor directs otherwise, Lessee shall submit the following documents to the Department's Finance Manager:

- a. A check made payable to the Lessor in the amount that represents one percent (1%) of the budgeted construction hard costs for reimbursement of Building Department fees pursuant to Article 7.05 together with a copy of the construction contract awarded to the lowest bidder or as negotiated. If the final construction hard costs are higher or lower than the budgeted amount, the difference shall be multiplied by 1% and shall either be paid by the Lessee to the Lessor if the resulting number is a positive amount in accordance with the time frame established under Article 4.10 herein or refunded to the Lessee by the Lessor if the resulting number is negative. Such fee shall be non-refundable. In addition, if Lessee obtains a building permit and allows the permit to expire prior to completion of the improvements then Lessee shall be required to pay an additional one-half of one percent ($\frac{1}{2}$ of 1%) of the budgeted construction hard costs as administrative fees for plans processing reviews required by Building Department staff to issue a building permit. Such fee shall be non-refundable and shall be payable in addition to the 1% fee required pursuant to this Article 4.03(B) (1); and

- b. Copy of Lessee Audit pursuant to Article 9.05.

(3) Lessee shall submit a copy of Lessee Financing Documents pursuant to Article 11.04 (B) to the Lessor's Assistant Director Business Retention and Development.

(4) Lessee shall not be authorized to begin construction until the above-listed items have been submitted to the Lessor. If Lessee begins construction prior to submission of the documents and fees in the required form and amounts, satisfactory to the Lessor, as required pursuant to this Article 4, the Lessor shall be authorized to halt the Lessee's construction activities without any liability to the County until such time as Lessee satisfies this requirement. In such event, no extensions of time shall be granted by the Lessor to Lessee. During construction, the Department's Project Manager or a designee will be permitted by Lessee to observe all aspects of the progress of the work.

4.05 Failure to Complete on a Timely Basis:

In the event the Lessee fails to comply with the time requirements for the design and construction of the improvements, as specified in Article 4 (Development and Improvements to Premises), the County in its sole direction shall have the right to:

A. Terminate this Agreement on thirty (30) days' notice and opportunity to cure in accordance with Article 13 (Termination).

B. Terminate Lessee's rights with respect to the construction of the improvements or portions thereof and thereafter assume the obligations of Lessee under this Article 4 of the Agreement under an assignment by Lessee to Lessor of relevant contracts and permits, and complete the construction of the improvements or portions thereof with the benefit of all bonds and other forms of security provided by Lessee; or

C. Reduce the Term by a period of five years with no option to extend and allow Lessee to complete construction; in the event the County elects this remedy, the Lessee shall be allowed an additional 365 days to achieve DBO of the improvements. In the event Lessee does not achieve DBO within such extended time frame, the County shall have the discretion to terminate the Lease as provided for in (1) and (2) above.

4.06 Construction of Improvements:

Promptly following Lessor's approval of the contract documents in accordance with Article 4 (Development and Improvement to Premises), but not more than one hundred and eighty (180) days thereafter, the Lessee shall finalize and enter into a contract(s) for the construction of the Improvements, in accordance with the terms and conditions of the approved Improvements Documents. The Lessee shall cause the construction of the improvements to be completed within the time period specified in the contract documents, excluding any delays not within Lessee's reasonable control, unless an extension of such period is approved, in writing, by the Department, but notwithstanding any periods of time set forth in the contract documents and except for any extension of time granted by the Lessor. In no event shall any approval hereunder be unreasonably withheld, conditioned or delayed.

4.07 Construction Bonds and Insurance Required; Insurance Company Rating:

(A) All contracts for the construction of any improvements shall require that Lessee shall maintain, or cause to be maintained, the following construction bonding and insurance during the construction of the improvements:

1. Separate performance and payment bonds, satisfactory to the County, in the full amount of the improvements, to assure completion of contract work and payment of the costs thereof, free and clear of all claims, liens and encumbrances of subcontractors, laborers, mechanics, suppliers and material men. The required bonds shall be written by or through, and shall be countersigned by, a licensed Florida agent of the surety insurer in accordance with Florida Statutes.

2. A contract completion bond from the Lessee to the County as security for the completion of and payment for the construction of the improvements free and clear of all claims of any nature whatsoever in the full amount of the cost of the contracts for construction of the approved improvements. In lieu of a contract completion bond, the County may accept substitute documents that provide the Department with assurance that the Lessee will complete the improvements. If Lessee obtains a performance and payment bond that names the Lessee and its general contractor as joint obliges, County will accept such bond in satisfaction of the requirement for a contract completion bond, provided such bond is in a form reasonably acceptable to the County.

3. Completed Value Builders Risk and/or Installation Floater, issued in the name of the Lessee's contractor, the Lessee, and the County as their interest may appear, in amount(s) not less than 100%

of the insurable value of the structural improvements, covering perils on "All Risks" basis including windstorm. Policy(s) must clearly indicate that underground structures (if applicable) and materials being installed are covered.

4. Commercial General Liability Insurance as specified in Article 12 (Insurance) herein.

5. Workers Compensation as required by Florida Statutes.

6. Automobile Liability Insurance as specified in Article 12 (Insurance) herein

7. Pollution and Remediation Legal Liability insurance in an amount not less than \$2,000,000 covering third-party claims, remediation expenses, and legal defense expenses arising from on-site and off-site loss, or expense or claim related to the release or threatened release of Hazardous Materials at the Lessee's Premises.

(B) All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "A-" as to financial strength and no less than Class "VII" as to financial size, in accordance with the A.M. Best Company Insurance Guide, or its equivalent as approved by the County's Risk Management Division.

(C) The Lessee shall furnish all required insurance certificates to the County for approval as may be required by the County's Risk Management. These certificates shall clearly indicate that the Lessee or its contractors have obtained insurance of the types, amounts and classifications required by these provisions. No material change or cancellation of the insurance shall be effective without a 30-day prior written notice to and approval by the County's Risk Management.

4.08 Construction Completion Documents:

Within thirty (30) days following the completion of construction of any Improvement for which a CO or TCO is issued; the Lessee shall furnish the following documents to the Department:

(A) Documents showing that the Improvement has met the requirements of the final inspection and that all permits have been closed out.

(B) Documents that Lessee has obtained lien waivers from the general contractor and all parties designated by the Department, along with any final affidavit of the general contractor required by Chapter 713, Florida Statutes.

(C) Certificates of Occupancy for the Improvement.

(D) Certification from the Lessee's architect that the Improvement has been completed in conformance with the approved Final Plans and Specification as well as all permits and applicable governmental requirements.

(E) At least one copy of an as-built survey of the area covered by the improvement; and

(F) Two (2) complete sets of as-built construction drawings and two (2) AutoCAD files of the as-built construction drawings in a compact disk format or other format designated by the Department, including all pertinent shop and working drawings and such other as-built drawings as the Department may reasonably require.

4.09 Certain Construction Contract Terms:

All contracts entered into by the Lessee for the construction of the improvements shall require completion of the improvements within a specified time period following the Commencement of said contract(s) and shall contain, unless otherwise authorized by the Lessor, reasonable provisions for the payment of actual or liquidated damages in the event Lessee's contractor fails to complete the construction on time. The Lessee agrees that it will use its best efforts to take all necessary action available under such construction contract to enforce the timely completion of the work covered thereby. Further, as a standard construction practice, all such contracts shall contain provisions requiring the retention of 10% of contractor billings or such lesser percentage amount as may be approved by the Lessor. All contracts shall provide that the County is a third-party beneficiary thereof.

4.10 Assignment of Contract Documents to Lessor and Assumption of Construction of Improvements by County:

In the event that Lessee fails to perform its material obligations under Article 4 (Improvements to Premises) of this Agreement, and Article 13.03 (Other Defaults), the Lessor may provide Lessee written notice of such default specifying those matters constituting such default. Material obligations shall include, but not be limited to, compliance with the contract documents and compliance with any regulatory requirement. If such default continues for a period of thirty (30) days following Lessee's receipt of the notice or Lessee fails to diligently commence to cure such default within such thirty (30) day period if such default is of a nature that it cannot be cured within thirty (30) days, the Lessor may either terminate this Agreement or else terminate Lessee's rights with respect to the construction of the improvements or portions thereof and thereafter assume the obligations of Lessee under this Article 4 of the Agreement under an assignment by Lessee to Lessor of relevant contracts and permits, and complete the construction of the improvements or portions thereof with the benefit of all bonds and other forms of security provided by Lessee hereunder. Lessor's use of any such bonds or security shall not diminish Lessee's liability to Lessor hereunder for failure to complete the improvements in accordance with Lessee's obligations hereunder.

4.11 Final and Approved Improvements Costs:

(A) For purposes of verifying Lessee's expenditure of the Minimum Investment (67,000,000.00) in design and construction costs of the improvements on the Premises, within ninety days of completion of construction of the Improvements, the Lessee shall submit to the Finance Division of the Department, a certified audit of the monies actually expended in the design and construction of the improvements, including all infrastructure and utility facilities, in accordance with the Final Plans and Specifications described above in Section 4.02 (A) (Design of Improvements), prepared by an independent certified public accounting firm (Auditor) approved in advance by the Department, which approval shall not be unreasonably withheld, conditioned or delayed. The audit report shall provide a detailed list of all expenditures in the design and construction costs of the Improvements on the Premises. In accordance with Section 4.01(B) (Improvements) and Section 4.09(B) (Final and Approved Improvement Costs) below, [eligible costs for such Improvements are those costs for project management, any design costs paid by the Lessee which are not attributable to items considered to be non-reimbursable obligations of the Lessee, and construction in accordance with the Final Plans and Specifications and any changes thereto requested by the Lessee and approved by the

Department, including the costs of required bonds and construction insurance].¹ The Lessee shall be responsible for providing documentation of the Improvements on the Premises, including all construction approval documents signed by an approved architect American Institute of Architects (AIA) and financial documents, whereby the Auditor can validate all costs incurred on the Premises and render an opinion in the audit report. The Department's failure to disapprove the audit submitted by Lessee as required in this Section 4.09 within one hundred and twenty (120) days from the date of submission, shall constitute an unconditional approval. In the event of any disputes between the Department and the Lessee as to whether certain costs are to be included as Approved Improvements Costs, said dispute(s) shall be submitted to the consulting engineers under the Trust Agreement, as defined in Section 19.01 (Incorporation of Trust Agreement by Reference) hereof. The decision of said consulting engineers shall be final and binding upon the Parties hereto.

(B) Approved Improvements Costs shall include the actual expenditures as certified under the construction audit for architectural and engineering design, construction, site development, required bonds, construction and liability insurance, construction financing fees and interest, building permit, impact and concurrency fees, and the construction audit, but shall exclude the costs of any other consultant (unless otherwise approved in advance by the County), accountant fees, permanent financing fees or charges, legal fees whether arising out of construction claims or lawsuits or any other matter, interior decorations (other than standard County approved finishes) special finishes, wall tile or other special wall finishes and coverings, construction photographs, special external and internal lighting and signage, moveable equipment, advance stockpiles of spare parts or consumables for any equipment, software or software integration costs, and furniture or other personal property of the Lessee. In the event of any questions as to whether certain costs are to be included in the approved improvements costs, the County through its consulting engineers shall make a determination and its decision shall be final.]²

4.12 Temporary Structures:

Trailers or temporary structures shall be allowed on the Premises during the period of construction of the Improvements subject to all required permitting. All trailers or temporary structures must comply with the Florida Building Code and must be removed prior to or upon the ending of construction. Copies of the building permits shall be submitted to the Project Manager within ten (10) calendar days of issuance to Lessee. Notwithstanding the foregoing, Lessee shall be permitted to place temporary structures (including, but not limited to, a temporary waiting area lounge and operations office) within the Initial Premises in furtherance of the marketing of the Project and the commencement of operations at the Premises.

4.13 Review of Construction:

During the construction of the Improvements, the Department or its designee shall have the right, but not the obligation, to periodically review the construction and to enter the Premises at reasonable times and upon reasonable prior notice to inspect the construction for the purpose of ensuring conformity with the Final Plans and Specifications and any changes thereto requested by the Lessee and approved by the Department. Failure of the Department to make such review or inspection shall not impose any liability on the Department or the County, nor constitute Lessor's acceptance of the Improvement as being in accordance with the Final Plans and Specifications and Lessee's obligations hereunder.

4.14 Tenant Airport Construction Contracts:

The Lessee and the County shall enter into a separate Tenant Airport Construction, Non-reimbursable (TAC-N) and or Reimbursable (TAC-R) contracts for the purpose of enabling Lessee to construct facilities or improvements on the Premises or on the Airport deemed necessary or appropriate for Lessee's or Lessor's use on the Premises. Such contracts shall comply with the Department's TAC-N or TAC-R contract requirements under Article 8.01 (Alterations) and as such requirements may be amended by the Lessor from time to time.

4.15 Standards of Construction; Removal of Improvements at Termination:

(A) The Lessee may construct all Improvements to the standards established by the Lessor from time to time or shall be entitled to use modified standards for its design and construction of Improvements that are to remain in Lessee's name. For improvements that remain in the Lessee's name, under Section 1.05 (Investment), the County may require Lessee to provide a Letter of Credit or alternative form of financing security acceptable to Lessor to assure that the improvements will be demolished or removed at the termination of this Agreement for any reason. Such Letter of Credit or Financing Document shall be periodically adjusted, not less than annually, so as to reflect the estimated cost, as of December 31 of the year immediately preceding the year in which the adjustment is made, of demolition or removal of all improvements on the Premises, whether such improvements are completed or not.

(B) Unless the Parties have otherwise agreed, title to all Improvements made on or under the Premises by Lessee shall revert to the Lessor at the end of the Agreement. Buildings currently titled to the Lessor on the Premises shall remain at all times in the name of the Lessor. No later than the start of the 26th anniversary of this Lease, Lessor shall itself or through its consultant engineers inspect all improvements to determine the soundness of same. No later than 25 years and six months from the date that a C.O. or T.C.O. is obtained, Lessor shall issue to the Lessee a report on the condition of each improvement to be in effect upon the turnover of each improvement at the end of the lease. Lessor may require demolition of any or all improvements at the end of the Term.

4.16 Construction Practice, Safety and Security

(A) Means and Methods: The Lessee shall perform the Work in accordance with this Agreement and shall have exclusive responsibility for all construction means, methods, techniques, sequences, and procedures necessary or desirable for the correct, prompt, and orderly prosecution and completion of the Improvements. The responsibility to provide the construction means, methods, techniques, sequences and procedures referred to above shall include, but shall not be limited to, the obligation of the Lessee to provide the following construction requirements: temporary offices and construction trailers; required design certifications; required approvals; weather protection; clean-up and housekeeping of the Premises; construction trade management; temporary parking; vehicle traffic; safety and first aid facility and equipment; correction of or compensation for defective work or equipment; project contractors' and subcontractors' insurance; storage areas; workshops and warehouses; temporary fire protection; security of the Premises; temporary utilities; potable water; sanitary services; Project Contractor, Subcontractor and vendor qualification; receipt and unloading of delivered materials and equipment; erection rigging; temporary supports; and construction coordination.

(B) Safety and Security: The Lessee shall maintain safety and security at the Premises at all times in accordance with all local, state and federal workplace regulations. Without limiting the foregoing, the Lessee shall:

- (1) Take all necessary precautions for the safety and security of the Improvements and provide all

- necessary protection to prevent damage, injury or loss caused by trespass, negligence, vandalism, malicious mischief or any other course, for (a) workers at the Premises and all other persons who may be involved with deliveries or inspections; (b) visitors to the Premises; (c) passersby and adjacent properties; (d) materials and equipment under the care, custody or control of the Lessee, Project Contractors or Subcontractors on the Premises; (e) other property constituting part of the Premises or the Project under construction; and (f) County property;
- (2) Establish and enforce all necessary safeguards for safety and protection, including posting danger signs and other warnings against hazards;
 - (3) Implement a comprehensive safety program;
 - (4) Give all notices and comply with all applicable law relating to the safety of persons or property or their protection from damage, injury or loss;
 - (5) Operate and maintain all equipment in a manner consistent with the manufacturer's safety requirements; and
 - (6) Provide for safe and orderly vehicular movements.

(C) Health and Safety Plan: The Lessee shall develop and implement a written site- specific health and safety plan (the "**Health and Safety Plan**") that includes management commitment to maintaining a safe workplace, employee participation, hazard evaluation and controls, employee training and periodic inspections which shall:

- (1) Designate an appropriately certified safety professional with appropriate construction safety experience who is to develop and sign the Health and Safety Plan including all safety rules at the Premises;
- (2) Designate a qualified safety professional stationed full-time at the Premises during on-site construction activities whose primary/only duty shall be the implementation of safety rules at the Premises, the prevention of fires and accidents, monitoring compliance with the Health and Safety Plan, and the coordination of such activities as shall be necessary with the County and all governmental bodies having jurisdiction; and
- (3) Require the [Project Contractors] and all Subcontractors to work and implement the Health and Safety Plan.

ARTICLE 5

Maintenance and Repairs by Lessee

5.01 Cleaning:

The Lessee shall, at its sole cost and expense, perform or cause to be performed cleaning services which will at all times keep the Premises clean, neat, orderly, sanitary and presentable.

5.02 Removal of Trash:

The Lessee shall, at its sole cost and expense, remove or cause to be removed from the Premises, all trash and refuse which might accumulate and arise from its use of the Premises and the business operations of the Lessee under this Agreement. Such trash and refuse shall be stored temporarily and disposed of in a manner approved by the Lessor.

5.03 Maintenance and Repairs:

(A) Lessee shall be exclusively responsible for maintenance and repair of all improvements as well as unpaved and landscaped areas within the Premises whether or not a CO or TCO have been issued. Lessee shall repair and maintain in good condition the Premises, improvements, and alterations thereto, except for those items for which the Lessor is responsible pursuant to Article 6 (Maintenance by Lessor). Such repair and maintenance shall include but not be limited to, fire suppression systems, interior walls, painting, overhead and personnel doors, hangar doors, windows, pavement, equipment, protection bumpers, furnishings, skylights, fixtures, appurtenances, air conditioning systems, replacement of light bulbs, ballasts and tubes and the replacement of all broken glass, and shall repair all damage caused by the Lessee and its employees, agents, independent contractors, patrons, servants trespassers and invitees. Maintenance and repairs shall be of quality and class equal to or better than the original work to preserve the Premises in good order and condition.

(B) Except as provided in Article 6.01 (Lessor Maintenance), in no event shall Lessor be responsible or liable for any maintenance or repair of any improvement, fixture, equipment, structure, facility, alteration, or addition thereto on the Premises.

(C) Any injury or damage caused by the installation or removal of personal property of the Lessee shall be repaired so as to restore improvements to their original state, except as such improvements may have been altered by the Lessee with the approval of the Lessor pursuant to Article 8.01 (Alterations), and to quit and surrender up the Premises in the same good order and condition as it was at the commencement of this Agreement and upon completion of construction of any improvement, except for reasonable wear and tear and damage caused by an Act of God; provided however, that such return of the Premises and improvements in the condition required under this Article 5.03 (Maintenance and Repairs) shall not relieve the Lessee of its obligations for damages to the Premises that may be specifically provided elsewhere in this Agreement.

5.04 Excavation of Land:

No excavation of any of the land shall be made, no soil or earth shall be removed from the Premises, and no well of any nature shall be dug, constructed or drilled on the Premises, except as may be required for environmental monitoring purposes, without the prior written approval by the Lessor; provided, however, that the County's approval of the Final Plans and Specifications shall be deemed approval of the excavation necessary to complete construction of the Improvements set forth therein.

5.05 Water and Sewerage System:

The Lessee shall operate and maintain, at its sole cost and expense, all the components of the water and sanitary systems within the boundaries of the Premises. The Lessee shall not make any alterations or modifications to these facilities without the advance written approval of the Lessor.

5.06 Industrial Waste Facilities:

The Lessee shall be fully responsible for all industrial wastes exiting or resulting from Lessee's operations on the Premises and in response thereto shall provide, operate and maintain adequate facilities on the Premises for

separating, neutralizing and treating industrial wastes and foreign materials and the proper disposal thereof, in accordance with applicable laws, rules and regulations.

5.07 Grassed Areas and Shrubbery:

The Lessee shall mow the grassed areas and trim the shrubbery within the Premises regularly so as to maintain the Premises in a neat, orderly and attractive condition. Any land areas within the Premises not grassed or paved shall be stabilized by the Lessee and the Premises shall be so utilized that use of the same will not cause dust, debris or waste to be blown about or raised so as to be ingested by aircraft or otherwise interfere with or disturb the use or enjoyment of others of their Premises. All landscaping maintenance required hereunder shall be performed in accordance with landscape maintenance standards, as published from time to time by the Lessor.

5.08 Inspections:

The Lessor and/or its designated representatives shall have the right, during normal working hours, to inspect the Premises to identify those items of maintenance, repair, replacement, modification and refurbishment required of the Lessee to keep the Premises in good order and condition. The Lessee shall perform all corrective work required of it, identified in such inspection(s) within 30 days of receipt of written notice from the Department; provided, however that if such corrective work cannot be reasonably accomplished within a 30-day period then the Lessee shall commence the corrective work within that 30 days' notice and diligently prosecute the same completion. Trash and debris problems shall be corrected within 24 hours following receipt of either oral or written notice from the Lessor. Failure of the Lessor to inspect as aforementioned.

5.09 Failure to Maintain:

If it is determined by the Lessor that the Lessee has failed to properly clean, remove trash and debris, maintain, repair, replace and refurbish the Premises as required by this Article 5 (Maintenance and Repair by Lessee), the Department shall provide to the Lessee a list of deficiencies, reflecting the amount of time to be reasonably allowed for the Lessee to correct same. If the Lessee fails to correct such deficiencies within the time allowed, the Lessor may enter upon the Premises and perform all work, which, in the judgment of the Lessor, may be necessary and the Lessor shall add the cost of such work, plus 25% for administrative costs, to the rent due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the rent. Subsequent to receipt of the further notice of intent to perform repairs or cleanup from the Lessor, the Lessee shall not undertake performance of such repairs or cleanup without specific prior written authorization from the Lessor.

5.10 Recertification:

As required pursuant to Section 8-11(f) of the Miami-Dade County Code of Ordinances, as may be amended, the Lessee shall conduct such inspections, and undertake such repairs, as necessary to obtain recertification of the Improvements when the Improvements constructed on the Premises reach 30 years old and every subsequent 10 years, or other applicable recertification time period as may be required by applicable law. During the Term, Lessee shall be responsible for all of the 30-year recertification repair costs.

ARTICLE 6
Maintenance by Lessor

6.01 Lessor Maintenance:

The Lessor shall maintain the existing water and storm water drainage facilities that lie outside the boundaries of the Premises.

6.02 Lessor's Limited Obligation for Other Maintenance:

Lessor shall have no obligation for maintenance or repair of any facility, building, improvement, or ground areas within the Premises.

6.03 Maintenance of Airport Facilities:

Throughout the Term of this Agreement, the County shall maintain the Airport so that Lessee may make use of the Airport for the purposes stated in Article 2 (Use of Premises) and subject to Section 6.04 (County Maintenance Subject to Certain Conditions).

6.04 County Maintenance Subject to Certain Conditions:

Such maintenance by the County may be subject to interruption caused by repairs, strikes, lockouts, labor controversies, inability to obtain fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, acts of God, and other conditions beyond the control of the County. Upon any such happening, the Lessee shall have no claim for damages for the County's failure to furnish or to furnish in a timely manner any such maintenance; provided, however, that the Department, in its sole discretion, may provide a rent abatement for that portion of the Premises rendered unusable for the period of time that the County is unable to make the repairs required by Article 6 (Maintenance by Lessor). The County shall exercise reasonable diligence to remedy and/or cure any such interruptions; to the extent such interruptions are within the County's control.

ARTICLE 7
Rules and Regulations

7.01 Rules and Regulations:

The Lessee shall comply with all Ordinances and requirements of (i) the County, including but not limited to Chapter 25 of the Code of Miami-Dade County, Administrative Orders, Operational Directives issued thereunder, and (ii) all additional laws, statutes, ordinances, regulations, requirements, and rules of the Federal, State and County Governments, and any and all plans and programs developed in compliance therewith, as all of the foregoing may be promulgated and amended from time to time, which may be applicable to its operations or activities under this Agreement, specifically including, without limiting the generality hereof, Federal air and safety laws and regulations and Federal, State and County environmental laws hazardous waste and materials and natural resources laws, local labor and wage requirements, regulations and permits.

The Lessee further agrees that the substance of this entire Article 7, inclusive of all sub-articles contained herein, shall be included in every sublease, contract, and other agreement, which the Lessee may enter into related to its operations and activities under this Agreement and that any such sublease, contract and other agreement shall specifically provide that "Miami-Dade County, Florida is a third-party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this Agreement prohibiting or limiting assignments,

subletting, or subcontracting. This provision as to Lessee's liability hereunder shall survive the expiration or early termination of this Agreement.

The Lessee acknowledges that there are burrowing owls at TMB. There may be burrowing owls located on the leased premises as of the Effective Date. The Lessor shall mark the known location of the owls prior to the Lessee's use of the leased premises and the Lessee shall not disturb the owls' habitat(s) in the airport including those on the leased premises.

7.02 Violations of Rules and Regulations:

The Lessee agrees to pay on behalf of the County any penalty, assessment or fine, issued against the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the Federal, State or County governments, based in whole or substantial part upon a claim or allegation that the Lessee, its agents, employees or invitees, have, during the term of this Agreement or any extension hereof or any holdover period of occupancy of the Premises by the Lessee, violated any law, ordinance, regulation, rule or directive described in Sub-Article 7.01 (Rules and Regulations) above or any plan or program developed in compliance therewith. This provision as to the Lessee's liability hereunder shall survive the expiration or early termination of this Agreement.

7.03 Permits and Licenses.

The Lessee expressly covenants, warrants and agrees that it at its sole cost and expense, shall be liable and responsible for obtaining, paying for, maintaining on a current basis, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required, at any time throughout the entire term of this Agreement, by any Federal, State, or County governmental entity or any judicial body having jurisdiction over the Lessee or the Lessee's operations and activities, for any activity of the Lessee conducted on the Premises and for any and all operations conducted by the Lessee, including insuring that all legal requirements, permits and licenses necessary for or resulting, directly or indirectly, from the Lessee's operations and activities on the Premises have been obtained and are being fully complied with. Such permits and licenses shall include, but not be limited to, a Certificate of Use and Occupancy and any required Industrial Waste or Operating Permits from the Miami-Dade County Regulatory and Economic Resources Department (RER). Prior to occupancy of the Premises and commencement of operations under this Agreement, the Lessee shall provide to the Lessor evidence that it has obtained the Certificate of Use and Occupancy and, as applicable, the appropriate operating Waste Permit(s). Upon written request of the Lessor, the Lessee shall provide to the Lessor copies of any permits and licenses, approvals and applications therefore, which the Lessor may request.

7.04 Penalties, Assessments and Fines.

The Lessee agrees to pay on behalf of the Lessor any penalty, assessment or fine issued against the Lessor, or to defend in the name of the Lessor any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the Federal, State or County governments, based in whole or substantial part upon a claim or allegation that the Lessee, its agents, employees, invitees, or trespassers have violated any law, ordinance, regulation, rule or directive described in Article 7.01 (Rules and Regulations) above or any plan or program developed in compliance therewith.

7.05 Compliance with Responsible Wages and Benefits:

Lessee is aware of the policy of Miami-Dade County that all leases of County-owned land which provide for privately funded construction improvements thereon whose construction costs are greater than or equal to \$5 million dollars, are subject to the requirements of Section 2-11.16 of the Miami-Dade County Code for Responsible Wages as well as Implementing Order No. 3-24. The Lessee shall comply with all applicable Responsible Wages provisions and include such requirements in all applicable construction contracts.

7.06 Other Programs:

Lessee shall comply with applicable provisions as well as any Implementing Orders and other directives issued by the County relating to other programs, as applicable, which applicable programs include:

- (A) Small Business Enterprise Architecture and Engineering Program (Section 2-10.4.01 of the County Code).
- (B) Small Business Enterprise Construction Services Program (Section 10-33.02 of the County Code).
- (C) Small Business Enterprise Services Program (Section 2-8.1.1.1.1 of the County Code)
- (D) Small Business Enterprise Goods Program (Section 2-8.1.1.1.2 of the County Code);
- (E) Community Workforce Program (Section 2-1701 of the County Code); and
- (F) Buy American Steel ordinance.
- (G) Paid Sick Leave Requirement for County Service Contracts (Section 2-8.11 of the County Code);
- (H) Airport Concession Disadvantaged Business Enterprise (ACDBE) (US Department of Transportation, 49 CFR Section 23);and
- (I) Any other general, non-discriminatory program, provision, or ordinance of the County made applicable to the Lessee's activities hereunder during the term of the Lease, as such programs, ordinances, or code provisions may be amended from time to time.

7.07 Residents First Training and Employment Program:

Lessee shall comply with the requirements of Section 2-11.17 of the Code of Miami-Dade County and the provisions of Implement Order No. 3-61 of Lessor, as both may be amended from time to time.

7.08 Employ Miami-Dade Program:

Lessee shall comply with the requirements of Miami-Dade County Administrative Order No. 3-63, as same may be amended from time to time during the Term of this Agreement.

The Lessee is hereby notified that the County will consider whether the Lessee made its best reasonable efforts to promote Employ Miami-Dade under this Agreement, as defined in such Administrative Order, as a part of the County's evaluation and responsibility review of the Lessee for new County awards.

7.09 Compliance with Responsible Wages and Benefits for County Construction Contracts (Implementing Order #3-24):

The Lessee is aware of the policy of Miami-Dade County that in all leases of County-owned land which provide for

privately funded construction improvements thereon whose construction costs are greater than or equal to \$5 million dollars, or construction improvements where any portion of which are financed by any federal, state or local governmental entity or by bonds issued by such entities, including the Industrial Development Authority (IDA), the Lessee shall include the requirements of the Responsible Wages Ordinance codified as Section 2-11.16 of the Miami-Dade County Code, as well as Implementing Order #3-24 in all applicable construction contracts. Lessee agrees to comply with all applicable provisions of such ordinance and implementing order.

7.10 Art in Public Places:

Lessee is also required to comply with the Art in Public Places (APP) provisions of the Miami-Dade County Code and Administrative Order, as managed by the Miami-Dade County Department of Cultural Affairs (Department of Cultural Affairs) pursuant to Procedure 358 in the Miami-Dade County Procedures Manual (Procedures Manual). The Lessee/Developer shall transmit 1.5% of the Project costs for all development on County land (as outlined in the Procedures Manual) to the Miami-Dade Aviation Department to be deposited in the Aviation Art in Public Places Trust Account for the implementation of the APP program. The Lessee/Developer is required to work collaboratively with the Department of Cultural Affairs on the implementation of the APP program pursuant to the requirements of said program. The referenced documents can be accessed at:

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances

<http://www.miamidade.gov/ao/home.asp?Process=alphalist>

<http://intra.miamidade.gov/managementandbudget/library/procedures/358.pdf>

7.11 LEED Certification:

(A) The Lessee shall obtain LEED Silver Certification of the Project. LEED Silver Certification means formal certification of the Project as meeting the requirements for the Leadership in Energy and Environmental Design Green Building Rating System for New Construction, developed and maintained by the U.S. Green Building Council ("LEED") "silver" rating for new construction under the LEED-NC Rating System.

(B) The Lessee shall comply with all requirements of the County's Sustainable Buildings Program, as set forth in Sections 9-71 through 9-75 of the County Code and Implementing Order 8-8.

ARTICLE 8

Alteration of Premises and Erection of Signs

8.01 Alterations:

The Lessee shall not alter the Premises in any manner whatsoever without the prior written approval of the Lessor. In the event the Lessee is given approval to make any alterations to the Premises, the Lessee shall fully comply with the terms and conditions of the approval document, the applicable Tenant Airport Construction (TAC) requirements (Exhibit Y), as may be amended from time to time, of the Department's TAC Program in effect (inclusive of all applicable County programs), Article 7 (Regulations, Licenses and Permits), and EQCB Board Order 18-16 dated May 10th, 2018 (Exhibit B). Such programs may include, but shall not be limited to: (i) the County's Community Business Enterprise (CBE) Program applicable to architects and engineers under Section 2-10.4.01 of Miami-Dade

County's Code; (ii) the Community Small Business Enterprise (CSBE) Program for construction activities under Section 10-33.02 of Miami-Dade County's Code; (iii) the Living Wage Ordinance under Section 2-8.9 of Miami-Dade County's Code; (iv) the Art in Public Places (AIPP) Program under Section 2-11.15 of Miami-Dade County's Code; (v) the Responsible Wages Ordinance under Section 2-11.16 of Miami-Dade County's Code; (vi) Residents First Training and Employment Program under Section 2-17 of Miami-Dade County's Code; (vii) Employ Miami-Dade under Administrative Order (AO) IO 3-63; and any other program of the County applicable to the Lessee's alteration activities hereunder, as such programs, ordinances, or code provisions may be amended from time to time.

The Lessee shall comply with such applicable provisions as well as any Administrative and/or Implementing Orders and other directives issued by the County relating to such programs. The Lessee's failure to do so shall constitute a default pursuant to Article 13.03 (Other Defaults) hereof. The Lessee shall be responsible for the removal of installed wiring and/or piping, equipment, and/or furnishings, and/or other personal property at the expiration or termination of this agreement as may be required by the Lessor.

8.02 Removal of Alterations:

Any alterations pursuant to Article 8.01 (Alterations of Premises and Erection of Signs) above constructed or installed by the Lessee at its sole expense, including signage and telecommunications equipment, that can be removed from the premises and improvements without materially damaging, altering, or altering the use of the premises and improvements shall be considered the personal property of the Lessee and may be removed and or replaced by the Lessee in accordance with the TAC requirements at any time during the term. All other improvements shall become a part of the Premises and Improvements and shall become the property of the County upon expiration of the Term, or the earlier termination of this Agreement; provided, however, that in the case of any improvements which were constructed, installed, added or altered with proceeds of tax-exempt financing, such improvements shall immediately vest in the County or the entity providing such financing, if the financing documents so provide, and shall be deemed to be the property of the County or such entity upon their construction, installation or other implementation, subject, however, to all of Lessee's rights under this Agreement. The Lessee hereby reserves the right to remove any item of a non-leased nature, including but not limited to personal property, at any time during the term and upon termination of the Agreement.

8.03 Signage:

The Lessee shall not erect, maintain or display any identifying signs or any advertising matter, of any type or kind which is visible to the public, without prior written approval of the Department. In the event the Department changes the graphics system for the identification of lessees at the Airport, the Lessee agrees, if required by the Department, to change, at its sole cost, any of its identification signs necessary to comply with such graphics system.

ARTICLE 9
Environmental Compliance

9.01 Definitions:

For purposes of this Article, the following additional definitions apply.

A) "Baseline Environmental Conditions" means the presence or release of Hazardous Materials, at, on, under, or from the Premises prior to Lessee's Occupancy Date, the presence or release of which was not caused

by Lessee or Lessee's agents, employees, contractors, invitees or trespassers. Solely for purposes of this Agreement, it shall be presumed that the Baseline Environmental Conditions consist of the conditions identified in any existing (as of the date of this Agreement) Miami-Dade County maintained records, including contamination assessment reports and any other technical reports, data bases, remedial action plans, the Baseline Audit or the presence, discharge, disposal or release of any other Hazardous Materials originating prior to the Occupancy Date that comes to be located on the Premises and not caused by Lessee or Lessee's agents, employees, contractors, invitees or trespassers.

B) **"Environmental Claim"** means any investigative, enforcement, cleanup, removal, containment, remedial or other private, governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Requirement, against Lessee with respect to its operations at Miami Executive Airport or against or with respect to its operations at Miami Executive Airport or against or with respect to the Premises or any condition, use or activity on the Premises (including any such action against County), and any claim at any time threatened or made by any person against Lessee with respect to its operations at Miami Executive Airport or against or with respect to the Premises or any condition, use or activity on the Premises (including any such claim against County), relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Material or any applicable Environmental Requirement.

C) **"Environmental Law"** means any applicable federal, state or local law, statute, ordinance, code, rule, or regulation, or license, authorization, decision, order, injunction, or decree, any of which may be issued by a judicial or regulatory body of competent jurisdiction, or rule of common law including, without limitation, actions in nuisance or trespass, and any judicial or agency interpretation of any of the foregoing, which pertains to health, safety, any Hazardous Material, or the environment (including but not limited to ground or air or water or noise pollution or contamination, and underground or aboveground tanks) and shall include without limitation, the Solid Waste Disposal Act, 42 U.S.C. § 6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Hazardous Materials Transportation Act 49 U.S.C. § 1801 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Clean Air Act 42 U.S.C. § 7401 *et seq.*; the Toxic Materials Control Act 15 U.S.C. § 2601 *et seq.*; the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*; Chapters 403, 376 and 373, Florida Statutes; Chapters 24 and 25 of Miami-Dade County Code, and any other applicable local, state or federal environmental statutes, codes, or ordinances, and all rules, regulations, orders and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

(D) **"Environmental Requirement"** means any Environmental Law, or any permit or agreement or restriction entered into by Lessee as the same now exists or may be changed or amended or come into effect in the future, which pertains to health, safety, any Hazardous Material, or the environment, including but not limited to ground or air or water or noise pollution or contamination, and underground or aboveground tanks.

(E) **"Hazardous Material"** or "Hazardous Materials" means any substance, whether solid, liquid or gaseous, which is listed, defined or regulated as a hazardous substance, a hazardous waste or pesticide by 49 CFR 172.101 Hazardous Materials Table which causes or poses a threat to cause contamination on the Premises, any adjacent Premises or Other Airport Property.

(F) **"Initial Construction Period"** means for any lease which contemplates construction or renovation

for Premises not previously occupied in whole or in part by Lessee under this Agreement and/or any previous Agreement, a period of time not to exceed six (6) months commencing with the date on which Lessee breaks ground on the Premises for construction of foundations or commences such renovation.

(G) **“Occupancy Date”** means the date Lessee first entered, occupied or took possession of the Premises under any written or verbal agreement.

(H) **“No Further Action Determination”** or **“NFA Determination”** means a No Further Action With Conditions determination and a Site Rehabilitation Completion Order (“SRCO”) or a conditional Site Rehabilitation Completion Order (“CSRCO”), as those terms are defined in Chapter 62-780, Fla. Admin. Code, from the Florida Department of Environmental Protection (“FDEP”), or a comparable determination from a federal, local or other applicable governmental authority advising that no further action is necessary with respect to the Release(s) of Hazardous Material at the Premises in order to meet the requirements of Environmental Law with respect to such Release(s).

(I) **“On”** or **“in”** when used with respect to the Premises or any premises adjacent to the Premises, means “on, in, under, above or about.”

(J) **“Other Airport Property”** means property on the Airport occupied or used by Lessee, or upon which Lessee performs operations, but which is not subject to a lease, sublease or other legal agreement governing the terms of Lessee’s occupation, use or operations at such property.

(K) **“Recognized Environmental Condition”** shall have the meaning set forth in ASTM E 1527-13 for Phase I Environmental Site Assessments, Section 1.1.1, and shall not mean Historical Recognized Environmental Conditions or Controlled Recognized Environmental Conditions, as such definitions in the ASTM E 1527 Standard may be amended or superseded from time to time.

(L) **“Release”** means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment.

(M) **“Remediation”** means any investigation, clean-up, removal action, remedial action, restoration, repair, response action, corrective action, monitoring, sampling and analysis, installation, reclamation, closure, or post-closure in connection with the suspected, threatened or actual release of Hazardous Materials to achieve a No Further Action Determination.

(N) **“Trespassers”** means third parties who have entered the Premises and whose actions while on the Premises have resulted in Release of Hazardous Materials directly onto the Premises. Notwithstanding the foregoing, for purposes of this Agreement, Trespassers shall not include those third parties whose actions took place off of the Premises and which resulted in the presence of Hazardous Materials on the Premises due to the migration of Hazardous Materials from that off-Premises location.

9.02 Lessee's Acceptance of the Risks and Condition of Premises As-Is:

Lessee agrees that the Premises shall be leased and delivered to Lessee in its current “as-is/with all faults” condition (but it is not intended by this provision that County be relieved from its duties expressly set forth in this Agreement or

any other applicable agreement). Lessee hereby, warrants, covenants, agrees, and acknowledges that:

(A) Hazardous Materials may be present on the Premises and Other Airport Property. The County is currently engaged in a significant environmental remediation program at its airports.

(B) Under Section 9.05 (Lessee Audit) below, Lessee is provided the opportunity to conduct an independent inspection of the Premises and the physical condition thereof, including the potential presence of any Hazardous Materials on or about the Premises. Lessee's report on the inspection, if any such report shall be prepared provided to the County. Whether Lessee conducts such an inspection or not, Lessee is willing to proceed with this Agreement notwithstanding the environmental conditions of the Premises of the properties surrounding the Premises, subject to Lessee's right to terminate this Agreement as otherwise provided herein.

(C) Because of the possible presence of environmental contaminants on the Premises or Other Airport Property, County has made no express, implied, or other representations of any kind with respect to the suitability or usability of the Premises or Other Airport Property, or any improvements appurtenant thereto, including, without limitation, the suitability or usability of any building materials, building systems, soils or groundwater conditions (due to the presence of Hazardous Materials in, on, under, or about the Premises or Other Airport Property), for Lessee's proposed or intended use, and Lessee has relied solely on Lessee's own inspection and examination of such matters.

(D) Except as to County's obligations set forth in this Article or elsewhere in this Agreement, Lessee expressly assumes the risk that Hazardous Materials that are or may be present on the Premises at the commencement of this Agreement may affect the suitability or usability of the Premises for Lessee's proposed or intended use. Lessee agrees that, except for any other discharge, disposal or release of Hazardous Materials or violation of Environmental Requirements, caused by County, its agents, employees or contractors, County shall have no responsibility or liability with respect to any Hazardous Materials on the Premises. Notwithstanding the foregoing, in no event shall County be liable to Lessee for damages relating to physical or personal injury, business interruptions relocation costs or any other cost (other than a cost for which County is liable under this Article 9) resulting from the presence of Hazardous Materials on the Premises at any time during this Agreement.

9.03 **Responsibilities for Hazardous Materials:**

(A) Unless the Parties agree otherwise in writing, the County shall conduct response actions mandated by existing Environmental Requirements applicable to the County for (I) Hazardous Materials disclosed In the Lessee Audit and (II) Baseline Environmental Conditions; provided however that

(1) To the extent this Agreement covers Premises not previously occupied by Lessee and if this Agreement contemplates construction or renovation by the Lessee, any Hazardous Material discovered during the Initial Construction Period shall be presumed to be a Baseline Environmental Condition under this Agreement, except to the extent the Department demonstrates to the satisfaction of Lessee by written notice setting forth the Department's explanation as to why the Hazardous Material originated from a discharge, disposal or release that was caused by Lessee, Lessee's agents, employees, contractors, Invitees or Trespassers. Should Lessee determine that such a demonstration has not been made to Lessee's satisfaction, County may invoke the dispute resolution provision of Article 9.15. Until such time as the Parties reach an agreement or such time as the dispute is otherwise resolved, responsibility for such Hazardous Material shall remain with the Department.

(B) County's responsibility for Remediation under this Article 9.03 shall be limited to the Recognized Environmental Conditions required to be remediated under applicable Environmental Requirements. If County is permitted to leave any Hazardous Material in place under applicable Environmental Requirements, County shall have the option of so doing, unless a governmental authority requires at any time the removal of Hazardous Materials for Lessee to be able to continue with construction or occupancy of the Premises. The County shall notify Lessee of any such decision to leave Hazardous Material in place.

(C) (1) To the extent they exist, the County has made available to Lessee a listing of contamination assessment reports, remedial action plans and other documents regarding any soil and groundwater contamination at the Premises. The County may have already installed or may have plans to install remediation systems to clean up the contamination described in such reports to the extent they exist. Lessee agrees that during the Term, during reasonable, business hours, upon not less than forty-eight (48) hours prior written notice, Department's authorized representatives shall have the right to enter the Premises in order to operate, inspect, maintain, relocate and replace any such installed systems, provided that such access shall not unreasonably interfere with the construction of the Improvements, or Lessee's operations on the Premises. Without limiting the generality of the foregoing, and provided such actions do not unreasonably interfere with the construction of the Improvements, or Lessee's operations on the Premises the County shall have the right to: (a) install, use, monitor, remove (or, in connection with monitoring wells, abandoned in place in accordance with applicable governmental regulations) soil borings, treatment systems, pumps, monitoring wells, and associated equipment; (b) construct, maintain, and ultimately remove various mechanical devices designed to aid in the monitoring and remediating effort; and (c) undertake such related activities as the Department or other governmental authorities may require or recommend, utilizing such methods as the Department or the applicable governmental authorities may elect in order to remediate the contamination described in any such reports.

(2) County shall utilize reasonable efforts to minimize any disturbance of the Lessee's use of the Premises caused by any Remediation it undertakes and shall provide Lessee prior written notice of such Remediation. Lessee agrees that it shall not unreasonably interfere with or obstruct such Remediation. County and Lessee each agree to take such action as may be reasonable to coordinate their operations so as to minimize any interference with the other Party. If vehicles, equipment, or materials belonging to the Lessee have to be temporarily relocated to permit the Remediation to be performed, the Lessee will effect such relocation at no expense to the County.

9.04 Baseline Audit:

Within ninety (90) days following the Commencement Date, the County shall provide Lessee with a copy of an environmental audit of the Premises, conducted to identify any Recognized Environmental Conditions associated with the Premises, which audit may include analyses of soil and groundwater samples (the "**Baseline Audit**"). The County shall be responsible for any Recognized Environmental Conditions within the meaning of ASTM E 1527-13, or most recent version, disclosed by the Baseline Audit. Lessee may terminate this Agreement within one hundred and eighty (180) days of receipt of the Baseline Audit if Lessee, in its sole discretion, determines that the Recognized Environmental Conditions disclosed in such Baseline Audit are unacceptable.

9.05 Lessee Audit:

Lessee, at its sole cost and expense, shall have the right to conduct, within sixty (60) days from the receipt of the

Baseline Audit, an environmental inspection of the Premises including subsurface sampling of soil, sediment and groundwater (the "**Lessee Audit**"), through an independent environmental consultant approved in writing by County, such approval not to be unreasonably withheld, conditioned, or delayed. If Lessee elects to conduct a Lessee Audit, it shall furnish County a copy of the Lessee Audit within thirty (30) days of Lessee's receipt of the Lessee Audit. The purpose of the Lessee Audit is to determine whether there are present on the Premises any Recognized Environmental Conditions not identified in the Baseline Audit, any previous audits, or any contamination assessment reports or remedial action plans, to the extent any such documents exist. Within thirty (30) days of receipt of such Lessee Audit, the County shall notify Lessee if it disputes the Recognized Environmental Conditions, or the delineation of any subsurface conditions described in the Lessee Audit. If the Lessee Audit reveals any Recognized Environmental Conditions or delineates any subsurface contamination not disclosed in any contamination assessment reports, remedial action plans, or the Baseline Audit, and which are not otherwise considered Baseline Environmental Conditions under the Term of this Agreement, then, except to the extent that Lessee previously occupied the Premises, the County, at its option, shall: (i) allow Lessee to terminate the Agreement, without penalty, within sixty (60) days of receipt of such notice or dispute from the County; or (ii) notify Lessee that it has agreed to be responsible for such Recognized Environmental Conditions and delineated subsurface contamination to the same extent as the County is responsible for the Recognized Environmental Conditions and subsurface contamination disclosed in any contamination assessment reports, remedial action plans and the Baseline Audit. If the County allows Lessee to terminate the Agreement and Lessee elects not to terminate, Lessee's failure to terminate shall constitute a waiver of (1) Lessee's rights to terminate its obligations under this Agreement as to any findings in such Lessee Audit, except as to its right to cancel otherwise set forth in this Agreement and, (2) as provided in Article 9.03, any claim it may have against the County with respect either to Recognized Environmental Conditions and subsurface contamination disclosed in such Lessee Audit.

9.06 Environmental Maintenance of Premises:

Except for the obligations of the County under this Article 8, Lessee shall, at its sole cost and expense, keep, maintain and use the Premises, and operate within the Premises at all times, in compliance with all applicable Environmental Laws, and shall maintain the Premises in good and sanitary order, condition, and repair.

9.07 Lessee's Use of Hazardous Materials:

Tenant is permitted to use the Hazardous Materials set forth on the list of Hazardous Materials described in **Exhibit "H"** which Lessee intends to use on the Premises or Other Airport Property during the Term of the Agreement which have been approved by the County, and the use, storage and transportation of which on or about the Premises shall not be subject to County's approval or objections. Lessee shall not use, store, generate, treat, transport, or dispose of any other Hazardous Material on the Premises or Other Airport Property in quantities greater than five-gallon containers of liquid, or fifty pounds of solids, or larger, without first providing the County thirty (30) days written notice prior to bringing such Hazardous Material upon the Premises. Notwithstanding the foregoing, County may object to the use of any previously approved Hazardous Material should County reasonably determine that the continued use of the Hazardous Material by Lessee presents a material increased risk of site contamination, damage or injury to persons, Premises, resources on or near the Premises of Other Airport Property, or noncompliance due to a change in regulation of such Hazardous Material under applicable Environmental Law. Upon County's written objection, Lessee shall within ninety (90) days remove the Hazardous Material from the Premises. This section 9.07 shall not apply to Hazardous Materials which are not used, generated, treated or disposed of by Lessee but which are otherwise transported by Lessee solely in the course of Lessee's business, such as cargo operations. County's

objection or failure to object to the use, storage, generation, treatment, transportation, or disposal of Hazardous Material under this paragraph, or the exclusion of certain Hazardous Materials under this paragraph, shall not limit or affect Lessee's obligations under this Agreement, including Lessee's duty to remedy or remove releases or threatened releases; to comply with applicable Environmental Law and/or Environmental Requirements relating to the use, storage, generation, treatment, transportation, and/or disposal of any such Hazardous Materials; or to indemnify County against any harm or damage caused thereby. Lessee shall promptly and completely answer periodic written questionnaires from the County concerning Lessee's practices regarding the generation, use, storage, and disposal of Hazardous Materials under this Agreement.

9.08 Entry by County:

(A) Notwithstanding any other right of entry granted to County under this Agreement, and subject to the requirements set forth in Section 9.08(B), MDAD shall have the right, at its own expense and upon reasonable notice, to enter the Premises or to have consultants enter the Premises throughout the Term of this Agreement for the purposes of: (1) determining whether the Premises are in conformity with applicable Environmental Law; (2) conducting an environmental review or inspection of the Premises; (3) determining whether Lessee has complied with the applicable Environmental Requirements of this Agreement; (4) determining the corrective measures, if any, required of Lessee to ensure the safe use, storage, and disposal of Hazardous Materials; or (5) removing Hazardous Materials (except to the extent used, stored, generated, treated, transported, or disposed of by Lessee in compliance with applicable Environmental Requirements and the terms of this Agreement). Lessee agrees to provide access and reasonable assistance for such inspections. MDAD shall use its best efforts to reasonably minimize interruptions of business operations on the Premises.

(B) Such inspections may include, but are not limited to, entering the Premises or adjacent property with drill rigs or other machinery for the purpose of obtaining laboratory samples of environmental conditions or soil or groundwater conditions. Lessee shall have the right to collect split samples of any samples collected by MDAD, MDAD shall not be limited in the number of such inspections during the Term of this Agreement MDAD will conduct such inspections during Lessee's normal business hours, but MDAD may conduct such inspections in other than normal business hours if the circumstances so require. For inspections conducted by MDAD, MDAD agrees to provide Lessee with reasonable notice (not less than twenty-four (24) hours) prior to inspecting the Premises; provided however, that such notice period shall not apply under circumstances in which MDAD reasonably determines that there exists an immediate threat to the health, safety, or welfare of any persons. Based on the results of such inspections, should MDAD reasonably determine that Hazardous Materials have been released, discharged, stored, or used on the Premises in violation of the terms of this Agreement, Lessee shall, in a timely manner, at its expense, remove such Hazardous Materials in a manner not inconsistent with applicable Environmental Law and otherwise comply with the reasonable recommendations of MDAD and any regulatory authorities related to the results of such inspections. The right granted to MDAD herein to inspect the Premises shall not create a duty on MDAD's part to inspect the Premises, nor liability of MDAD for Lessee's use, storage, or disposal of Hazardous Materials, it being understood that Lessee shall be solely responsible for all liability in connection therewith. MDAD shall provide the results of such inspections to the Lessee in a timely manner if requested to do so in writing. Nothing herein shall be construed to limit, restrain, impair or interfere with County's regulatory authority to conduct inspections and/or the manner in which it conducts such inspections. Lessee shall not be liable or otherwise responsible for any property damage to the Premises or injury to any person caused by County, its agents or consultants during County's inspection under this Section 9.08.

9.09 Permits and Licenses:

The Lessee warrants that it will secure at the times required by issuing authorities all applicable permits or approvals that are required by any governmental authority having lawful jurisdiction to enable Lessee to conduct its obligations under this Agreement. Upon written request, Lessee shall provide to County copies of all permits, licenses, Certificates of Occupancy, approvals, consent orders, or other authorizations issued to Lessee under applicable Environmental Requirements, as they pertain to the Lessee's operations on or use of the Premises or Other Airport Property.

9.10 Notice of Discharge:

(A) In the event of: (i) the happening of any material event involving the spill, release, leak, seepage, discharge or clean-up of any Hazardous Material on the Premises or Other Airport Property in connection with Lessee's operation thereon; or (ii) any written Environmental Claim affecting Lessee from any person or entity resulting from Lessee's use of the Premises or Other Airport Property, then Lessee shall immediately notify County orally within twenty-four (24) hours and in writing within three (3) Business Days of said notice. If County is reasonably satisfied that Lessee is not promptly commencing the response to either of such events, County shall have the right but not the obligation to enter onto the Premises or to take such other actions as it shall deem reasonably necessary or advisable to clean up, remove, resolve or minimize the impact of or otherwise deal with any such Hazardous Material or Environmental Claim following receipt of any notice from any person or any entity having jurisdiction asserting the existence of any Hazardous Material or an Environmental Claim pertaining to the Premises, which if true, could result in an order, suit or other action against the County. If Lessee is unable to resolve such action in a manner which results in no liability on the part of County, all reasonable costs and expenses incurred by County shall be deemed additional rent due County under this Agreement and shall be payable by Lessee upon demand, except to the extent they relate to a Baseline Environmental Condition.

(B) With regard to any reporting obligation arising out of Lessee's operations or during the Agreement, Lessee shall timely notify the State of Florida Department of Environmental Protection, Miami-Dade County Department of Regulatory and Economic Resources, and the United States Environmental Protection Agency, as appropriate, with regard to any and all applicable reporting obligations while simultaneously providing written notice to County.

(C) Within sixty (60) days of Commencement of this Agreement, Lessee shall submit to County an emergency action plan/contingency plan setting forth in detail Lessee's procedures for responding to spills, releases, or discharges of Hazardous Materials. The emergency action plan/contingency plan shall identify Lessee's emergency response coordinator and Lessee's emergency response contractor.

(D) In the event of: (i) the happening of any material event involving the spill, release, leak, seepage, discharge or clean-up of any Hazardous Material on the Premises or Other Airport Property in connection with Lessor's ownership or operation thereon; or (ii) any written Environmental Claim affecting Lessor from any person or entity regarding the Premises or Other Airport Property, then Lessor shall immediately notify Lessee orally within twenty-four (24) hours and in writing within three (3) Business Days of said notice. If Lessee is reasonably satisfied that County is not promptly commencing the response to either of such events, Lessee shall have the right but not the obligation to take such other actions as it shall deem reasonably necessary or advisable to clean up, remove, resolve or minimize the impact of or otherwise deal with any such Hazardous Material or Environmental Claim following receipt of any notice from any person or any entity having jurisdiction asserting the existence of any

Hazardous Material or an Environmental Claim pertaining to the Premises, which if true, could result in an order, suit or other action against the Lessee. If Lessor is unable to resolve such action in a manner which results in no liability on the part of Lessee, all reasonable costs and expenses incurred by Lessee shall be payable by Lessor upon demand.

9.11 Reports to County:

Upon written request, Lessee shall provide County with copies of any reports filed in accordance with the Emergency Planning and Community Right to Know Act (EPCRA) and shall make available for review by County copies of manifests for hazardous wastes generated from operations on the Premises required to be maintained by the applicable record keeping provisions of 40 CFR 262.20.

9.12 Periodic Environmental Audits:

Lessee shall establish and maintain, at its sole expense, a system to assure and monitor its continued compliance on the Premises with all applicable Environmental Laws, which system shall include, no less than once each year a detailed review of such compliance (the "Environmental Audit") by such consultant or consultants as County may approve, which approval shall not be unreasonably withheld, delayed or conditioned. Alternatively, if the Aviation Department approves, which approval shall not be unreasonably withheld, delayed, or conditioned, such Environmental Audit may be conducted by Lessee's personnel but in either case Lessee shall provide County with a copy or summary of its report of its annual Environmental Audit, which shall be consistent with ASTM's "Practice for Environmental Regulatory Compliance Audits" which shall include in its scope the items listed in **Exhibit "H"** hereto or other recognized format approved by County. If the Environmental Audit indicates any unresolved violation of any applicable Environmental Law and/or Environmental Requirements, Lessee shall, at the request of County, provide a detailed review of the status of any such violation within thirty (30) days of the County's request.

9.13 Remediation of Hazardous Material Releases:

If Lessee or Lessee's agents, employees, contractors, invitees or trespassers cause any Hazardous Materials to be released, discharged, or otherwise located on or about the Premises or Other Airport Property during the Term of this Agreement ("**Lessee Hazardous Material Release**"), Lessee shall promptly take all actions, at its sole expense and without abatement of rent, as are reasonable and necessary to return the affected portion of the Premises or Other Airport Property and any other affected soil or groundwater to their condition existing prior to the Lessee Hazardous Material Release in a manner not inconsistent with applicable Environmental Law. County shall have the right to approve all such remedial work, including, without limitation: (i) the selection of any contractor or consultant Lessee proposes to retain to investigate the nature or extent of such Lessee Hazardous Material Release or to perform any such remedial work; (ii) any reports or disclosure statements to be submitted to any governmental authorities prior to the submission of such materials; and (iii) any proposed plan for Remediation or any material revision thereto prior to submission to any governmental authorities. The County's approvals shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, County's prior consent shall be not be necessary if a Lessee Hazardous Material Release poses an immediate threat to the health, safety, or welfare of any persons and, despite Lessee's best efforts, it is not practicable to obtain County's consent before taking remedial action to abate such immediate threat, provided that: (a) Lessee shall notify County as soon as possible and shall thereafter obtain County's consent as otherwise provided in this paragraph; and (b) Lessee shall take only such action as may be necessary or appropriate to abate such immediate threat and shall otherwise comply with the provisions of this paragraph. In

addition to any rights reserved by County in this Agreement, County shall have the right, but not the obligation, to participate with Lessee, Lessee's consultants and Lessee's contractors in any meetings with representatives of the governmental authorities and Lessee shall provide County reasonable notice of any such meetings. All Remediation work shall be performed in compliance with all applicable Environmental Laws. The County's consent to any Remediation activities undertaken by Lessee shall not be withheld so long as County reasonably determines that such activities will not cause any material adverse long-term or short-term effect on the Premises, or other adjoining property owned by County. Lessee's obligations in this section do not apply to Baseline Environmental Conditions.

9.14 Indemnity:

(A) Lessee shall indemnify, defend (with counsel reasonably satisfactory to County), and hold County, its directors, officers, employees, agents, assigns, and any successors to County's interest in the Premises, harmless from and against any and all loss, cost, damage, expense (including reasonable attorneys' fees), claim, cause of action, judgment, penalty, fine, or liability, directly or indirectly, relating to or arising from the use, storage, release, discharge, handling, or presence of Hazardous Materials on, under, or about the Premises or Other Airport Property and caused by Lessee, Lessee's agents, employees, contractors, invitees or trespassers. This indemnification shall include without limitation: (a) personal injury claims; (b) the payment of liens; (c) diminution in the value of the Premises or Other Airport Property; (d) damages for the loss or restriction on use of the Premises or Other Airport Property; (e) sums paid in settlement of claims; (f) reasonable attorneys' fees, consulting fees, and expert fees, (g) the cost of any assessment of site conditions, and (h) the cost of any repair, cleanup, remedial, removal, or restoration work or detoxification if required by any governmental authorities or deemed necessary in County's reasonable judgment, but shall not extend to such claims, payment, diminution, damages, sums, fees or costs to the extent caused (i) solely by an act of God or (ii) by the negligent or willful misconduct of the County, its officers, employees, contractors or agents. For any legal proceedings or actions initiated in connection with the Hazardous Materials Release, County shall have the right at its expense but not the obligation to join and participate in such proceedings or actions in which the County is a named party, and control that portion of the proceedings in which it is a named party. County may also negotiate, defend, approve, and appeal any action in which County is named as a party taken or issued by any applicable governmental authorities with regard to a Hazardous Materials Release; provided, however, claims for which Lessee may be liable pursuant to this Section 9.14 shall not be settled without Lessee's consent. Any costs or expenses incurred by County for which Lessee is responsible under this paragraph or for which Lessee has indemnified County: (i) shall be paid to County on demand, during the Term of this Agreement as additional rent; and (ii) from and after the expiration or earlier termination of the Agreement shall be reimbursed by Lessee on demand. Lessee's obligations pursuant to the foregoing indemnity shall survive the expiration or termination of this Agreement and shall bind Lessee's successors and assignees and inure to the benefit of County's successors and assignees. Notwithstanding any other provision of this Agreement, this section 9.14 does not apply to Baseline Environmental Conditions or a discharge, disposal or release caused by the County, its officers, employees, contractors or agents.

(B) This indemnity specifically includes the direct obligation of Lessee to perform at its sole cost and expense, any Remediation or other activities required or ordered by court or agency having competent jurisdiction over the subject matter, or otherwise necessary to avoid or minimize injury or liability to any person, or to prevent the spread of Hazardous Materials.

(C) Lessee agrees, in order to minimize its obligations in this regard, to use best efforts to assist the Aviation Department in responding to Hazardous Materials spills in or on Airport property reasonably close to the

Premises used by Lessee by making Lessee's remediation equipment and personnel available for such emergency remediation activity. However, Lessee may provide such assistance only at the direct request of the Aviation Department and only if Lessee's remediation equipment is intended to be utilized for the Hazardous Material spill at issue and only if Lessee's personnel have been trained to respond to the Hazardous Material spill at issue. If Lessee is directed to perform any Remediation work under this Section 9.14(B) for which it is later determined that Lessee is not responsible, the Aviation Department shall reimburse Lessee for all costs associated with or arising out of Lessee's performance of such Remediation work. Lessee shall cooperate with the Aviation Department in any subsequent effort by the Aviation Department to recover from the responsible parties all costs involved with the remediation effort that utilized Lessee's equipment and personnel. Lessee shall perform all such work in its own name in accordance with applicable laws. Lessee acknowledges that the County's regulatory power in this regard is independent of the County's contractual undertakings herein, and nothing herein shall affect the County's right in its regulatory capacity to impose its environmental rules, regulations, and authorities upon the Lessee in accordance with Chapter 24, Miami-Dade County Code of Ordinances.

(D) In the event Lessee fails to perform its obligations in Section 9.14(A) above, and without waiving its rights hereunder, County may, at its option, perform such Remediation work as described in Section 9.14(A) above, and thereafter seek reimbursement for the costs thereof. In accordance with this Article 9, Lessee shall permit County or its designated representative access to the Premises areas to perform such Remediation activity.

(E) Whenever County has incurred costs described in this section as a result of the failure of Lessee to perform its obligations hereunder, Lessee shall, within thirty (30) days of receipt of notice thereof, reimburse County for all such expenses together with interest at the rate of 1 ½ % per month on the outstanding balance commencing on the thirty-first day following Lessee's receipt of such notice until the date of action.

(F) To the extent of Lessee's responsibility under this Article and without limiting its obligations under any other paragraph of this Agreement, and except to the extent of County's responsibility for environmental conditions set forth in this Article 9, Lessee shall be solely and completely responsible for responding to and complying with any administrative notice, order, request or demand, or any third-party claim or demand relating to potential or actual Hazardous Materials contamination on the Premise. Lessee's responsibility under this paragraph includes but is not limited to responding to such orders on behalf of County and defending against any assertion of County's financial responsibility or individual duty to perform under such orders. Lessee shall assume, pursuant to the indemnity provision set forth in this Article 9, any liabilities or responsibilities which are assessed against County in any action described under this paragraph.

9.15 Dispute Resolution:

County and Lessee agree that any dispute between them relating to this Article 9 will first be submitted, by written notice, to a designated representative of both County and Lessee who will meet at County's place of business or other mutually agreeable location, or by teleconference, and confer in an effort to resolve such dispute. Any decision of the representatives will be final and binding on the parties. In the event the representatives are unable to resolve any dispute within ten (10) days after submission to them, either party may refer the dispute to mediation, or institute any other available legal or equitable proceeding in order to resolve the dispute.

9.16 Waiver and Release:

Lessee, on behalf of itself and its heirs, successors and assigns, hereby waives, releases, acquits and forever discharges County, its principals, officers, directors, employees, agents, representatives and any other person acting on behalf of the County, and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Lessee or any it's heirs, successors, or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present or future physical characteristic or condition of the Premises, including, without limitation, any Hazardous Material, in at, on, under or related to the Premises, or any violation or potential violation of any Environmental Law applicable thereto; provided, however, this Section 9.16 shall not constitute a waiver or release of any obligation of County under this Article 9. Lessee acknowledges that County would not enter into this Agreement without Lessee's agreement to the waiver and release provided herein.

9.17 No Waiver of Rights, Causes of Actions or Defenses:

Notwithstanding any language in this Agreement, including without limitation Sections 9.02, 9.03, 9.04, 9.05, 9.13, 9.14 and 9.15, Lessee does not agree to waive or release any rights, causes of action or defenses it may have against Miami-Dade County or any other party related to allegations made by the County in (i) Case No. 01-8758 CA 25 which has been filed by the County in the Florida Circuit Court of the Eleventh Judicial Circuit, and (ii) a letter dated April 9, 2001, to Lessee and others (who are referred to as "responsible parties" or "RPs"). Nothing herein shall be construed to limit or expand upon any releases previously granted to or exchanged between the Parties as a result of judgments or settlements obtained in proceedings between the Parties, including, without limitation, settlements in bankruptcy or settlements entered under Case No. 01-8758 CA 25 which has been filed by the County in the Florida Circuit Court of the Eleventh Judicial Circuit.

9.18 Surrender of Premises:

Lessee shall surrender the Premises used by Lessee to County upon the expiration or earlier termination of this Agreement free of debris, waste, and Hazardous Materials used, stored, or disposed of by Lessee or its agents, employees, contractors, invitees or Trespassers, or otherwise discharged on the Premises or Other Airport Property for which Lessee is responsible during the Term of this Agreement. The Premises shall be surrendered in a condition that complies with all applicable Environmental Requirements, and such other reasonable Environmental Requirements as may be imposed by County. Lessee shall not be responsible under this section 9.18 to the extent of County's obligations under this Article 9.

9.19 Breach:

Any breach by Lessee of any provision of this Article 9 shall, after notice and a reasonable opportunity for Lessee to cure, constitute a default of the Agreement and shall entitle County to exercise any and all remedies provided in the Agreement, or as otherwise permitted by law.

9.20 Survivability of Terms:

The terms and conditions of this Article 9, including the indemnity, waiver, and release, shall survive the termination of this Agreement.

9.21 Right to Regulate:

As provided for in Article 20 (Other Provisions) of this Agreement, nothing within this Article 9 (Environmental Compliance) shall be construed to waive or limit, restrain, impair or interfere with the County's regulatory authority.

ARTICLE 10
Indemnification and Hold Harmless

The Lessee shall indemnify and hold harmless the Lessor and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Lessor or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature (collectively, "Losses") arising out of, relating to or resulting from the performance of and under this Agreement by the Lessee or its employees, agents, servants, partners, principals, subcontractors, or trespassers, Lessee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Lessor, where applicable, including appellate proceedings, and shall pay costs, judgments and attorney's fees which may issue thereon. Lessee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Lessee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Lessor or its officers, employees, agents and instrumentalities as herein provided. The Lessor shall give to the Lessee reasonable notice of any such claims or actions. The provisions of this section shall survive the expiration or early termination of this Agreement.

ARTICLE 11
Assignment and Subletting and Conditions of Financing

11.01 Assignment and Transfer:

Except as provided in Section 11.03 (Subletting) and Section 11.04 (Condition of Financing for Approved Improvement Costs), the Lessee shall not, in any manner, assign, transfer, mortgage, pledge, hypothecate, encumber or otherwise convey an interest in this Agreement, or authorize others to exercise the rights granted to the Lessee herein, without the written approval of the Department. The Lessee may make a collateral assignment to a Lender (and the Lender may exercise such rights as set forth in Section 11.04) or sell the equity interest of the business, each without prior approval of the Department. Lessee may also sell substantially all of its assets (and assign this Agreement pursuant thereto) without prior approval of the Department, provided that (a) substantially all of the assets are sold, (b) the purchaser is a single entity that will continue substantially all of the operations permitted or required of Lessee hereunder, and (c) the purchaser meets the Department's requirements set forth in Section 11.04 (D) (5) (Transfer To A "Transferee" or "Successor Lessee") herein. In the event the Lender seeks provisions in the assignment affecting the interests or requiring certain actions by the Department, such provisions must be approved by the Department; however, such provisions shall not be unreasonably withheld, conditioned, or delayed by MDAD for so long as the Use of Premises as provided for in Article 2 (Use of Premises) remain the same and are assigned or transferred to an entity meeting the Department requirements stated under Section 11.04 (D) (5) (Transfer To A "Transferee" or "Successor Lessee").

11.02 Assignment or Transfer Fee:

Transfer or Assignment Fee shall be 2% of the gross consideration received by Lessee for the assignment or transfer of all or any portion of the combined Premises, provided however, such Transfer or Assignment Fee shall not be assessed on assignment or transfers to Affiliates of the Lessee, or on Lessee's financing parties in the event such party has assumed this Agreement. For the purposes of this Lease, the term "Affiliate" means a business entity in which Lessee maintains a majority ownership or exercises control. Further, for purposes of this Lease, majority ownership shall be fifty-one percent (51%) or more of ownership, and control shall mean the possession, direct or indirect of the power or authority to direct or cause the direction of management, policies or activities, whether through ownership or control of voting securities or beneficial interests, by contract or otherwise. Upon the fifth (5th) anniversary of the Commencement Date, the Transfer or Assignment Fee shall no longer be payable in the event of a transfer or assignment of this Lease.

11.03 Subletting:

The Lessee shall submit any subleases to the Department for approval, which shall not be unreasonably withheld, delayed or conditioned. Any objection by the Department must be forwarded to the Lessee within 30 days of receipt of the sublease by the Department's Assistant Director for Business Management. Agreements between the Lessee and the owners or operators of aircraft who have tie down or hangar agreements that include office or shop space within the Lessee's facility where the tie down or hangar operation is located shall not be considered subleases for the purposes of this Article and shall be permitted without the Department's prior approval. Subleases shall be subject to the provisions of any applicable BCC Resolution, as amended from time to time, which may describe conditions applicable to subleases or limit the rental to be charged to the sublease by the Lessee. The County shall have the right to audit the Lessee's compliance with such subleasing policy.

Further, any such subleases shall be subject to the same conditions, obligations and terms as set forth herein, including as a minimum, but not limited to, requirements for compliance with Airport Rules and Regulations and applicable laws in payment of concession fees and indemnification of the County. Notwithstanding anything herein contained to the contrary, in the event of an approved sublease, the Lessee shall remain fully liable to the County for fulfilling all obligations, conditions and terms of this Agreement, throughout its entire Term.

11.04 Conditions of Financing for Approved Improvements Costs:

(A) Financing of Improvements:

(i) Lessee may secure private financing to provide funds required for the design, development, construction and equipping of the Improvements. No mortgage or other encumbrance the Lessee executes in connection with that financing (a "**Leasehold Mortgage**") will extend to or be a lien or encumbrance upon Lessor's interest in any part of the Premises or in any right appurtenant to that interest.

Moreover, any third-party mortgage shall be subordinate to the interest of the Lessor (Conditions of Financing for Approved Improvement Costs), and all proceeds received from the mortgage loan shall be reinvested into the property.

(ii) Upon the request of Lessee, the County or the Miami-Dade Industrial Development Agency (the "**Agency**") shall act as the conduit issuer for one or more series of tax-exempt, qualified private activity bond

[or taxable bonds] financings (“**Conduit Financings**”), the net proceeds of which shall be used by Lessee to fund Approved Improvement Costs. Pursuant to a customary loan agreement, Lessee shall be the sole obligor for all obligations arising under such Conduit Financings. The County and the Agency shall reasonably cooperate with Lessee and its advisors in the preparation of appropriate disclosure materials and Financing Documents in connection with any such Conduit Financings. The Conduit Financing obligations of Lessee shall be at least pari passu with any other financing related to the Improvements and the County and Agency shall enter into an intercreditor agreement with the Lenders under any private financing reasonably requested by the Lender under a private financing. The County or the Agency, as applicable, shall obtain all necessary authorizations and approvals required in connection with any Conduit Financings.

(B) Lessor Approval of Financing Documents: The Lessor reserves the right to approve the documents memorializing any financing that Lessee secures on the authority of Section 11.04 (Conditions of Financing for Approved Improvement Costs) which approval shall not be unreasonably withheld, delayed, or conditioned. Lessee must submit for the Lessor’s review drafts of the Financing Documents in advance of Lessee’s Commencement of those documents or documentation verifying Lessee’s ability to self-finance the Improvements.

(C) Recording of Leasehold Mortgage: Following the Lessee’s Commencement of a Leasehold Mortgage, if applicable, Lessee shall furnish the Lessor (i) a duplicate original of the Leasehold Mortgage or an electronic copy of the Leasehold Mortgage that the Clerk of the Circuit Court for Miami-Dade County, Florida has certified as being a true copy of the Leasehold Mortgage recorded among its real property records, and (ii) a written notice setting forth the name and address of the mortgagees or secured party (the “**Leasehold Mortgagee**”) in whose favour Lessee executed the Leasehold Mortgage.

(D) Conditions of Leasehold Mortgage: Upon the Lessee’s Commencement of a Leasehold Mortgage and continuing until the Leasehold Mortgagee releases the Leasehold Mortgage of record, the following provisions will apply (and the Lessor, in connection with such Commencement, shall enter into an estoppel and recognition agreement substantially in the form of **Exhibit "I"**, recognizing the Leasehold Mortgagee thereunder and confirming to such Leasehold Mortgagee the rights and benefits accorded to a Leasehold Mortgagee under this Section 11.04(D)):

1. LESSOR TO GIVE NOTICE OF DEFAULT: At the time that the Lessor gives Lessee written notice of the occurrence of any default in respect of the performance of Lessee's obligations under this Agreement, the Lessor shall simultaneously give the Leasehold Mortgagee a copy of that notice in a manner established for the delivery of notices in Section 20.07 (Notices) at the address for the Leasehold Mortgagee provided to the Lessor. No notice of default to Lessee will be effective until the Lessor delivers the notice required by this Section 11.04(D) (1).

2. MORTGAGEE’S RIGHT TO CURE DEFAULT. The Leasehold Mortgagee may rectify a default on Lessee's part but has no obligation to do so. The Lessor will accept the Leasehold Mortgagee's performance of any of Lessee's obligations to the same extent as though the Lessee has performed. The Lessor may exercise a remedy available to it by reason of a default on Lessee's part only if Lessee and the Leasehold Mortgagee fail to rectify the default within the longer of (a) any time period specifically set forth in Section 13 (Termination) of the Lease for a cure of a particular default, or (b) within 30 days after the date of the delivery of the notice required by virtue of Section 11.04(D)(1) above, or if a cure is not reasonably possible within such time period,

then within a period of time reasonably required to cure the default through the exercise of prompt, diligent and continuous effort.

3. TERMINATION DELAYED DURING EXERCISE OF LEASEHOLD MORTGAGEE'S REMEDIES: Even though a default has occurred and neither the Lessee nor the Leasehold Mortgagee has provided for a cure within the times permitted by Section 11.04(D)(2) above, the Lessor will not terminate the Lease for a reasonable period of time, not to exceed one (1) year, from the date of termination provided in the Lessor's notice of default, if the Leasehold Mortgagee is then making: (a) prompt, diligent and continuous efforts to gain possession of the Premises and to succeed to Lessee's interest in the Premises by means of a foreclosure or the exercise of any other remedy available to the Leasehold Mortgagee by virtue of Lessee's default in respect of any of its obligations under the terms of the Leasehold Mortgage, together with (b) the payment to the Lessor of all rent and charges due hereunder with respect to which Lessee becomes delinquent and (c) good faith efforts to rectify other defaults contemporaneously with the efforts to gain possession of the Premises.

4. LEASEHOLD MORTGAGEE'S OPTION FOR ISSUANCE OF NEW LEASE. Prior to the expiration of the one (1) year period provided above in Section 11.04(D)(3) above, the Leasehold Mortgagee may request the Lessor to execute and deliver a new lease for the Premises in favour of a successor Lessee meeting the criteria of Section 11.04(D)(5) (a "**Successor Lessee**"). That new lease will have a term that coincides with what would have been the remainder of the Term had termination of this Agreement not occurred and will otherwise be on the same terms and conditions as those set forth in this Agreement. The new lease will also have the same priority as this Agreement with respect to any lien or other encumbrance affecting the Premises, including any fee mortgage. In order for the Lessor to be obligated to execute and deliver the new lease, the Leasehold Mortgagee must request the Commencement and delivery of the new lease by the delivery of written notice to the Lessor within one year after the termination of this Agreement occurs, and acknowledge and return the new lease to the County for Commencement on the Lessor's part within 20 days after the date on which the Lessor tenders the new lease to it for signature. Simultaneously with the delivery of the new lease, the Successor Lessee must also execute and deliver to the Lessor a written plan to rectify within a reasonable period of time any default that exists at that time in respect of any of Lessee's obligations under the terms of this Agreement, including, without limitation, any default that may exist in respect of Lessee's obligations arising under the terms of Article 9 (Environmental Compliance); that plan must set forth in reasonable detail the manner in which the Successor Lessee plans to rectify each default.

5. TRANSFER TO A "TRANSFeree" OR "SUCCESSOR LESSEE": A transfer of Lessee's interest in the Premises to the Leasehold Mortgagee, or a corporate assignee or nominee designated by Leasehold Mortgagee, or a purchaser at a foreclosure sale that occurs by virtue of the Leasehold Mortgagee's acceptance of a deed in lieu of foreclosure or the exercise of any remedy available to it under the terms of the Leasehold Mortgage (herein a "**Transferee**") will not constitute an assignment requiring the Lessor's consent under the terms of Section 11.01(Assignment and Transfer) above; provided, that upon request, Lessor shall recognize the Transferee as its counterparty under this Agreement. The provisions of Article 2 (Use of Premises) will govern any use of the Premises that occurs prior to and after a transfer to the Transferee. The Transferee may make a subsequent transfer of Lessee's interest in the Premises only with the Lessor's prior written consent as provided in Section 11.01 (Assignment and Transfer). The Lessor will, however, consent to the subsequent transfer to a Successor Lessee or Lessees if the proposed successor or successors to the Lessee's interest would have been acceptable to the Lessor for the Premises in the reasonable exercise of the Lessor's judgment considering the successor's experience, financial strength, history of meeting contractual obligations

and intent to implement a business plan consistent with the Lessor's plan for operating the Airport. The Parties agree that the Transferee will be subject to the termination provisions of Article 13 (Termination). After succeeding to Lessee's interest in the Premises, a Transferee that is not a Successor Lessee must use reasonable best efforts to find a Successor Lessee satisfying the criteria set forth above in this Section 11.04(D)(5), but in any event no later than one (1) year following the date of termination provided in Lessor's default notice. If no Successor Lessee or Lessees are found in such one (1) year period to occupy at least 50% of the Premises and Improvements, then all of the Lessee's, Leasehold Mortgagee's and Transferee's interests in the Premises, the Improvements, and this Lease shall terminate in their entirety, without any right of recovery or compensation from the Lessor.

6. NO OBLIGATIONS OF TRANSFEEE; LESSOR'S RIGHT TO TERMINATE IF OBLIGATIONS NOT SATISFIED: If a Transferee succeeds to Lessee's interest in the Premises by virtue of the Leasehold Mortgagee's acceptance of a deed in lieu of foreclosure or the exercise of any remedy available to the Leasehold Mortgagee under the terms of the Leasehold Mortgage, the Transferee and its successors and assigns will only have liability for the performance of those obligations incumbent upon Lessee under the terms of this Agreement that arise or accrue during the period between the time at which the Transferee succeeds to Lessee's interest in the Premises and the time at which it divests itself of that interest. Notwithstanding anything to the contrary herein, the sole recourse of Lessor in seeking the enforcement of any obligations under this Agreement shall be to the Transferee's right, title and interest in the Project. Lessee acknowledges and agrees that no Lender or Leasehold Mortgagee shall have any liability or obligation under this Agreement as a result of exercising its rights under the Leasehold Mortgage or any other Financing Document (other than as a Transferee or Successor Lessee), and no Lender or Leasehold Mortgagee shall be obligated or required to perform any of Lessee's obligations under this Agreement or to take any action to collect or enforce any claim for payment assigned under any Financing Document. Without limiting the generality of the foregoing, under no circumstance shall the Leasehold Mortgagee or its successors, assignees or designees be liable to Lessor for any action taken by it or on its behalf in good faith during the cure period provided in this Section 11.04(D), notwithstanding such action may prove to be, in whole or in part, inadequate or invalid. The foregoing limitations will not preclude the Lessor from terminating this Agreement if the Transferee fails to rectify without cost to Lessor any default existing in respect of Lessee's obligations at the time the Transferee succeeds to Lessee's interest in the Premises, including, without limitation, any obligation arising under the terms of Article 9 (Environmental Compliance).

7. NO AMENDMENT OF LEASE WITHOUT LEASEHOLD MORTGAGEE'S CONSENT: Without the Leasehold Mortgagee's prior written consent, Lessee may not amend this Agreement, exercise any right available to it under the terms of this Agreement or at law to cancel this Agreement, or to voluntarily surrender possession of the Premises to the Lessor. Without the Leasehold Mortgagee's prior written consent, the Lessor may not amend this Agreement provided, however, the foregoing restrictions will not apply to amendments for which express provision is made elsewhere in this Agreement, including, without limitation, those for which provision is made in Articles 1 (Term and Premises), 3 (Rentals and Payments), 19 (Trust Agreement), and 20.13 (Severability). Without the Leasehold Mortgagee's prior written consent, the Lessor may not cancel this Agreement and accept a surrender of possession of the Premises except in the instances where the cancellation and acceptance of a surrender of possession of the Premises occurs in accordance with Section 13.06 (Actions at Termination) or in connection with the Lessor's exercise of its remedies following an occurrence of a default in the performance of any of Lessee's obligations. The Leasehold Mortgagee will not

be bound by any amendment, cancellation or surrender that occurs in contravention of the foregoing provisions of this article.

8. RIGHTS OF LEASEHOLD MORTGAGEE IN INSURED LOSSES: The Leasehold Mortgagee will have the right to participate in the adjustment of any insured losses that becomes necessary by reason of damage or destruction occurring to the Improvements, as may be applicable, and the right to supervise and control the receipt and disbursement of insurance proceeds to the extent provided in agreements among Lessee, Leasehold Mortgagees and any Lessee's holding an interest with respect to the Premises; provided, however, that any distribution of insurance proceeds must comply with the requirements of Article 12 (Insurance) of this Agreement.

9. RIGHTS OF LEASEHOLD MORTGAGEE IN CONDEMNATION: If taking of any part of the Premises occurs, the Leasehold Mortgagee will have the right to participate in any condemnation proceedings or settlement discussions pertaining to the Lessee's interests hereunder and the right to supervise and control the receipt and disbursement of all condemnation awards arising from such interests to the extent provided in agreements among Lessee, Leasehold Mortgagee and any other party holding an interest with respect to the Premises. The Leasehold Mortgagee is entitled to receive and apply to the reduction of the indebtedness, the payment of which is secured by the lien of the Leasehold Mortgagee, any portion of a condemnation award arising from a taking of Lessee's interests not applied to the restoration of that portion of the Premises that remains following the taking to a complete architectural unit. After payment to the Lessor by the condemning authority of whatever compensation and damages are determined to be owing to the Lessor for Lessor's property interests in the Premises, and after the indebtedness the payment of which is secured by the lien of the Leasehold Mortgagee is discharged in full by an application of a condemnation award in accordance with the terms of the preceding sentence and after payment to the Lessee by the condemning authority of whatever compensation and damages are determined to be owing Lessee for Lessee's property interests in the Premises, the Lessor is entitled to receive any remaining portion of the condemnation award. If a partial taking of the Premises occurs, this Agreement will continue in effect with respect to that portion of the Premises not taken and, effective as of the earlier of the dates on which the condemning authority takes title to or possession of the part taken, the rent payable under the terms of this Agreement will be reduced in proportion to the reduction in the area of the Premises. If, however, the remaining portion of the Premises not taken cannot be adequately restored, repaired or reconstructed so as to constitute a complete architectural unit of substantially the same usefulness, design, construction and commercial feasibility as immediately before the taking, then Lessee may terminate this Agreement by delivering written notice to the Lessor by the date that is one hundred twenty (120) days after the day of the taking. Lessee's notice must specify the date the termination will become effective, which date will not be earlier than the date of such taking. If a termination occurs in accordance with the foregoing, Lessee shall pay and shall satisfy all rents and charges due and accrued hereunder up to such date of such termination and shall perform all of the obligations of Lessee hereunder to such date, and thereupon this Agreement and the Term shall cease and terminate. If a taking for a temporary period occurs, this Agreement will continue in full force and effect and the entire award payable in respect of that taking will be payable to Lessee, except for any portion sought by and attributable solely to Lessor's interest in the Premises, subject to provisions of any agreements among Lessee, the Leasehold Mortgagee and any Lessee holding an interest with respect to the Premises.

10. LESSOR WAIVER OF RIGHT TO CERTAIN RENTALS: During the entire Term hereof, Lessor will have no right, and expressly waives any right arising under applicable law, in and to the rentals that will become due

to Lessee under the terms of any approved sublease of any part of the improvements. Lessee may assign those rentals to the Leasehold Mortgagee without any consent or approval of the County. Nothing in this article shall (a) alter County's ownership of the improvements in accordance of this Agreement, (b) alter Lessee's obligations to commence paying Lessor fair market rentals or other rentals on the Improvements as provided in Article 3 (Rentals and Payments) or (c) provide Lessee with any ownership claim to the Improvements or the rentals therefrom after the conclusion of the Term of this lease.

11. NON-MERGER OF FEE AND LEASEHOLD INTEREST: Under no circumstances will the fee estate of the Lessor and the leasehold estate created by this Agreement, or any sublease created hereunder merge, even though owned by the same party, without the Leasehold Mortgagee's written consent.

(E) **Estoppel Certificate:** Upon written request from time to time by Lessee, a Leasehold Mortgagee, a prospective Leasehold Mortgagee, or a prospective assignee of Lessee's interest in the Premises, the Lessor shall execute and deliver to the requesting party an estoppel certificate in the form reasonably requested by the requesting party. Lessor shall have 30 days to provide such estoppel certificate. In each such certificate, the Lessor shall certify, to the extent that it then has knowledge: (i) the amount of the monthly rent that Lessee is then obligated to pay under the terms of this Agreement and the date through which Lessee has paid that rent, (ii) that this Agreement is in full force and effect, (iii) the specific nature of any default that the Lessor knows to exist in respect of either party's performance of its respective obligations under the terms of this Agreement, (iv) the specific nature of any defence or offset that the Lessor may assert in connection with any effort on Lessee's part to enforce any of the obligations the Lessor undertakes under the terms of this Agreement, and (v) that it has not received notice of any pending eminent domain proceedings or other governmental actions or judicial actions of any kind against the Premises. Notwithstanding the preceding, no estoppel issued pursuant to this Section shall waive or limit the County's regulatory or police powers with respect to the Premises, including with respect to circumstances which exist prior to the issuance of any estoppel under this Section.; nor shall any such estoppel bar or limit the County from collecting any taxes, impact fees, or other assessments which may due arising out of Lessee's use of the Premises.

(F) **Leasehold Mortgagee's Right To New Lease:** The provision of this Article 11 (Assignment and Subletting and Conditions of Financing) will survive the termination, rejection or disaffirmance of this Agreement and will continue in full force and effect thereafter to the same extent as if this Article 11 (Assignment and Subletting and Conditions of Financing) were a separate and independent contract made by the Lessor, Lessee, and the Leasehold Mortgagee. The Lessor's agreement set forth in this Article 11 (Assignment and Subletting and Conditions of Financing) to enter into a new lease with the Leasehold Mortgagee constitutes a separate agreement with the Lessor and the Leasehold Mortgagee, which shall be on substantially identical terms to those set forth in this Agreement. The Lessor agrees that the Leasehold Mortgagee shall be a third-party beneficiary to the terms of this Agreement, and that such third-party beneficiary status shall be unaffected by the rejection or disaffirmance of this Agreement in any bankruptcy proceeding by any party.

ARTICLE 12 **Insurance**

12.01 Insurance Required:

In addition to such insurance as may be required by law, the Lessee shall maintain, without lapse or material change, for so long as it occupies the Premises, the following insurance:

(A) Commercial General Liability Insurance:

Commencing on the date of Commencement of this Lease by Lessee and ending on the first to occur of the date of substantial completion of the Project as evidenced by a Certificate of Occupancy or the date Lessee commences using the Premises (or any part thereof) for the conduct of its business (other than construction), Lessee shall maintain Commercial General Liability/Airport Liability Insurance with limits of liability not less than Five Million Dollars (\$5,000,000) each occurrence, including coverage for, but not limited to, Premises/Operations, Products/Completed Operations, Contractual Liability, Personal/Advertising Injury and Cross Liability. Commencing on the first to occur of the date of substantial completion of the Project as evidenced by a Certificate of Occupancy or the date Lessee commences using the Premises (or any part thereof) for the conduct of its business (other than construction), Lessee shall maintain Commercial General Liability/Airport Liability Insurance with limits of liability not less than Ten Million Dollars (\$10,000,000) each occurrence, including coverage for, but not limited to, Premises/Operations

(B) Automobile Liability Insurance:

Lessee shall maintain Business Automobile Liability Insurance with limits of liability not less than Five Million Dollars (\$5,000,000) each occurrence for owned, non-owned and hired automobiles. If Lessee transports fuel, the policy must include CA 99 48 Pollution Liability - Broadened Coverage for Covered Autos - Business Auto, Motor Carrier and Truckers Coverage Forms Endorsement or equivalent. In the event Lessee has no owned automobiles, Lessee shall maintain only Hired & Non-Owned Auto Liability Insurance. This coverage may be satisfied by way of endorsement to the Commercial General Liability policy, or a separate Business Auto Liability policy.

(C) Hangar keeper's Legal Liability:

Tenant shall maintain Hangar keeper's Legal Liability Insurance providing coverage for property damage to aircraft that are the property of others while in the care, custody, or control of Tenant (when such aircraft are not in flight), in an amount not less than Ten Million Dollars (\$10,000,000) any one aircraft and Twenty Million Dollars (\$20,000,000) any one occurrence.

(D) Pollution and Remediation Legal Liability Insurance:

To the extent required under Section 9.16 (Waiver and Release), in an amount not less than \$2,000,000 covering third-party claims, remediation expenses, and legal defense expenses arising from on-site and off-site loss, or expense or claim related to the release or threatened release of Hazardous Materials at the Lessee's Premises.

(E) Workers Compensation:

As required by Chapter 440, Florida Statutes.

(F) Storage Tank Third-Party Liability and/or similar Environmental Impairment Liability. If

Lessee shall locate, upon the Premises, any storage tank subject to regulation or registration by the Florida Department of Environmental Protection, or any successor entity, then Lessee shall maintain Third-Party Storage Tank Pollution Liability Insurance, or similar Environmental Impairment Liability Insurance at a minimum limit not less than One Million Dollars (\$1,000,000) per occurrence at each location and Two Million Dollars (\$2,000,000) annual

aggregate at each location providing coverage for damages against, but not limited to, third-party liability, clean up, corrective action including assessment, remediation and defense costs. In the event the policy includes a self-insured retention or deductible in excess of One Hundred Thousand Dollars (\$100,000), Lessee shall provide a copy of Lessee's most recent annual report or audited financial statements to County at County's request and County may reject or accept a higher self-insured retention or deductible based on Lessee's financial condition.

(G) Builders Risk and Property Insurance:

The Lessee and/or its sublessee(s), at its (and/or their) sole cost and expense, throughout the Term of this Agreement, shall keep the Improvements insured on an "All Risk" basis in an amount not less than 100% of the full replacement value of the Improvements against loss or damage (in excess of a reasonable per occurrence deductible amount, which shall be the responsibility of the Lessee) by fire, lightning, tornado, hurricane, windstorm, hail, flood, earthquake, explosion, riot, riot attending strike, civil commotion, vandalism and malicious mischief, sprinklers and sprinkler leakage, aircraft, vehicles and smoke, or any other casualty in an amount not less than 100% of the full replacement value of the Improvements to the extent such coverage is commercially available at commercially reasonable rates. The full replacement value of the Improvements shall be established as of the date each Improvement is constructed and a certificate of completion (or Certificate of Occupancy) for same is issued by the appropriate governing authority with jurisdiction over same and shall be re-established at intervals of not more than three (3) years thereafter, by the firm and professional property evaluators used by the County for establishing replacement values for County property. Any deficiency in the amount of the proceeds from such property insurance resulting from a failure by the Lessee to re-establish the full replacement value of the Improvements shall be the sole responsibility of the Lessee.

(H) Business Interruption Insurance:

The Lessee at its sole cost and expense throughout the Term of this Agreement shall maintain business interruption insurance at a minimum, in an amount sufficient to continue making Land and Pavement Rent, and payments of taxes and insurance, during the rebuilding period as a result of damage to the improvements.

All insurance policies required pursuant to the terms of this Agreement shall be issued in companies approved to do business under the laws of the State of Florida. Such companies must be rated no less than "A-" as to financial strength, and no less than "VII" as to financial size in accordance with the latest edition of "Best's Key Rating Guide", published by A.M. Best Company, Inc., or its equivalent, subject to approval of the County's Risk Management Division.

12.02 Insurance Certificates Required:

Prior to the commencement of operations hereunder and annually thereafter, the Lessee shall furnish or cause to be furnished certificates of insurance to the Department which certificates shall clearly indicate that:

(A) The Lessee has obtained insurance in the types, amounts and classifications as required for strict compliance with this Article;

(B) The policy cancellation notification provisions specify at least 30 days advance written notice of cancellation to the County; and

(C) The County is named as an additional insured with respect to the Lessee's commercial general liability policies.

(D) The County is named as a loss payee with respect to the required builder's risk and property insurance provided by the Lessee.

(E) Business Auto Liability insurance prior to allowing vehicles on to the Premises; Hangar keeper's Legal Liability and Workers' Compensation insurance on or before the Date of Beneficial Occupancy.

(F) Storage Tank Third-Party Liability/Environmental Impairment Liability insurance, if applicable to Lessee's operations, on or before the Date of Beneficial Occupancy. On said insurance certificates, unless specifically shown to be excluded thereon, commercial general liability coverage shall include contractual liability, and notification of cancellation shall include notification of material changes in the policies.

The County reserves the right to require the Lessee to obtain and maintain such reasonably amended insurance coverage as it deems necessary or desirable, upon issuance of notice in writing to the Lessee, which notice shall automatically amend this Agreement effective 30 days after such notice.

12.03 Compliance:

Compliance with the requirements of this Article 12 (Insurance) shall not relieve the Lessee of its liability under any other portion of this Agreement or any other agreement between the County and the Lessee.

12.04 Right to Examine:

The Department reserves the right, upon reasonable notice, to examine the original or true copies of policies of insurance (including but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. The Lessee agrees to permit such inspection at the offices of the Department.

12.05 Personal Property:

Any personal property of the Lessee or of others placed in the Premises and Airport shall be at the sole risk of the Lessee or the owners thereof, and the County shall not be liable for any loss or damage, except to the extent such loss or damage was caused by the sole active negligence of the County, as limited by Section 768.28, Florida Statutes.

ARTICLE 13
Default, Remedies and Termination

13.01 Payment Defaults:

Failure of the Lessee to make all payments of rentals, fees and charges required to be paid herein when due shall constitute a default, and the County may, at its option terminate this Agreement after five (5) business days' notice in writing to the Lessee, unless the default is cured within the notice period.

13.02 Insurance Defaults:

The Lessor shall have the right, upon fifteen (15) calendar days written notice to the Lessee, to terminate this Agreement if the Lessee fails to provide evidence of insurance coverage in strict compliance with **Article 12** (Insurance) hereof prior to [commencement of operations], or fails to provide a renewal of said evidence upon its expiration; provided, however, that such termination shall not be effective if the Lessee provides the required evidence of insurance coverage within the notice or grace period.

13.03 Other Defaults:

The Lessor shall have the right, thirty (30) calendar days written notice to the Lessee, to terminate this Agreement upon the occurrence of any one or more of the following, unless the same shall have been corrected within such period, or, if correction cannot reasonably be completed within such 60-day period, the Lessee has commenced substantial corrective steps within such 30-day period and diligently pursues same to completion:

(A) Failure of the Lessee to comply with any covenants of this Agreement, other than the covenants to pay rentals, fees and charges when due, and the covenants to provide required evidence of insurance coverage.

(B) The conduct of any business, the performance of any service, or the merchandising of any product or service not specifically authorized herein, by the Lessee.

(C) Failure to construct Improvements or invest the required amounts in a timely manner as noted in Article 1.07 (Development Schedule and Failure to Develop) and Article 4.05 (Failure to Complete on a Timely Basis).

13.04 Habitual Default:

Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly or repetitively defaulted in the performance of or breach any of the terms, covenants and conditions required herein, to be kept and performed by the Lessee, on three (3) occasions-in any given 5-year period during the Term regardless of whether the Lessee has cured each individual condition of breach or default as provided above, the Lessee shall be determined by MDAD to be an "habitual violator". At the time that such determination is made, the Lessor shall issue to the Lessee a written notice, advising of such determination and citing the circumstances thereof. Such notice shall also advise the Lessee that there shall be no further notice or grace periods to correct any subsequent breach(s) or default(s) and that any subsequent breach or default, of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively shall constitute a condition of non-curable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the County may terminate this Agreement upon the giving of written notice of termination to the Lessee, such termination to be effective upon the seventh (7th) day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder. Immediately upon receipt of said termination, the Lessee shall discontinue its operations at the Airport and proceed to remove all its personal property in accordance with Sub-Article 13.06 (Actions at Termination) hereof.

13.05 Termination by Abandonment:

Abandonment, as used herein, is defined as voluntary vacating the premises with the intention of not returning. This Agreement shall be automatically terminated upon the abandonment by the Lessee of Premises or voluntary discontinuance of operations at the Airport for any period of time exceeding fifteen (15) consecutive calendar days without having provided notice of such discontinuation to the County and receiving approval from the County, which approval will not be unreasonably withheld, unless such abandonment or discontinuance has been caused by casualty or governmental order that prevent the lessee's use of the Premises for the purposes authorized in Article 2.02 (Use of Premises) hereof. Such termination shall not relieve the Lessee of its rental payment obligation for the remaining term of the agreement, nor does it constitute a waiver by the Lessor of its rights to recover damages for rental payments for the remaining term of the agreement and loss of future rentals.

The happening of the following events shall constitute a default by the Lessee and this Agreement shall permit Lessor to terminate this lease immediately, effective as of the date of Lessee's receipt of notice thereof: abandonment of the Premises or discontinuance of operations; failure of the Lessee for fifteen (15) days or more to occupy the Premises for one or more of the purposes permitted under this Agreement; or if a lien is filed against the leasehold interest of the Lessee and not removed within a reasonable time.

13.06 Actions at Termination:

(A) The Lessee shall vacate, quit, surrender up and deliver the Premises to the Lessor on the termination date of this Agreement, whether by expiration of the Term or by reason of default. If title of the Improvements on the Premises is in the name of the Lessee at the time of termination, and if directed by the Lessor, the Lessee shall demolish all above ground Improvements on the Premises and remove all debris at its costs. Lessee shall conduct any required demolition in accordance with the code and regulatory requirements in effect at the time. If not directed to demolish the Improvements, the Lessee shall surrender the Premises in the condition required under **Article 6** (Maintenance and Repair by Lessee) herein with all repairs for which the Lessee is responsible shall be completed prior to surrender and shall execute appropriate documents confirming that title to such Improvements in Lessee's name has been transferred to Lessor. In no event shall Lessor be required to pay any compensation or reimbursement to Lessee for such transfer of title. On or before the termination date of this Agreement, the Lessee shall remove all of its personal property from the Premises; provided, however, that if immediate termination occurs under Section **13.05** (Termination by Abandonment), Lessee shall be allowed up to thirty (30) calendar days from the receipt of notice of termination to remove such personal property.

(B) If the Lessor advises the Lessee that it has reason to believe that any hazardous substance or environmental contaminant has been released within the Premises or into the ground under the Premises, then the Lessee at its expense shall retain an approved environmental consultant to perform whatever environmental assessment may be required to determine the extent of such release. The Lessee shall comply with the recommendations and conclusions of such consultant regarding environmental clean-up efforts that may be required and shall comply with any other clean-up requirements imposed on the Lessee by Federal, State or County laws, regulations or codes.

(C) In the event of termination for Lessee's default, the Lessor shall be entitled to recover immediately, without waiting until the due date of any future rent or until the date fixed for expiration of the Agreement, the following amounts as damages: (1) the reasonable costs of re-entry and re-leasing including without limitation the cost of any clean up, alteration, repair, maintenance, refurbishment, removal of personal property and fixtures of the Lessee, or any other expense occasioned by failure of the Lessee to quit the Premises upon termination and

to leave them in the required condition, any remodeling costs, attorney's fees, court costs, and expenses of litigation through all levels of legal proceedings; and (2) the loss of reasonable rental value from the date of default until a new tenant has been secured.

13.07 Lien Upon Personal Property:

In the event of termination for Lessee's default, the Lessor shall have a lien upon all personal property of the Lessee that is not pledged to a third-party and located at Premises to secure the payment of any unpaid rentals, fees and charges accruing under the terms of this Agreement.

13.08 Right to Show Premises:

At any time within six (6) months of the scheduled expiration date of this Agreement or any time after the Lessee has been given notice of termination or default, pursuant to this **Article 13** (Default, Remedies and Termination), the Lessor shall have the right to enter on the Premises for the purposes of showing the Premises to prospective tenants or users during regular business hours.

13.09 Other Terminations:

This Agreement shall be subject to termination by the Lessor or the Lessee in the event of any one or more of the following:

(A) The permanent abandonment of the Airport. This Agreement shall be automatically terminated upon the abandonment by the Lessee of Premises or voluntary discontinuance of operations at the Airport for any period of time exceeding fifteen (15) consecutive calendar days, unless such abandonment or discontinuance has been caused by casualty or governmental order that prevent the lessee's use of the Premises for the purposes authorized. Such termination shall not relieve the Lessee of its rental payment obligation for the remaining term of the agreement, nor does it constitute a waiver by the Lessor of its rights to recover damages for rental payments for the remaining term of the agreement and loss of future rentals.

(B) The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part of parts thereof, in such a manner as to substantially restrict the Lessee from operating there from for a period in excess of ninety (90) consecutive calendar days, provided that nothing contained herein shall be deemed to constitute a waiver by the Lessee of any right it may have against the United States for just compensation in the event of any such assumption.

(C) The issuance by any court of competent jurisdiction of any injunction in any way substantially preventing or restraining the use of the Airport.

13.10 County Defaults:

This Agreement shall be subject to termination upon sixty (60) calendar days' written notice by the Lessee in the event of a default by the County in the performance of any covenant or agreement herein required to be performed by the County and the failure of the County to remedy same within a reasonable period of time following receipt of written notice from the Lessee of such default, which period of time to cure provided to the County shall be no

less than sixty (60) calendar days of the date of the notice. The Parties may negotiate an amendment to this Agreement for the Lessee to perform the work to cure a default by the County and receive reimbursement for the cost of the work, if any, and approval of any such amendment shall be at the sole and exclusive right of the Lessor.

ARTICLE 14 **Special Conditions**

14.01 Quality of Services:

The Lessee shall furnish the services required and authorized, pursuant to Article 2 (Use of Premises) hereof, on a good, prompt and efficient basis and on a fair, equal and not unjustly discriminatory basis to all users thereof. Lessee's obligations pursuant to this Section shall be interpreted and deemed to be identical to Lessor's obligations pursuant to Lessor's FAA Grant Assurances with respect to quality of services.

14.02 Nondiscriminatory Prices:

For sales of products or services on the Premises or the subletting of any facilities as permitted by MDAD, Lessee shall charge fair, reasonable, customary and not unjustly discriminatory prices for each unit of sale or service or sublease; provided, however, that the Lessee may make reasonable, customary and nondiscriminatory discounts, rebates or similar types of price reductions to volume purchasers of the Lessee's services. Lessee's obligations pursuant to this Section shall be interpreted and deemed to be identical to Lessor's obligations pursuant to Lessor's FAA Grant Assurances with respect to nondiscriminatory pricing.

14.03 County's Obligations:

The Lessee, in recognition of the County's obligation, pursuant to Section 22 of Part V of the Federal Aviation Administration's standard grant assurances, to enforce the provisions of Sections 14.01 (Quality of Services) and 14.02 (Nondiscriminatory Prices) above, agrees that the Lessor may, from time to time, promulgate standards, methods and procedures for and monitor and test the provision of services hereunder and may require the Lessee to provide copies of schedules of service charges and the bases for discounts, rebates and similar types of price reductions. Should the Lessor reasonably determine that the Lessee is not in compliance with the provisions of Sections 14.01 (Quality of Services) or 14.02 (Nondiscriminatory Prices) above, the first such occurrence shall be considered a curable default, pursuant to Section 13.03 (Other Defaults) hereof, and subsequent occurrence(s) shall be considered a material breach of this Agreement, entitling the Lessor to the remedies provided in this Agreement or by law.

14.04 Air Shows and Special Events:

[Upon at least 60 days written notice from the Department, the County may require the Lessee to surrender portions of the Premises for certain periods of time during the Term of this Agreement for the purpose of allowing the use of designated portions of the Premises by others in connection with air shows and other special events, provided, however, that the County shall use good faith efforts to minimize disruption to Lessee's use of the Premises. Said use will not exceed ten days or more than three events per year. For any day or part of a day that the Premises are so used, rental payments under Section 3.01 (Annual Rent) will be abated. The Department shall actively keep the

Lessee advised of all of the planning for such events, air shows, or County sponsored special events, if portions of the Premises are so used.]

ARTICLE 15

Equal Employment Opportunity, Nondiscrimination and Affirmative Action

The Lessee agrees to 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 the Lessee 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 the party or any transferee for the longer of the following periods:

(a) The period during which the property is used by the airport sponsor 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 the airport sponsor or any transferee retains ownership or possession of the property.

15.01 Employment Discrimination:

The Lessee shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of age, sex, race, color, religion, national origin, ancestry, sexual orientation or disability. The Lessee shall comply with applicable provisions of the Americans with Disabilities Act, including, but not limited to, provisions pertaining to employment.

15.02 Equal Employment Opportunity:

In accordance with Title 14 Code of Federal Regulation (CFR) Part 152 (Affirmative Action Employment Program), the Lessee shall not discriminate against any employee or applicant for employment because of age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, in accordance with the Americans with Disabilities Act, discriminate against any otherwise qualified employees or applicants for employment with disabilities who can perform the essential functions of the job with or without reasonable accommodation. The Lessee shall take affirmative actions to ensure that applicants are employed and that employees are treated during their employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, or disability. Such actions include, but not limited to, the following: Employment, upgrading, transfer or demotion, recruitment, recruitment advertising, layoff or termination, rates of pay or other forms of compensation, selection for training including apprenticeship.

The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County setting forth the provisions of this Equal Employment Opportunity clause. The Lessee shall comply with all applicable provisions of the Civil Rights Act of 1964, Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, revised order No. 4 issued December 1, 1951, as amended, and the Americans with Disabilities Act. The Age Discrimination in Employment Act effective June 12, 1968, Executive Order 13166 issued August 11, 2000, Improving Access to Services for persons with Limited English Proficient (LEP), the rules, regulations and relevant orders of the Secretary of Labor, Florida Statutes §112.041, §112.042, §112.043 and the Miami-Dade County Code Section 11A1 through 13A1, Articles 3 and 4.

The Lessee shall assign responsibility to one of its officials to develop procedures that will assure that the policies of Equal Employment Opportunity and Affirmative Action are understood and implemented.

15.03 Nondiscriminatory Access to Premises and Services:

The Lessee, for itself, its 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) no person on the grounds of race, color, sex, national origin, disability, sexual orientation or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the grounds of race, color, sex, national origin, disability, sexual orientation or ancestry shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the improvements; and (3) that the Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to then enforceable regulations of the Department of Transportation, as amended from time to time.

15.04 Breach of Nondiscrimination Covenants:

In the event it has been determined that the Lessee has breached any enforceable nondiscrimination covenants contained in Sub-Articles 15.01 "Employment Discrimination" and Sub-Article 15.02 "Nondiscriminatory Access to Premises and Services", pursuant to the complaint procedures contained in the applicable Federal Regulations, and the Lessee fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to Sub-Article 13.03 "Other Defaults" hereof.

15.05 Nondiscrimination in Employment and Sub-Contracts:

During the performance of this Agreement, the Lessee agrees as follows: The Lessee shall, in all solicitations or advertisements for employees placed by or on behalf of the Lessee, state that all qualified applicants will receive consideration for employment without regard to age, sex, race, color, religion, marital status, place of birth or national origin, ancestry, physical handicap or disability. The Lessee shall furnish all information and reports required by Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to The Lessee books, records, accounts by the County and Compliance Review Agencies for purposes of investigation to ascertain by the compliance with such rules, regulations, and orders. In the event of the Lessee's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, and orders, this Agreement may be canceled, terminated, or suspended in whole or in part in accordance with the Termination of Agreement section hereof and the Lessee may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended by Executive Order 113155 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 113155 and such sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 as amended or by rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

The Lessee will include Sub-Article 15.02 (Equal Employment Opportunity and Sub-Article 15.03 (Nondiscriminatory Access to Premises and Services) of this Article in the Lessee sub-contracts in excess of \$10,000.00, unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 issued September 24, 1965, as amended by Executive Order 113155, so that such provisions will be binding upon each sub-consultant. The Lessee shall take such action with respect to any sub-contract as the County may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Lessee becomes involved in, or is threatened with, litigation with a sub-consultant as the result of such direction by the County or by the United States, the Lessee may request the United States to enter into such litigation to protect the interests of the United States.

15.06 Affirmative Action and Disadvantaged Business Enterprise Programs:

The Lessee agrees that in the event the provisions of 49 CFR Part 23, Disadvantaged Business Enterprises (DBE) and 14 CFR Part 152, Affirmative Action Employment Programs, are applicable to the Lessee under this Agreement, it shall comply with all requirements of the Department, the Federal Aviation Administration and the U. S. Department of Transportation. These requirements may include, but not be limited to, the compliance with DBE and/or Employment Affirmative Action participation goals, keeping of certain records of good faith compliance efforts, and the submission of various reports, including, if directed by the Department, the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises. Failure to comply with these requirements shall constitute a default hereunder and be grounds for termination of this Agreement. In the event it has been determined, in accordance with applicable regulations, that the Lessee has defaulted in the requirement to comply with this section, and the Lessee thereafter fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Lessee, to terminate this Agreement pursuant to Sub-Article 13.03 "Other Defaults" hereof.

15.07 Title VI Clauses for Compliance with Nondiscrimination Requirements:

During the performance of this Lease, the Lessee, for itself, its assignees, and successors in interest (hereinafter referred to as the "Lessee") agrees as follows:

(A) Compliance with Regulations: The Lessee (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are set forth in Sub-Article 15.07.

(B) Non-discrimination: The Lessee, with regard to the work performed by it during the Lease, will not discriminate on the grounds of race, color, or national origin in the selection and retention of sub-lessees or subcontractors, including procurements of materials and leases of equipment. The Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities set forth below, including employment practices when the Lease covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

(C) Solicitations for sub-leases or subcontracts, including procurements of materials and equipment: In all solicitations, either by competitive bidding, or negotiation made by the Lessee for work to be performed under a sub-lease or subcontract, including procurements of materials, or leases of equipment, each potential sub lessee or subcontractor or supplier will be notified by the Lessee of the Lessee's obligations under this Lease and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

(D) Information and Reports: The Lessee will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Lessee is in the exclusive possession of another who fails or refuses to furnish the information, the Lessee will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(E) Sanctions for Noncompliance: In the event of a Lessee's noncompliance with the Nondiscrimination provisions of this Lease, the sponsor will impose such Lease sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

1. Withholding payments to the Lessee under the Lease until the Lessee complies; and/or
2. Cancelling, terminating, or suspending a Lease, in whole or in part.

(F) Incorporation of Provisions: The Lessee will include the provisions of paragraphs one through six in every sublease and subcontract, including procurements of materials and leases of equipment, Required Contact Provisions Issued on January 29, 2016 Page 19 AIP Grants and Obligated Sponsors Airports (ARP) unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Lessee will take action with respect to any sublease or subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Lessee becomes involved in, or is threatened with litigation by a sub-lessee, subcontractor, or supplier because of such direction, the Lessee may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Lessee may request the United States to enter into the litigation to protect the interests of the United States.

15.08 Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility

or Program:

(A) The Lessee, for himself/herself, his/her 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) 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 said facilities, (2) that in the construction of any improvements on, over, or under such land, 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, (3) that the Lessee will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

(B) With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the County will have the right to terminate the Lease and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Lease had never been made or issued.

15.09 Title VI List of Pertinent Nondiscrimination Acts and Authorities:

During the performance of this Lease, the Lessee agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Lessees, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123 (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

ARTICLE 16

Security and Special Provisions

16.01 Security:

The Lessee acknowledges and accepts full responsibility for (i) the security and protection of the Premises, any improvements thereon, its equipment and property on the Airport and (ii) all breaches of federal and Lessor security requirements by Lessee's employees or those persons for whom Lessee has responsibility under Section 16.02, and (iii) control of access to the Air Operations Area ("AOA") or any Security Identification Display Area ("**SIDA**") through the Premises by persons and vehicles. The Lessee fully understands and acknowledges that any security measures deemed necessary by the Lessee for the protection of said Premises, equipment and property shall be the sole responsibility of the Lessee and shall involve no cost to the County. Lessee is responsible for compliance by its employees and all others for whom it is responsible with applicable security requirements relating to access, through Lessee's Premises, to the AOA/SIDA. All such security measures by the Lessee shall be in accordance with 49 CFR Part 1542 and the Airport Security Plan.

16.02 Security Identification Display Areas Access - Identification Badges:

The Lessee shall be responsible for (i) assuring that all of Lessee's employees, and all employees and persons of entities accessing the AOA/SIDA through the Premises on behalf of Lessee have appropriate SIDA Identification Badges and comply with all federal and Lessor security requirements applicable to the Premises and SIDAs, (ii) immediately reporting to MDAD all lost or stolen ID badges of Lessee's employees and/or visitors' badges provided by Lessee, and (iii) immediately returning the ID badges of any of Lessee's employees that are transferred from the Airport or terminated from the employ of the Lessee or upon termination of this Agreement. Each employee must complete the SIDA training program conducted by the Department, before an ID badge is issued. The Lessee shall pay, or cause to be paid, to the Department any fines or penalties imposed on Lessor for a violation of the security requirements set forth herein, as well as such nondiscriminatory charges, as may be established from time to time, for lost or stolen ID badges and those not returned to the Department in accordance with this Article. The Department shall have the right to require the Lessee to conduct background investigations and to furnish certain data on such employees before the issuance of ID badges, which data may include the fingerprinting of employee applicants for the badges.

16.03 AOA - Driver Training:

MDAD may, from time to time, issue regulations or procedures governing driving in the AOA, which regulations or procedures shall be a material component of this Agreement.

16.04 Alcohol and Drug Testing:

The Lessee acknowledges that the County, as a public agency sponsor under the provisions of the Airport and Airway Improvement Act of 1982, as amended, has the obligation to establish a drug free workplace and to establish policies and programs to ensure airport safety and security. The Lessee acknowledges that the Department, on behalf of the County, has the right to require users of the Airport (Lessee, Permittees, Licensees, etc.) to establish reasonable programs to further the achievement of the objectives described herein. Accordingly, the Lessee shall establish programs (1) for pre-employment alcohol and drug screening for all candidates for employment at the Airport who will as a part of their duties (a) be present on the AOA; (b) operate a motor vehicle of any type on the AOA; or (c) operate any equipment, motorized or not, on the AOA and (2) for the same or similar screening based upon a reasonable suspicion that an employee, while on duty on the AOA, may be under the influence of alcohol or drugs. Notwithstanding the above, the Lessee specifically acknowledges that the County, acting through the Department, has the right and obligation to deny access to the AOA and to withdraw AOA driving privileges from any person who it has a reasonable suspicion to believe is under the influence of alcohol or drugs.

16.05 Drug-Free Workplace Default:

The Lessee acknowledges it has provided to the County a Drug-Free Workplace Affidavit, certifying that it is providing a drug-free workplace for its employees, as required by County Ordinance No. 92-15, adopted on March 17, 1992 as amended from time to time ("**Drug-Free Ordinance**"). Based on the provisions of said Drug-Free Ordinance, the County shall have the right, upon 30 days written notice to the Lessee, to terminate this Agreement in the event the Lessee fails to provide, as of each anniversary of the Commencement Date, the annual re-certification affidavit as required by the Drug-Free Ordinance; provided, however, that such termination shall not be effective if the Lessee submits the required Affidavit within the notice period.

Further, this Agreement shall be terminated upon not less than fifteen (15) calendar days written notice to the Lessee and without liability to the County, if the Department or the County Mayor determines any of the following:

- A) That the Lessee has made a false certification in its Commencement of the Affidavit submitted or in its annual re-certification as required by the Drug-Free Ordinance.
- B) That the Lessee has violated its original or renewal certification by failing to carry out any of the specific requirements of the Drug-Free Ordinance, other than the annual re-certification; or
- C) That such a number of employees of the Lessee have been convicted of violations occurring in its workplace(s) as to indicate that the Lessee has failed to make a good faith effort to provide a drug-free workplace as required by the Drug-Free Ordinance.

16.06 Special Programs:

The Lessee shall ensure that all employees at the Airport so required participate in such safety, security and other

training and instructional programs, as the Department or appropriate Federal agencies may from time to time require.

16.07 Vehicle Permit and Company Identification:

Motor vehicles and equipment of the Lessee operating on the AOA must have an official motor vehicle identification permit issued pursuant to Section 25-9.7 of the Miami-Dade County Code. In addition, company identification must be conspicuously displayed thereon.

16.08 Federal Agencies Right to Consent:

The Lessee understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Lessee in areas under the jurisdiction or control of such Federal Inspection agencies.

16.09 AOA - Right to Search:

(A) The Lessee agrees that its vehicles, cargo, goods and other personal property are subject to being searched when attempting to enter or leave and while on the AOA.

(B) It is further agreed that the Department has the right to prohibit an individual, agent or employee of the Lessee from entering the AOA based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage or other unlawful activities, including repeated failure to comply with MDAD's or the TSA/Federal agencies' SIDA/access control policies, rules and regulations. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a hearing before the Director of the Department or his authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial.

(C) The Lessee acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other unlawful activities at the Airport.

16.10 Additional Security Requirements.

Notwithstanding the specific provisions of this Article 16, County shall have the right to add to, amend or delete any portion hereof in order to meet reasonable security requirements of MDAD or of the Federal agencies having jurisdiction.

16.11 Compliance by Lessee's Contractors; Lessee's Responsibility for Security Failures.

Lessee agrees that it will include in all contracts and subcontracts with its Miami Executive Airport contractors, subcontractors, service providers and suppliers an obligation by such parties to comply with all security requirements applicable to their operations at the Airport. Lessee agrees that in addition to all remedies, penalties and sanctions that may be imposed by MDAD or the Federal government upon Lessee's contractors, subcontractors, service

providers, suppliers and their individual employees for a violation of applicable security provisions, Lessee shall be responsible to the County for all such violations and shall indemnify and hold County harmless for all costs, fines and penalties arising therefrom, such costs to include reasonable attorneys' fees.

16.12 Right of Flight:

There is hereby reserved to the County, its successors and assigns, for the use and benefit of the County and the public, a right of flight for the passage of aircraft in the air space above the surface of the premises herein leased. This public right of flight shall include the right to cause in said air space any noise inherent in the operation of any aircraft now known or hereafter used for navigation or flight through the said air space or landing at, taking off from, for operating on the Airport.

16.13 Height Restrictions:

The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises to such a height so as to comply with Federal Aviation Regulations, Part 77 and with the Code of Miami-Dade County, whichever is more restrictive.

ARTICLE 17
Employees

17.01 Control of Employees:

The Lessee shall properly control the actions of its employees at all times that said employees are working on the Airport, ensuring that they present a neat appearance and discharge their duties in a courteous and efficient manner and that they maintain a high standard of service to the public. Lessee agrees to properly instruct its employees on all security requirements applicable to their actions at the Airport and the remedies, penalties and sanctions that may result from a failure to comply with such security requirements. Lessee acknowledges that any employee of Lessee failing to comply with applicable security requirements shall be individually subject to remedies, penalties and sanctions provided in security provisions then applicable to their actions and that such remedies may include, but not be limited to, arrest and incarceration following conviction at trial, administrative meetings and hearings, fines, compulsory remedial training, and temporary or permanent loss of access privileges at the Airport.

17.02 Lessee's Responsibility for Employee Violations:

In the event the Lessee is in default of the covenants in Sections 17.01 (Control of Employees) and 17.03 (Lessee's Responsibility for Employee Violations) for failure to properly control its employees or by permitting its employees to improperly use facilities provided by the County for the use and convenience of the traveling public, the Department shall have the right to require the Lessee to conduct an investigation into any claimed violation of the covenants; if such investigation substantiates a violation, Lessee agrees to administer appropriate discipline up to and including discharge of the offending employee. Lessee acknowledges that notwithstanding any such disciplinary action taken by Lessee, County shall have the right to revoke or suspend the ID badge of any such employee in the manner set forth in Section 16.02 (Security Identification Display Areas Access- Identification Badges).

ARTICLE 18
Civil Actions

18.01 Governing Law; Venue:

This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this Agreement shall be laid in Miami-Dade County, Florida, and any action to determine the rights or obligations of the Parties hereto shall be brought in the appropriate courts of the State of Florida.

18.02 Notice of Commencement of Civil Action:

In the event that the Lessor or the Lessee commences a civil action where such action is based in whole or in part on an alleged breach of this Agreement, the Lessor and the Lessee agree that service of process shall be made pursuant to the rules of civil procedure in the court in which the action has been filed.

In the event that the County or the Lessee commences a civil action where such action is based in whole or in part on an alleged breach of this Agreement, and if Lessee has complied with its obligation to appoint a Registered Office/Agent under Section 18.03, County shall effect any initial service of process upon Lessee through such Registered Office/Agent in compliance with applicable rules of civil procedure pertaining to the court in which the action is brought and Lessee shall effect any initial service of process upon County in the manner provided by state or federal law applicable to the court in which the action is brought. If Lessee has failed to comply with such obligation, then the County and the Lessee agree to waive the foregoing procedure for initial service of process and agree to submit themselves to the jurisdiction of the court in which the action has been filed whenever service has been made in the following manner:

(A) Upon the County: by Certified Mail, Return Receipt Requested, sent to (a) the Party indicated in Section 20.07 (Notices) on behalf of the County and (b) with a copy to the County Attorney, Aviation Division, P.O. Box 025504 Miami, Florida 33132-5504.

(B) Upon the Lessee: by personal service or by Certified Mail, Return Receipt Requested, upon the Party indicated in Section 20.07 (Notices) on behalf of the LESSEE, with a copy to whatever attorney the LESSEE has designated in writing, if any.

In the event that the County and/or the Lessee raise an objection to service of initial pleadings as provided for herein, and the trial court overrules such objection, the objecting Party shall pay liquidated damages (attorney's fees) in the amount of \$250.00 to plaintiff in such action, prior to answering the complaint.

18.03 Registered Office/Agent; Jurisdiction:

Notwithstanding the provisions of Section 18.02 (Notice of Commencement of Civil Action), and in addition thereto, the Lessee, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, such designations to be filed with the Florida Department of State in accordance with Section 607.0501, Florida Statutes. If the Lessee is a natural person, Lessee and Lessee's personal representatives hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on an alleged breach of this Agreement.

ARTICLE 19
Trust Agreement

19.01 Incorporation of Trust Agreement by Reference:

Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the Parties hereto that the provisions of the Amended and Restated Trust Agreement dated as of the 15th day of December, 2002, by and between the County and the JPMorgan Chase Bank as Trustee and Wachovia National Bank as Co-Trustee, (the "**Trust Agreement**") which Trust Agreement is incorporated herein by reference thereto, shall prevail and govern in the event of any conflict or inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. A copy of the Trust Agreement is available for inspection in the offices of the Department during normal working hours or may be viewed by following the link below:

<http://www.miami-airport.com/library/pdfdoc/Propertise/Amended%20and%20Restated%20Trust%20Agreement%202002.pdf>

19.02 Adjustment of Terms and Conditions:

If, at any time during the Term of this Agreement, a court or Federal Agency of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the rentals, fees and charges required to be paid hereunder to the County by the Lessee or by other Lessees under other Agreements of the County for the Lease or use of facilities used for similar purposes, are unjustly discriminatory, the County shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals, fees and charges required to be paid under this Agreement in such a manner as the County shall determine is necessary and reasonable so that the rentals, fees and charges payable by the Lessee and others shall not thereafter be unjustly discriminatory to any user of like facilities and shall not result in any violation of the Trust Agreement or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement. In the event the County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the County pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions including the adjustment or rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

19.03. Modifications Caused by DOT Order.

To the extent required by federal law, if an action before the U.S. Department of Transportation results in a final, unappealed order compelling modification of a term of this Agreement, the Parties shall make appropriate modifications to this Agreement so as to be in compliance with such order.

ARTICLE 20
Other Provisions

20.01 No Representation:

The County makes no representation, warranty, guarantee, or averment of any nature whatsoever concerning the physical condition of the Premises, and it is agreed that County will not be responsible for any loss, damage or costs

which may be incurred by the Lessee by reason of any such physical condition.

20.02 Headings:

Any headings preceding the text of any articles, paragraphs or sections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

20.03 Interference:

The Lessee further expressly agrees to prevent any use of the Premises, which would materially interfere with or adversely affect the operation or maintenance of the Airport or otherwise constitute an airport hazard.

20.04 Authorized Uses Only:

The Lessee shall not use or permit the use of the Premises for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the County on, or invalidate, any insurance policies of the County or any policies of insurance written on behalf of the Lessee under this Agreement.

20.05 Binding Effect:

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

20.06 Subordination to Federal Requirements

(A) This Agreement shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Airport, the Commencement of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. All provisions of this Agreement shall be subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to, or assumption of control by, the United States of America shall be suspended.

(B) This Agreement shall be amended by the parties from time to time in order to comply with Federal laws or regulations as they may be enacted, issued or amended from time to time. The parties agree that nothing in this Agreement shall compel a party to comply with a provision that is then in violation of or conflict with Federal laws or regulations as they may be enacted, issued or amended from time to time.

20.07 Notices:

All notices required or permitted to be given under the terms and provisions of this Agreement by either party to the other shall be in writing and shall be hand delivered or sent by courier or other accepted overnight service, registered or certified mail, return receipt requested, to the parties as follows:

As to the Lessor:

Director,
Miami-Dade County Aviation Department
Post Office Box 0255504
Miami, Florida 33102-5504

Credit Manager
Miami-Dade County Aviation Department
P.O. Box 025504
Miami, Florida, 33102-5504

As to the Lessee:

Ocean Aviation Inc.
P.O. Box 331
Westhampton Beach, NY 11978

Ocean Aviation TMB LLC
C/O Jim Reiher
3250 Grand Avenue – Suite 510
Miami, FL 33133

or to such other address as may hereafter be provided by the parties in writing. Notices by registered or certified mail shall be deemed received on the delivery date indicated by the U.S. Postal Service on the return receipt or courier or overnight service receipt. Hand delivered notices shall be deemed received by the Lessee when presented to the local management representative of the Lessee.

20.08 Rights Reserved:

Rights not specifically granted the Lessee by this Agreement are reserved to the County.

20.09 Rights of County at Airport:

The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any and all liability to the Lessee for business damages occasioned during the making of such repairs, alterations and additions, except those occasioned by the sole active negligence of the County, its employees, or agents.

20.10 Rights to be Exercised by Department:

Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

20.11 No Waiver:

There shall be no waiver of the right of either party to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by either party, unless such waiver is explicitly made in writing by the other party. Any previous waiver or course of dealing shall not affect the right of either party to demand strict performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence of any subsequent breach, default or non-performance hereof by the other party.

20.12 Right to Regulate:

Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County, as a political subdivision of the State of Florida, to regulate the Lessee or its operations. Notwithstanding any provision of this Agreement, nothing herein shall bind or obligate the County, the Zoning Appeals Board, the Building and Zoning Department (as it may be renamed from time to time), the Planning Department, or any department, board or agency of the County to agree to any specific request of the Lessee that is related in any way to the regulatory or quasi-judicial power of the County; and the County shall be released and held harmless by the Lessee from any liability, responsibility, claims, consequential damages or other damages, or losses resulting from the denial or withholding of such requests, provided, however, that this provision shall not preclude any appeal from County action wherein the sole remedy sought is reversible of the County's action .

20.13 Severability:

If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end, the provisions of this Agreement are severable.

20.14 Inspections:

The authorized employees and representatives of the County and of any applicable Federal or State agency having jurisdiction hereof shall have the right of access to the Premises at all reasonable times for the purposes of inspection and testing to determine compliance with the provisions of this Agreement. This right of inspection and testing shall impose no duty on the County to inspect and shall impart no liability upon the County should it not make any such inspections.

20.15 Payment of Taxes:

The Lessee shall pay all taxes and other costs lawfully assessed against its leasehold interests in the Premises, its improvements and its operations under this Agreement; provided, however, the Lessee shall have the right to contest the validity or the assessed amounts and shall not be deemed to be in default of its obligations hereunder for failure to pay such taxes pending the outcome of any legal proceedings instituted to determine the validity of such taxes or the amounts assessed. Failure to pay the taxes upon the adverse ultimate conclusion of such legal proceedings against the Lessee shall constitute a default. The Lessee shall also provide proof to the County, on an annual basis, that the property taxes have been satisfied. (From IO 8-4).

20.16 Quiet Enjoyment of Others:

The Lessee shall control the actions of its employees, agents, invitees and those doing business with it, to not annoy, disturb or be offensive to others and to provide the service hereunder to not unreasonably create a nuisance or thing which may disturb the quiet enjoyment of any other users of the Airport.

20.17 Radon Disclosure:

In accordance with Section 404.056, Florida Statutes, the following disclosure is hereby made:

Radon Gas: 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 your county public health unit.

20.18 Force Majeure:

The terms and conditions of the Agreement (with the exception of the obligation of the Lessee to pay the amounts required by the terms of this Agreement) shall be subject to "**Force Majeure**". Neither the County nor the Lessee shall be considered in default in the performance of its obligations hereunder, if such performance is prevented or delayed because of unforeseen circumstances due to war, hostilities, revolution, civil commotion, strike, lock-out, epidemic, fire, wind, flood, hurricane, tornado, lightning, wind damage, or because of any law, order, proclamation, regulation or ordinance of any government or of any subdivision thereof because of any act of God or any other cause whether of similar or dissimilar nature beyond the reasonable control of the party affected (each such event a "**Force Majeure Event**"). Should one or both of the parties be prevented from fulfilling their contractual obligation as a result of a Force Majeure Event lasting continuously for a period of six (6) months, the parties shall consult with each other in good faith regarding any necessary amendments to this Agreement.

20.19 Destruction of Premises:

In the event the Premises shall be destroyed or so damaged or injured by fire, windstorm, flood or other casualty (and in each such event the Lessee was not at fault in whole or in part) during the life of this Agreement such that the Premises or any portion thereof are rendered un-leasable, the County shall have the right, but not the obligation, to render said Premises or damaged portion thereof leasable by repairs completed within a reasonable period of time.

(A) Total Destruction: In the event the County elects not to render the Premises leasable, if destroyed or damaged in their entirety, the Lessee shall be so notified in writing by the Department within sixty (60) days following such casualty, and this Agreement shall be deemed terminated as of the date of the casualty, with the Lessee being liable only for payment of rentals on a pro rata basis as to whatever portion(s) of the Premises which were leasable and used by the Lessee following the casualty (if any). In such event, the Department shall endeavor to find adequate replacement premises for the Lessee in existing facilities on the Airport.

(B) If the casualty was caused in whole or in part by the Lessee, its officers, employees, agents, contractors, then the Lessee shall not have the right to terminate this Agreement and shall be responsible under other provisions

of this Agreement for payment to the County of all damage to the Premises, plus the loss of rentals attributable to the damaged or destroyed Premises.

(C) If the Premises, or any portion thereof, are damaged by fire, the elements or other casualty, Lessee shall promptly remove all loose debris resulting from such damage from the Premises that may result in foreign object debris and shall promptly take such actions as will place the Premises in an orderly condition for the safety of Persons entering upon the Premises pending restoration of the Premises to the condition existing prior to such damage. If Lessee fails to promptly comply with the provisions of this Section, County may take such measures as it reasonably deems necessary to render the Premises in a safe condition. Lessee agrees that Lessee shall fully assume and be liable to County for payment of any costs incurred by County, plus a twenty-five percent (25%) administrative overhead fee, which costs and administrative overhead fee, shall be due and payable to County within thirty (30) days from the date of written notice provided by County.

20.20 Quiet Enjoyment:

Subject to the terms of this Agreement, specifically including, but not limited to, environmental remediation steps to be taken under Article 9 (Environmental Compliance), the County's right and obligation to make certain repairs, alterations, and additions under Articles 6 (Maintenance by Lessor) and 20.09 (Rights of County at Airport), which, for purposes of this clause, includes any and all demolition, in whole or in part, of buildings and runways, and roadway systems on or off the Airport, and the reservation of easement rights to the airspace under Section 16.12 (Right of Flight), all of which provisions and others in this Agreement, the Lessee acknowledges may cause disruption and disturbance to the Lessee, and upon the observance by the Lessee of all the terms, provisions, covenants, and conditions imposed upon the Lessee hereunder, the Lessee shall peaceably and quietly hold and enjoy the Premises for the Term of this Agreement[; provided, however, that the County shall not be liable for any violation of this clause or for any disturbance or disruption in or to the Lessee's business, for acts or omissions of Lessee, users of the Airport, third parties or when any department or agency of the County is acting in its governmental capacity or by acts of God].

20.21 Interpretation of Agreement:

This Agreement is the result of negotiation between the parties hereto and has been typed/printed by one party for the convenience of both parties, and the parties covenant that this Agreement shall not be construed in favor of or against any of the parties hereto.

20.22 Entirety of Agreement:

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

Article 21
Additional Provisions

21.01 Federal Aviation Administration (FAA) Provisions:

(A) Compliance with Nondiscrimination Requirements: During the performance of this Agreement, the Lessee, for itself, its assignees, and successors in interest agrees as follows:

(1) Compliance with Regulations: The Lessee (including its Project Contractors and Subcontractors) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

(2) Non-discrimination: The Lessee, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Lessee will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Lessee for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Lessee of the Lessee's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

(4) Information and Reports: The Lessee will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and Instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Lessee will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of a Lessee's noncompliance with the Nondiscrimination provisions of this Agreement, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding payments to the Lessee under the Agreement until the Lessee complies; and/or
- (b) Cancelling, terminating, or suspending a contract, in whole or in part.

(6) Incorporation of Provisions: The Lessee will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, Required Contract Provisions Issued on January 29, 2016 Page 19 AIP Grants and Obligated Sponsors Airports (ARP) unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Lessee will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Lessee becomes involved in, or is threatened with litigation by a Subcontractor, or supplier because of such direction, the Lessee may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Lessee may request the

United States to enter into the litigation to protect the interests of the United States.

(7) All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. The Lessee has full responsibility to monitor compliance to the referenced statute or regulation. The Lessee must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

(8) All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Lessee must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Lessee retains full responsibility to monitor its compliance and their Subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Lessee must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

Article 22 Definitions

The following terms shall have the meanings set forth below, unless otherwise defined elsewhere in this Agreement:

1. The phrase "**AIPP**" has the meaning set forth in Section 4.19.
2. The word "**Airport**" or acronym "**TMB**" to mean Miami Executive Airport.
3. The words "**Airport Agreement**" have the meaning set forth in Section 21.26.
4. The word "**Affiliate**" has the meaning set forth in Section 11.02.
5. The word "**Agency**" has the meaning set forth in Section 11.04(A)(ii).
6. The word "**Agreement**" or "**Lease**" to mean the agreement approved by the Board for the development and lease of the Premises, entered into between the County and the Lessee, including all attachments thereto (including all of its terms and conditions, attachments, exhibits, and amendments).
7. The word "**Alterations**" to mean any additions, improvements or replacements to the Premises after completion of the Improvements which do not materially alter or change the use of the Premises.
8. The words "**Approved Improvement Cost**" to mean the actual expenditures, as certified under the construction audit, for design, site development, construction, required bonds, construction and liability insurance, financing, building permits and only such consultant, legal and accounting fees ordinarily and reasonably incurred in relation to the construction of the Improvements, but shall exclude the costs of any other consultant, legal and accounting fees, interior decorations (other than standard County approved finishes) special finishes, wall tile or other special wall finishes and coverings, construction photographs, special external and internal lighting and signage, software, servers and other information technology, removable or movable equipment, and furniture and other personal property of the Lessee. In the event of any questions as to whether any costs (other than the items listed above) are to be included in the Approved Improvements Costs, the County shall make a reasonable determination and its decision shall be final.

9. The acronym “**AOA**” to mean Airside Operations Area.
10. The words “**Aviation Department,**” “**Department,**” or “**MDAD**” to mean Miami-Dade Aviation Department.
11. The words “**Baseline Audit**” to mean an environmental audit of the Premises, conducted to identify any recognized environmental conditions associated with the Premises, which audit may include analyses of soil and groundwater samples, as further defined in Section 9.04.
12. The word “**Board**” or “**BCC**” to mean Board of County Commissioners of Miami-Dade County.
13. The words “**Business Day**” to mean any day other than a Saturday, a Sunday or any other day on which banks in the State of Florida may, or are required to, remain closed.
14. The words “**Certificate of Occupancy**” or acronym “**CO**” of Occupancy or acronym “**TCO**” to mean the document issued by the appropriate code enforcement agency or building department that enables the Lessee to occupy or utilize the Improvements
15. The word “**Code**” to mean the Code of Miami-Dade County, Florida.
16. The words “**Commencement Date**” to mean the date on which this Agreement is executed by the Parties, as evidenced by the date on page one.
17. The words “**Commence Construction Security**” have the meaning set forth in Section 1.11(A).
18. The words “**Commencement of Construction**” to mean [REDACTED].
19. The words “**Commencement of Construction Deadline**” have the meaning set forth in Section 1.07(B).
20. The words “**Conduit Financing**” have the meaning set forth in Section 11.04(A)(ii).
21. The words “**Contract Documents**” to mean the legal agreement between the Lessee and any contractor for construction of the Improvements. The Contract Documents shall include, but not necessarily be limited to, a contract, a surety performance bond, a surety payment bond, general conditions, special provisions, technical specifications, and plans, together with all addenda, and subsequent change orders, and work orders.
22. The word “**County**” or “**Lessor**” to mean Miami-Dade County, a political subdivision of the State of Florida. The term County as used in this Agreement shall exclude all regulatory the regulatory departments of the County, including but not limited to, the Regulatory & Economic Resources (RER); Transportation & Public Works Department, the Small Business Development Division of the Internal Services Department, and the Water & Sewer Department, and their successors.
23. The words “**Date of Beneficial Occupancy**” or acronym “**DBO**” to mean to be the date on which, upon substantial completion of the Improvements as evidenced by a Temporary Certificate of Occupancy, the Lessee commences the use of any Improvement for its intended use in compliance with all permits and applicable law.
24. The words “**Department of Cultural Affairs**” have the meaning set forth in Section 4.19.
25. The word “**Director**” to mean the Director of the Miami-Dade Aviation Department or his or her designee, as indicated in a written delegation of authority.
26. The words “**Drug-Free Ordinance**” have the meaning set forth in Section 16.05.
27. The words “**Effective Date**” have the meaning set forth in Section 1.01(B).

28. The words "**Environmental Audit**" have the meaning set forth in Section 9.12.
29. The words "**Expiration Date**" to mean the last day of the month in which occurs the [fifty-fifth (55th)] anniversary of the Commencement Date.
30. The acronym "**FAA**" to mean the Federal Aviation Administration.
31. The words "**Final Plans and Specifications**" have the meaning set forth in Section 4.02(C)1.
32. The words "**Financing Documents**" to mean any and all loan agreements, leasing agreements, notes, indentures, security agreements, mortgages, guarantee documents, intercreditor agreements, subordination agreements, subscription agreements, partnership agreements, equity contribution agreements, interest rate contracts, and any foreign currency exchange swaps, commitment letters and other documents relating to the financing or refinancing of the development, engineering, design, construction, operation, ownership or maintenance of the Project for which this Agreement provides all or some of the collateral or security, including any Conduit Financings, long-term debt and leases and any agreements relating to any equity or any subordinated debt.
33. The word "**Fiscal Year**" to mean each of the fiscal years ended on [●] of each year during the term of this Agreement.
34. The words "**Force Majeure**" have the meaning set forth in Section 20.18.
35. The words "**Force Majeure Event**" have the meaning set forth in Section 20.18.
36. The words "**Health and Safety Plan**" have the meaning set forth in Section 4.20(C).
37. The phrase "**IPSIG**" has the meaning set forth in Section 21.23.
38. The word "**Improvement(s)**" to mean those facilities that the Lessee will design and construct, or cause to be designed or constructed for Lessee to conduct the Permitted Uses.
39. The word "**Land**" to mean all that certain plot, piece or parcel of land located on Miami Executive Airport, in the City of Miami, County of Miami-Dade, State of Florida, and further depicted and described in Schedule [] attached hereto.
40. The words "**Land and Pavement Rent**" have the meaning set forth in Section 3.01(A).
41. The word "**Lender**" to mean any the counterparty to any Financing Document entered into by Lessee for which this Agreement provides all or some of the collateral or security.
42. The words "**Leasehold Mortgage**" have the meaning set forth in Section 11.04(C).
43. The words "**Leasehold Mortgagee**" have the meaning set forth in Section 11.04(C).
44. The phrase "**LEED**" has the meaning set forth in Section 4.21.
45. The words "**Lessee Audit**" have the meaning set forth in Section 9.05.
46. The words "**Lessee Hazardous Material Release**" have the meaning set forth in Section 9.13.
47. The words "**Minimum Investment**" have the meaning set forth in Section 1.07(A).
48. The phrase "**NEPA**" has the meaning set forth in Section 4.01(G).
49. The words "**Notice to Proceed**" to mean notification from the County addressed to "Lessee" stating the date on which the "Lessee" can begin Work.

50. The words "**Objection Notice**" have the meaning set forth in Section 3.02.
51. The word "**Party**" or "**Parties**" shall mean, collectively or singularly, the Lessor and the Lessee.
52. The words "**Permitted Delays**" to mean [●].
53. The words "**Permitted Uses**" have the meaning set forth in Section 2.02.
54. The word "**Person**" to mean an individual, a corporation, a limited liability company, an association, a partnership, an estate, a trust and any other entity or organization.
55. The words "**Plans and Specifications**" to mean the preliminary design, architectural, engineering, and construction plans of the Improvements, identifying and describing, in reasonable details, all structural components, foundations, mechanical and electrical systems, materials, signage, design, colors of exterior paints, and other customary specifications.
56. The words "**Possession Date**" have the meaning set forth in Section 1.08.
57. The words "**Premise(s)**" to mean the Land, any Improvements thereon, and any and all rights, privileges, easements, and appurtenances to the Land and the Improvements, including all right, title and interest of Landlord, if any, in and to the development rights, strips, or gores of land adjoining the Land and in and to any land lying in the bed of any road, highway, street or avenue adjoining the Land to the center line thereof.
58. The word "**Project**" has the meaning set forth in Section 4.01.
59. The words "**Project Manager**" to mean the County Mayor or the duly authorized representative designated to oversee the construction, operation and maintenance of the Improvements on behalf of the County.
60. The words "**Project Schedule**" has the meaning set forth in Section 4.01(C)1.
62. The words "**Risk Management Division**" to mean a Division of Miami-Dade County, with offices in the Stephen P. Clark Center at 111 N. W. 1st Street, Miami, Florida 33128.
63. The words "**Runway Extension Project**" has the meaning set forth in Section 1.04(C).
64. The phrase "**SIDA**" has the meaning set forth in Section 16.01.
65. The word "**Subcontractor**" to mean any person, firm, entity or organization, other than the employees of the Lessee, who contracts with the Lessee to furnish labor, or labor and materials, in connection with the construction, operation, or maintenance of the Improvements on behalf of the Lessee.
66. The words "**Successor Lessee**" have the meaning set forth in Section 11.04(D)4.
67. The word "**Term**" has the meaning set forth in Section 1.02(A).
68. The word "**Transferee**" has the meaning set forth in Section 11.05(D)5.
69. The "**Transfer or Assignment Fee**" has the meaning set forth in Section 11.02.
70. The words "**Trust Agreement**" have the meaning set forth in Section 19.01.
71. The word "**Work**" to mean all labor, materials, tools, equipment, services, methods, procedures, etc., necessary or convenient to performance by the Lessee's contractor for the construction of Improvements in accordance with the terms of this Agreement.

Agreement No. TBD
Customer No: TBD

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

**BOARD OF COUNTY COMMISSIONERS
OF MIAMI-DADE COUNTY, FLORIDA**

By: _____
County Mayor

ATTEST: Juan Fernandez-Barquin,
Clerk of the Court and Comptroller

By: _____
Deputy Clerk

(SEAL)

OCEAN AVIATION TMB, LLC

By:  _____

Title: CEO - President _____

Print Name: Jim Reiher _____

ATTEST:

Corporate Secretary
Print Name: _____

Exhibit A Improvements



Exhibit B-1
 Phases

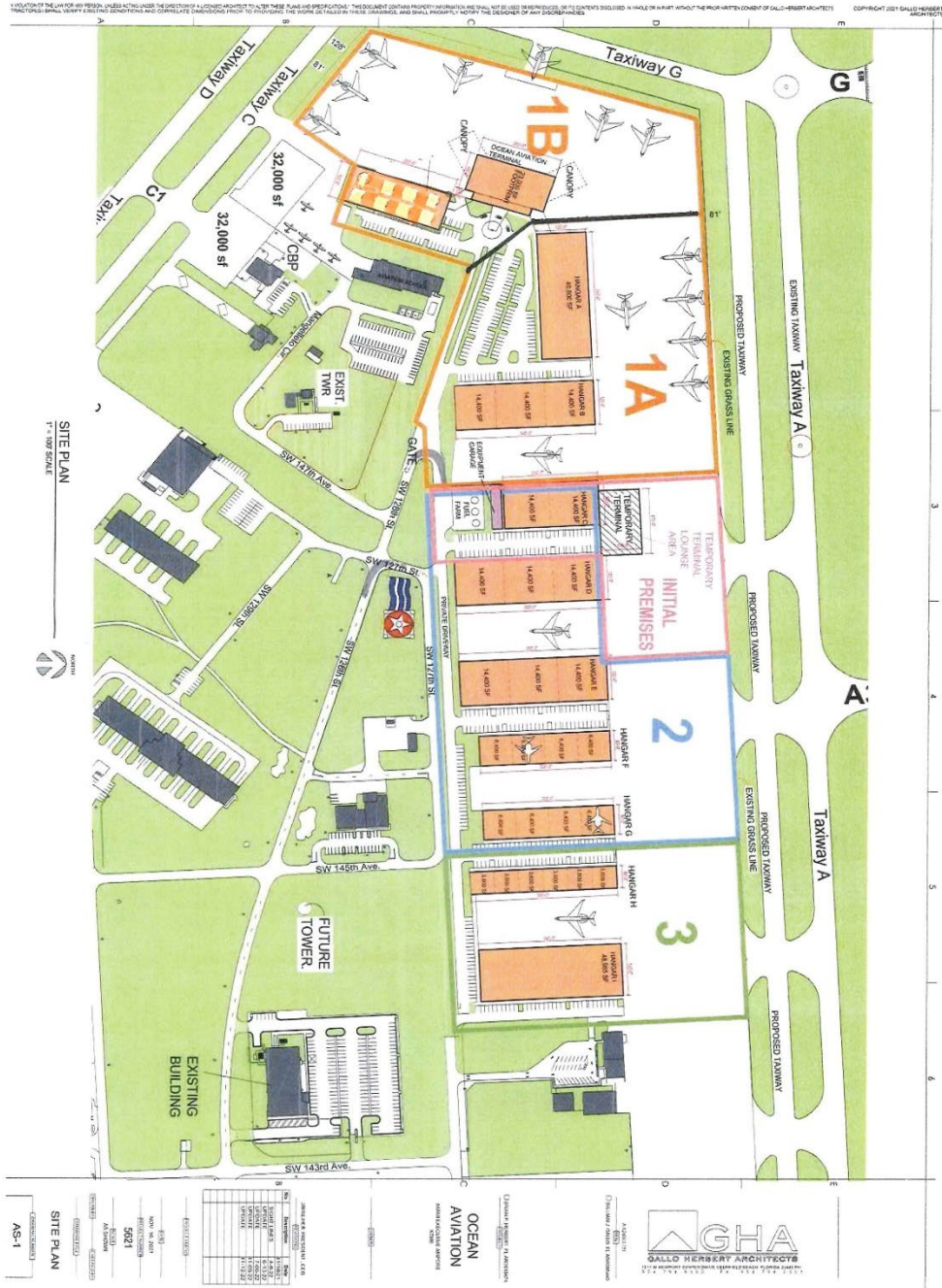


Exhibit B-2
Aerial Overlay



Exhibit "C"

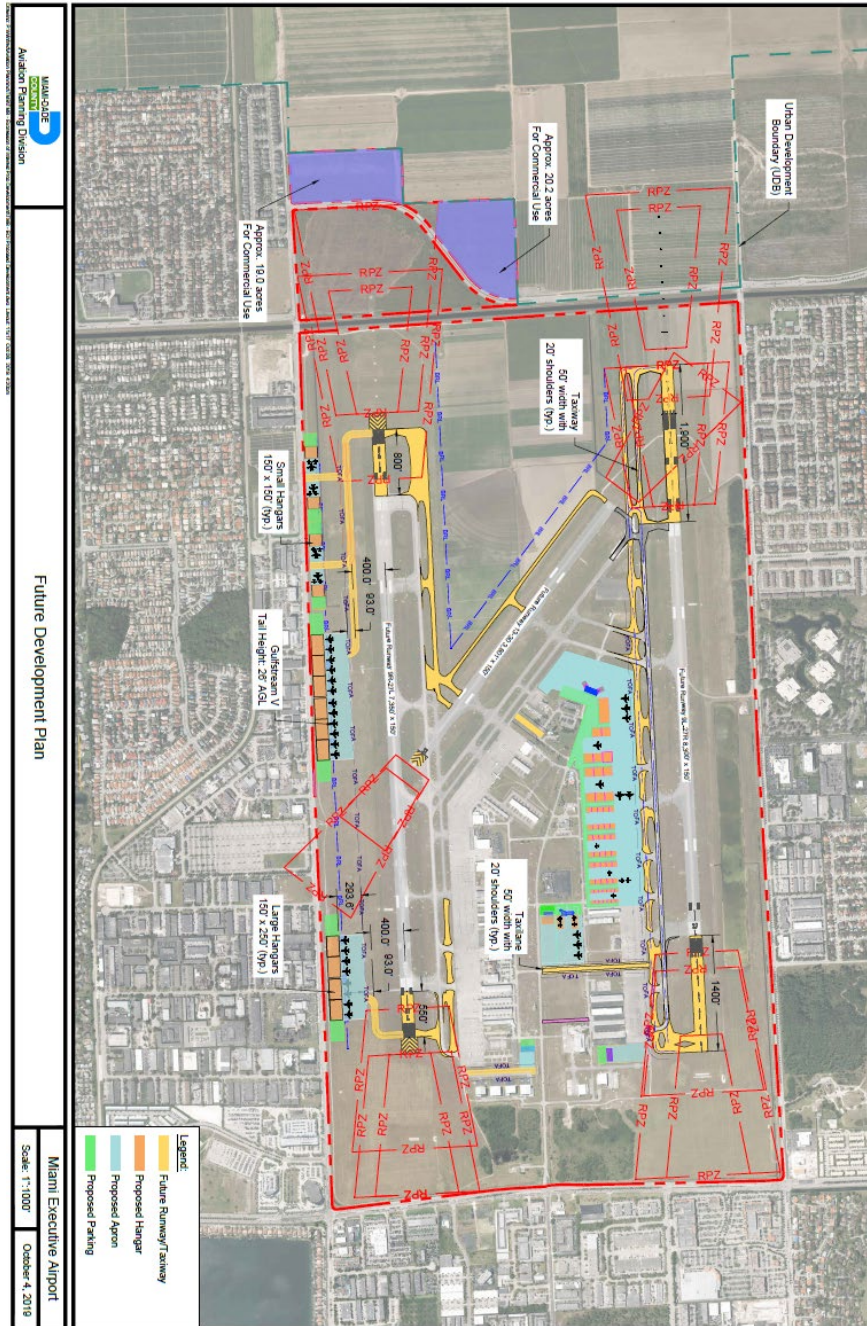


Exhibit "E"
Wings Over Miami Minimum Requirements

- Hangar: 25,000 sq. ft.
- Associated office space: 4,000 sq. ft.
- Landside vehicular access for staff and public parking: 10,000 sf.
- Airport Operation Area (AOA) access via new taxi lane.
- Aircraft apron parking 20,000 sq. ft.
- Museum Signage

Exhibit "P"

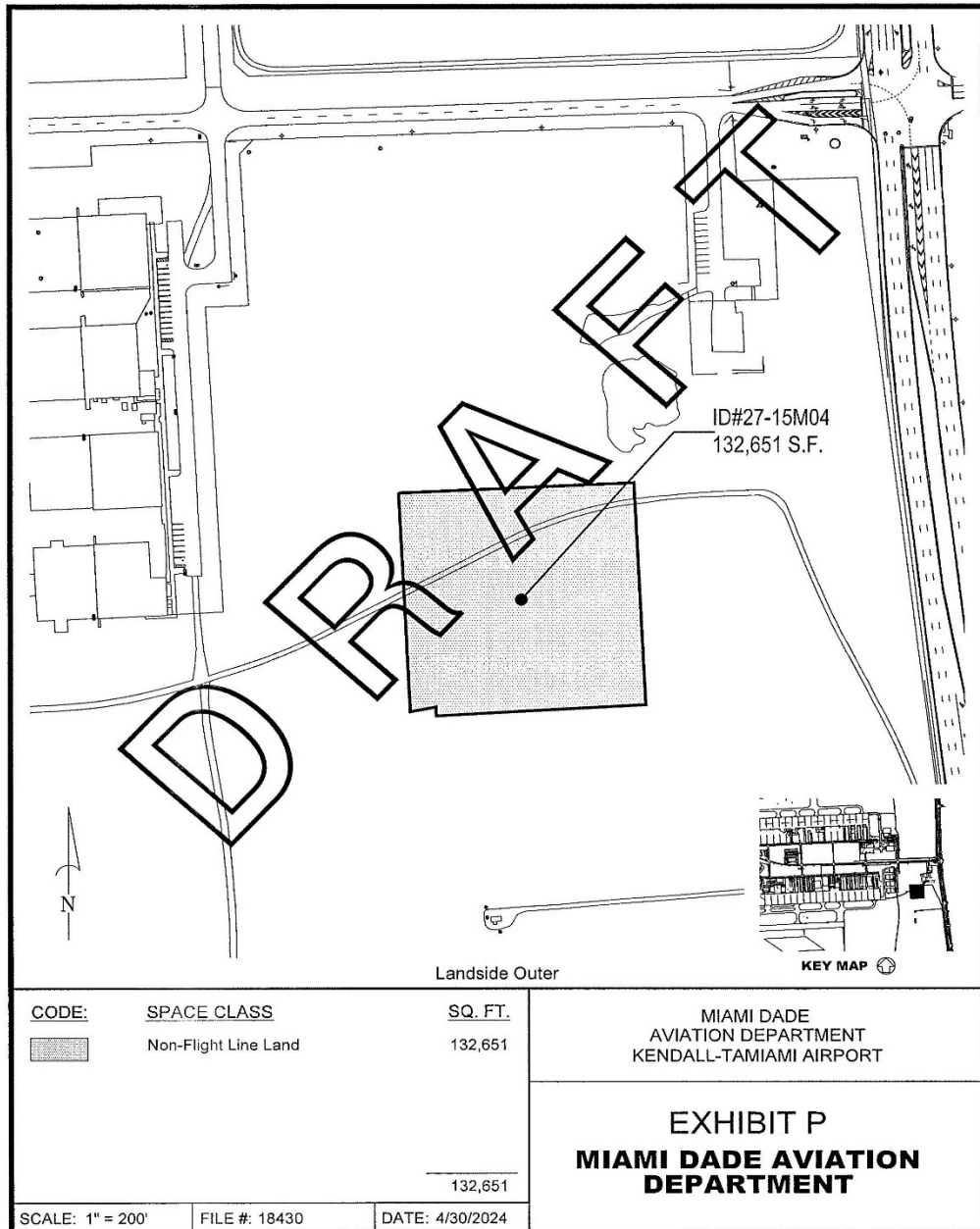


Exhibit Y

MIAMI-DADE COUNTY, FLORIDA

AVIATION DEPARTMENT – FACILITIES DIVISION



**TENANT AIRPORT CONSTRUCTION NON-REIMBURSABLE (TAC-N) PROJECT
PROCEDURES**

PURPOSE

To provide details for the initiation and management of a Tenant Airport Construction Program non-reimbursable project.

DEFINITIONS

ALSB	Aviation Life Safety Bureau
APP	Art in Public Places
FAA	Federal Aviation Administration
A/E	Tenant's State Registered Architect or Engineer responsible for the design of the project
BCC	Board of County Commissioners
CA	Contract Administration
COA	Certificate of Assurance
GSA	General Services Administration
MA	Minority Affairs
MARC	Miscellaneous Asbestos Recovery Contract
MCC/TAC	Miscellaneous Construction Contract/Tenant Airport Construction
MDAD	Miami Dade Aviation Department
NTP	Notice to Proceed
PM	Project Manager
Property Mgr.	Real Estate or Concessions Manager
TAC-N	Tenant Airport Construction Non-Reimbursable Projects
Tenant	Business Partner, Lessee
SBD	Small Business Development

GENERAL INFORMATION

Summary of Department Process for Design and Construction of TAC-N Projects

When an airport tenant wishes to improve or expand a leasehold area, the tenant must contact the MDAD Property Manager to discuss the proposed improvement or expansion. The Property Manager or designee determines whether the proposed design and construction will be a reimbursable or a non-reimbursable project.

If the determination is that the proposed design and construction are non-reimbursable, the tenant must submit a request to the Property Manager for a TAC-N Project.

The Property Manager informs Minority Affairs (MA) of the proposed TAC-N project and sends the Lease Agreement and all related documents to MA for review.

The Property Manager holds a Project Improvement Consultation Meeting with the Tenant and MA to explain TAC-N Procedures and State and County requirements such as: SBD Applicable Programs and Systems, Tenant Airport Construction Non-Reimbursable (TAC-N) Projects procedures (Facility Division Procedure A_FD0-111-P), Flow Chart, MDAD Design Procedures, Art in Public Places (APP) and other requirements as applicable. The Property Manager shall determine if the project requires Board of County Commissioners (BCC) approval.

MIAMI INTERNATIONAL AIRPORT

MAILING ADDRESS: P.O. BOX 025504, MIAMI, FLORIDA 33102-5504 • 4331 N.W. 22nd St., BLDG. 3030, 2nd FLOOR, MIAMI, FLORIDA 33122
A_FD0-111-P 01/21

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MIAMI-DADE COUNTY, FLORIDA

AVIATION DEPARTMENT – FACILITIES DIVISION



The Tenant shall submit a TAC-Non-Reimbursable Project Information form (Facilities Division Form B_FD1-080) to the Property Manager requesting MDAD approval of the project, which shall include the following attachments:

- Conceptual sketches or detailed narrative description of scope of work
- Completed TAC-Non-Reimbursable Project Information form (Facilities Division Form B_FD1-080) providing the following information:
 - ✓ Project Name
 - ✓ Scope of Work (project description)
 - ✓ Project Cost (tenant's estimate) broken down between design and construction
 - ✓ Tenant's Name and Contact Person's name and telephone numbers
 - ✓ Verification that the Tenant has been instructed on insurance responsibilities and MDAD TAC-N procedures and requirements
 - ✓ Verification that the Tenant has been instructed on SBD Applicable Programs and Systems.

The Property Manager or designee shall prepare a TAC-N Project Quick Check Form (Facilities Division Form C_FD1-090) and forward it to the following MDAD Divisions; Facilities Development Planning, Facilities Development Design, Facilities Management Maintenance Engineering, Safety and Security, Terminal Operations (for projects in the MIA Terminal Complex), and others as appropriate, for review and approval.

Following approval of the Quick Check (Q/C), the Property Manager requests assignment of a Project Number from Planning Division in accordance with Facilities Division Procedure (Facilities Division Procedure D_FD1-020-P). Planning Division will assign a Project Number for TAC-N projects.

If the TAC-N Project Quick Check Form is approved and the project does not require approval by the Miami-Dade Board of County Commissioners (BCC), the Property Manager issues a Concept Approval Letter (Facilities Division Form E_FD1-100) to the tenant, advising the tenant to proceed with the project and addressing compliance with MDAD Design Guidelines, TAC-N design and construction procedures and SBD Programs and Systems. The Property Manager forwards copies of the letter to the Deputy Director and the following Assistant Aviation Directors: Facilities Development, Facilities Management & Engineering, Business Retention & Development and others as appropriate. The Property Manager shall send a TAC-N Project Manager Assignment Request (Facilities Division Form F_FD1-110) with results of Q/C reviews and copying all attachments to the Maintenance Engineering Chief.

If the project requires approval by the Miami-Dade Board of County Commissioners (BCC), the Property Manager prepares the necessary documentation for presentation to the BCC requesting an amendment to the existing lease and to authorize the project.

Upon approval by the BCC, the Property Manager will send a letter, attaching copies of the executed lease amendment, the County Manager's memorandum, and the BCC resolution to the tenant advising the tenant to proceed with the project in accordance with the terms of the lease as approved by the BCC. The letter will constitute a formal Concept Approval to the Tenant and shall substitute the Concept Approval Letter. The Property Manager shall send a TAC-N Project Manager Assignment Request (Facilities Division Form F_FD1-110) with results of Q/C reviews and all attachments, including but not necessarily limited to, the executed lease amendment, the County Manager's memorandum and the BCC resolution to the Tenant and to the Maintenance Engineering Chief.

MIAMI INTERNATIONAL AIRPORT

MAILING ADDRESS: P.O. BOX 025604, MIAMI, FLORIDA 33102-5504 • 4331 N.W. 22nd St., BLDG. 3030, 2nd FLOOR, MIAMI, FLORIDA 33122
A_FD0-111-P 01/21

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MIAMI-DADE COUNTY, FLORIDA

AVIATION DEPARTMENT – FACILITIES DIVISION



PROCEDURES for DESIGN and CONSTRUCTION

The Maintenance Engineering Chief shall issue a TAC-N Hand-Off Package (Facilities Division Form G_FD1-120) providing details and requirements of the project and will designate a TAC-N Project Manager.

1. The TAC-N Project Manager shall provide a Letter of Introduction (Facilities Division Form H_FD1-130) to the tenant via e-mail with copies of the Tenant Airport Construction Non-Reimbursable (TAC-N) Projects procedures (Facilities Division Procedure A_FD0-111-P), SBD Applicable Programs & Systems (Document labeled "I" with Attachments 1 through 5), MDAD Design Procedures and APP requirements describing the design and construction process.
2. The TAC-N Project Manager shall hold a meeting with the Tenant, SBD, MA and Fine Arts & Cultural Affairs, if applicable. SBD will participate in all future MDAD meetings with the Tenant.
3. The Tenant must submit all project related packages to the TAC-N Project Manager prior to advertisement or award of A/E services or contract for construction. [Small Business, Wages and Workforce Requirements (SBWWR - Attachment 1)].
4. The TAC-N Project Manager shall submit SBD Departmental Input Form (SBWWR – Attachment 2 with attachments to MA for review of recommended SBE – A/E measures. MA to submit project package to SBD for approval.
5. SBD shall deliver measure recommendation, approved applicable Responsible Wages and Construction type through a Project Worksheet to MA and TAC-N PM (SBWWR - Attachment 3). SBD Worksheets that are returned with no measure and no wage requirement can skip steps 6 – 8 below.
6. Tenant must enroll in the County BMWS system and submit completed Certificate of Assurance (COA) (SBWWR - Attachment 4) to TAC-N Project Manager. TAC-N PM will submit COA to MA for SBD review.
7. Upon receipt of a COA by SBD, the Tenant will receive notification via email (with copy to TAC_N Project Manager) from BMWS to submit their Utilization Plan via BMWS.
8. SBD will submit a compliance review memo (SBWWR - Attachment 5). Tenant cannot execute a contract with A/E and/or Contractor until Tenant has received the SBD Compliance Review Memo.

START OF DESIGN PHASE

- A. It is the responsibility of the Tenant through its Architect/Engineer (A/E) to:
- Obtain copies of relevant as-built drawings from MDAD Technical Support Division (305) 869-1379.
 - Verify field conditions, including but not limited to electrical, mechanical, HVAC, plumbing, water, sewer, structural, and connecting points for all utilities, HVAC, fire protection, and smoke evacuation systems.
 - Ensure that if the project is located at the MIA Terminal Complex, the design is in compliance with the MDAD Design Guidelines Manual (available from MDAD Technical Support with letter of authorization from TAC-N Project Manager). Projects in the cargo areas and at the General Aviation Airports need only meet civil work Design Guidelines or as noted per the terms of the lease. Reference MDAD Design Guidelines and Tenant Airport Construction

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Non-Reimbursable (TAC-N) Projects Procedures (Facilities Division Procedure A_FD0-111-P).

- If applicable, Tenant A/E to initiate a Request for Waiver or Permanent Modification of a Design Guideline (Facilities Division Form K_FD3-027). Refer to procedure (Waivers and Modifications to the Design Guidelines Manual, Facilities Division procedure J_FD3-027-P) and form
- The A/E of Record shall comply with requirements of MDAD Design Procedures.
- The responsibility for the design and compliance with all applicable codes, standards, and ordinances rests solely with the tenant's Architect/Engineer of Record.
- Comply with MDAD security requirements, which if at MIA includes installation of Matrix system where and as applicable.
- A/E of Record shall coordinate requirements for compliance with R.E.R Miami-Dade Department of Environmental Resources Management (DERM and Florida Department of Environmental Protection (DEP) requirements as applicable.
- A/E of Record shall coordinate with Aviation Fire Life Safety Bureau during the design process as applicable.
- Obtain a MDAD Miscellaneous Asbestos Recovery Contract Status Report for the project from MDAD Environmental Engineering Division (305-876-8326).
- Each sheet of the construction plans shall be identified with a title box that includes the following information:

PROPERTY OWNER:	MIAMI-DADE AVIATION DEPARTMENT
ADDRESS:	P.O. BOX 025504, MIAMI, FLORIDA 33102-5504
TAC-N PROJECT MANAGER:	_____
TAC-N PROJECT MANAGER PHONE:	_____ e-mail: _____
PROJECT OWNER/ LESSEE:	_____
ADDRESS:	_____
TENANT PROJECT MANAGER:	_____
TENANT PROJECT MANAGER PHONE:	_____ e-mail: _____

- B. Upon completion of 75% Construction Documents (CD), the Tenant or its A/E shall submit the required number of sets of CDs to the TAC-N Project Manager for review.
- C. TAC-N Project Manager transmits the sets of CDs to pre-determined reviewers for In-House Review, to the MDAD Division reviewers, including any applicable Agencies and MDAD Consultant - Bond Engineering Firm (HNTB). The TAC-N PM shall forward by e-mail the CD attached to a Maintenance Engineering In-House Design Review Request for TAC Projects (Facilities Division Form L_FD3-061).
- D. Concurrently, the TAC-N Project Manager shall forward by email, a Design Review Transmittal (Facilities Division Form M_FD3-009) to the MDAD Division reviewers , any applicable Agencies, including MDAD Consultant - Bond Engineering Firm (HNTB), notifying them of the review process.

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- E. The Tenant's A/E shall confirm receipt of all Review Comments with the TAC-N Project Manager and must submit back-check sets of 100% construction documents with all reviewer-required changes incorporated.
- F. TAC-N Project Manager submits SBD Departmental Input Form (SBWWR – Attachment 2) with attachments to MA for review of recommended SBE-CON measures. MA submits project package to SBD for approval.
- G. Follow steps 6-8 page 3 (for purposes of Construction) that must be completed prior to Tenant advertisement or award of a contract for construction.
- H. The TAC-N Project Manager shall determine how many sets of 100% complete construction documents shall be submitted for review and the tenant or it's A/E shall submit the required number of sets of documents to the TAC-N Project Manager.
- I. The TAC-N Project Manager shall forward 100% complete construction document sets to pre-determined reviewers. One of these sets must have the A/E of Record's signature and seal on every design sheet and on the project manual, if provided. The documents shall be attached to a Maintenance Engineering In-House Design Review Request (Facilities Division Form L_FD3-061).
- J. Concurrently, the TAC-N Project Manager shall forward by email, a Design Review Transmittal (Facilities Division Form M_FD3-009) to the MDAD Division reviewers , any applicable Agencies, including MDAD Consultant - Bond Engineering Firm (HNTB), notifying them of the review process.
- K. The Reviewers will e-mail any issues/comments directly to the tenant's A/E of Record and to the TAC-N Project manager within (14) calendar days of receipt of the plans. The tenant or tenant's A/E shall confirm receipt of all Review Comments with the TAC-N Project Manager.
- L. The TAC-N Project Manager shall ensure that comments and issues introduced by reviewers are discussed and resolved.
- M. The TAC-N Project Manager shall review the submitted documents. The Tenant's A/E will be responsible to obtain plan reviewers signatures on TAC-N Design Review - 100% C.D Backcheck form (Facilities Division Form N_FD3-062) indicating that their comments have been complied with and incorporated into the revised 100% final documents. The 100% construction drawings submitted for back-check must be accompanied with notarized letter to the TAC-N Project Manager on the A/E's company's letterhead requesting a TAC-N Concurrence Letter to be provided to the tenant (Facilities Division Form O_FD5-017). The A/E's letter must contain the following two paragraphs verbatim:

This letter will serve as our request for the issuance of your TAC-N Letter of Concurrence for the above referenced project that will allow the tenant to apply for a Building Permit.

As the tenant's Architect/Engineer of Record, we have satisfied all comments and issues originating from the TAC-N Design Review process by means of revisions to the 100% Construction Documents. These revisions will produce a project in compliance with all MDAD and FAA requirements. Further, we realize that the final responsibility for the design and compliance with all applicable codes, standards, and ordinances rests solely with the tenant's Architect/Engineer of Record.
- N. The TAC-N Project Manager shall advise the tenant of the Miami-Dade General Services Administration (GSA) Risk Management Division insurance requirements. Prior to the issuance of the MDAD Letter of Concurrence to the tenant, execution of contract documents by the tenant

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and its contractor, the tenant shall provide copies of all of the contractor's certificates of insurance to the TAC-N Project Manager who shall request MDAD Risk Management to review them. Upon satisfactory review and compliance, the TAC-N Concurrence Letter (Facilities Division Form O_FD5-017) will be issued, unless there are more requirements in accordance with Building Permit Application Checklist (Facilities Division Form P_FD3-18C).

- O. The tenant shall complete a Building Permit Application. The completed permit application shall be signed by an authorized MDAD Owner's Representative (Facility Development or Facility Management Assistant Director). The Tenant shall submit it to the Miami-Dade Department of Regulatory and Economic Resources (R.E.R.) Satellite Office on the First Floor of Miami International Airport Building 3030. The Letter of Concurrence, a copy of the Miscellaneous Asbestos Recovery Contract (MARC) report, if required, and two (2) signed and sealed permit sets of the project 100% construction documents must be attached to the application. The Satellite Office may be reached at (305) 869-1081.
- P. For those TAC-N projects that require an amended Lease Agreement and as per the terms of the lease, the following documents must be submitted prior to the issuance of the Letter of Concurrence and prior to construction.
- Performance and Payment Bonds in compliance with the terms of the Lease
 - Copy of the Building Permit
 - The Environmental Insurance Policy as applicable
 - A check in the amount that represents 1% of the budgeted construction hard costs for reimbursement of MDAD Building Department fees
 - Contract completion bond as applicable
 - Insurance required
- Q. Tenant must submit all project related packages including a cost estimate broken down by trade to TAC-N Project Manager after 100% backcheck approval and dry run approval prior to advertisement or award of contract for construction. [Small Business, Wages and Workforce Requirements (SBWWR - Attachment 1)].
- R. TAC-N Project Manager to submit SBD Departmental Input Form (SBWWR - Attachment 2) with attachments to MA for review of recommended SBE - A/E measures. MA to submit project package to SBD for approval.
- S. SBD delivers measure recommendation, approved applicable Responsible Wages and Construction type, through a Project Worksheet to MA and TAC-N PM (SBWWR - Attachment 3). When a Project Worksheet with no Measures or Wage Requirements is received, then Steps 6 – 8 above are not applicable.
- T. The Tenant Prime Contractor and subcontractors must enroll in the County BMWS system and submit completed Certificate of Assurance (COA) (SBWWR - Attachment 4) to TAC-N Project Manager. PM will submit COA to MA for SBD review.
- U. Upon receipt of a COA by SBD, the Tenant will receive notification via email (with copy to TAC-N Project Manager) from BMWS to submit their Utilization Plan via BMWS.
- V. SBD will submit a compliance review memo (SBWWR - Attachment 5). Tenant cannot execute a contract with Contractor until Tenant has received the SBD Compliance Review Memo.

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W. The tenant shall select a contractor to perform the work.

X. The TAC-N Project Manager shall issue a Notice to Proceed.

Prior to commencement of construction, the tenant shall submit copies of the Construction Schedule, schedule of values and the Building Permit to the TAC-N Project Manager. The tenant must also provide any revisions to these documents to the TAC-N Project Manager as they are issued.

START OF CONSTRUCTION PHASE

Y. The TAC-N Project Manager shall determine, based on the complexity and magnitude of the project, if a pre-construction meeting should be held and if regularly scheduled construction meetings are required. If required, the frequency of construction meetings will be based on the complexity and duration of the project. The tenant's A/E and contractor, the TAC-N Project Manager, or designee, and others, as may be required, will attend the construction meetings.

Z. Once the NTP is issued, TAC-N Project Manager and SBD Attends Pre-Construction Meeting. Tenant's Contractor shall submit copies of the construction schedule and building permit to the TAC-N project Manager. TAC-N Project Manager shall monitor construction progress and keep track and record of all RER Construction Permits until permits are closed.

AA. It is the responsibility of the Tenant through its Contractor to:

- Coordinate schedules and locations for material deliveries to MIA with MDAD Landside Operations Division (305) 876-7086 or (305) 876-7279 and/or GA Airport Manager.
- Coordinate airside access at MIA with MDAD Airside Operations Division (305) 876-7482 and/or GA Airport Manager.
- Coordinate MIA identification badging and security orientation requirements with MDAD Safety and Security Operations Division (305) 876-4028 and/or GA Airport Manager.
- Coordinate utility information and issues, including shutdown procedures, with MDAD Maintenance Engineering (305) 869-3874.
- Coordinate requirements and specific procedures for obtaining Miami-Dade (RER) Department of Environmental Resources Management (DERM) and Florida Department of Environmental Protection (DEP) permits and for dewatering, excavating, trenching, stockpiling, maintenance and disposal of contaminated material activities with the MDAD Civil Environmental Engineering Division (305) 869-1299.

BB. The TAC-N Project Manager, or designee, shall periodically visit the jobsite. The permit set of drawings must always be available on the construction site.

CC. The Tenant Prime Contractor and subcontractors must update the County BMWS system on a monthly basis to track compliance with SBE contract measures and subcontractor payments by submitting monthly certified payrolls into the SBD LCP Tracker system. TAC-N Project Manager shall do periodic audits of certified payrolls (via LCPtracker) to verify compliance with SBD program requirements.

DD. Change orders to a TAC-N Project that either increases the scope of work and cost or reduces the scope of work and cost requires the re-submittal of Input Document addressing the change that may increase or decrease their goal/wage requirement previously issued.

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- EE. Depending on a project's complexity, at project completion a walk-through may be scheduled and coordinated by the TAC-N Project Manager.
- FF. Commissioning of equipment that is to be maintained by MDAD shall be commissioned by MDAD Facilities Management and Engineering Division in accordance with MDAD Commissioning procedures.
- GG. The tenant must submit to the TAC-N Project Manager copies of the following documents at project completion:
- Signed off Building Permit Inspection within twenty-four hours of issue
 - Certificate of Occupancy (CO) or Certificate of Completion (CC) within twenty-four hours of issue; and proof that all construction permits have been closed out by the tenant's Contractors.
 - Warranties, service manuals, maintenance instructions, etc. and training for all equipment that will be maintained by MDAD
 - Provide copies of final releases or acceptable Consent(s) of Surety for all contractors, subcontractors and suppliers involved with the project.
 - SBD's Workforce Performance Report within 30 days of completion of work.
- HH. One copy of As-Built drawings (record drawings) on bond paper, signed and sealed by the tenant's A/E of Record and two digital copies as CAD and/or Revit files within thirty (30) days from issue of the Certificate of Occupancy or Certificate of Completion. When the Certificate of Occupancy has been issued and all As-Built Records have been transferred to MDAD Technical Support Division, the TAC-N Project Manager and tenant shall close the project. The TAC-N Project Manager shall issue a TAC-N Project Closeout Memorandum (Facilities Division Form Q_FD5-246) at close of the project.

ASSOCIATED FORMS

- | | |
|--|---|
| 1. Facilities Division Form B_FD1-080 | TAC-Non-Reimbursable Project Information |
| 2. Facilities Division Form C_FD1-090 | TAC-N Project Quick Check Form |
| 3. Facilities Division Procedure D_FD1-020-P | Project Number |
| 4. Facilities Division Form E_FD1-100 | Concept Approval Letter |
| 5. Facilities Division Form F_FD1-110 | TAC-N Project Manager Assignment Request |
| 6. Facilities Division Form G_FD1-120 | TAC-N Hand-Off Package |
| 7. Facilities Division Form H_FD1-130 | Letter of Introduction |
| 8. SBD I | SBD Programs and Systems |
| 9. Facilities Division Form J_FD3-027-P | Waivers and Modifications to the Design Guideline Manual |
| 10. Facilities Division Form K_FD3-027 | Request for Waiver or Permanent Modification of a Design Guideline |
| 11. Facilities Division Form L_FD3 061 | Maintenance Engineering In-House Design Review Request for TAC Projects |
| 12. Facilities Division Form M_FD3 009 | Design Review Transmittal |

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- | | |
|--|---|
| 13. Facilities Division Form N_FD3-062 | TAC-N Design Review - 100% C.D. Backcheck |
| 14. Facilities Division Form O_FD5-017 | TAC-N Concurrence Letter |
| 15. Facilities Division Form P_FD3-18C | Building Permit Application Checklist |
| 16. Facilities Division Form Q_FD5-246 | TAC-N Project Closeout Memorandum |

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TAC-Non-Reimbursable Project Information

To Property Manager: _____ Property: _____
Date: _____ Tel: _____ Email: _____

Per the TAC-N Project Procedures, please review the following project information and prepare and submit the project "Quick Check" form to all necessary MDAD Divisions to obtain conceptual approval for its design and construction.

1. Project Name: _____
2. Description (scope of work): _____
3. Project Cost (tenant's estimate):

Design:	\$	_____
Construction:	\$	_____
Total:	\$	_____
4. Tenant Name: _____
Tenant's Project Point of Contact Name: _____
Phone: _____ Email: _____
5. Tenant must furnish Certificates of Insurance as required by Miami-Dade by Miami-Dade Risk management: (YES) (NO)
6. Tenant has received and reviewed TAC-N Process and Procedures Letter: (YES) (NO)
7. Tenant understands that MDAD acceptance of its project for construction, must start no later than three months from the MDAD TAC-N Approval Letter and that the tenant must not occupy the spaces until a Certificate of Occupancy or a Certificate of Completion has been submitted to TAC-N: (YES) (NO)
8. Tenant's letter requesting approval of project attached: (YES) (NO)
9. Tenant acknowledges that they have read and acknowledge SBD requirements. (YES) (NO)

Tenant Representative Signature

Date

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Miami Dade County
Miami Dade Aviation Department
Miami International Airport

**Tenant Airport Construction Reimbursable Project (TAC-R)
Design and Construction Procedures – Facilities Division MCC/TAC Section**

A/E	Tenant's State of Florida Registered Architect or Engineer responsible for the design of the project
GSA	General Service Administration
MARC	Miscellaneous Asbestos Recovery Contract
MCC/TAC	Miscellaneous Construction Contract/Tenant Airport Construction
MDAD	Miami Dade Aviation Department
NTP	Notice to Proceed
PM	Project Manager
PSA	Professional Service Agreement
TAC-N	Tenant Airport Construction Non-reimbursable projects
Tenant	Business Partner, Lessee

General Information

All work that tenants plan to perform on MDAD property must comply with MDAD Design Guidelines and maintenance's utilities clearances and utilities shutdowns procedures, FAA regulations, County regulations and all applicable codes. A permit is required for commercial improvements regardless of the cost.

All reimbursable projects must have MDAD Properties Division's approval hand-off, prior to initiating the Tenant Airport Construction (TAC) process. All reimbursable projects require approval from the Board of County Commissioners prior to commencement of the project and/or as stipulated in the Lease Agreement.

Procedures – Design and Construction

1. The TAC project is handed-off from Properties to Facilities through the letter that Properties issues to the tenant officially authorizing the tenant to proceed as per the terms of the approved Lease Agreement by the Board of County Commissioners. The Chief of MCC/TAC receives a copy of the letter with the copy of the executed Lease Agreement, resolution and manager's memo.
2. The tenant is contacted and informed by the TAC-R P.M. of the requirements, i.e., A/E selection process, competitive bid process, forms to be used, etc
3. An A/E is selected through the A/E Selection Process for TAC Reimbursable projects. The TAC-R Project Manager will accordingly help the tenant coordinate the A/E Selection Process.
4. It is the responsibility of the tenant through it's A/D to:
 - a) Obtain copies of MDAD Record (As-Built) Drawings from the MDAD Technical Support Division by calling (305) 876-7057. Verify field conditions including, but not limited to, electrical, mechanical, HVAC, plumbing, water, sewer, structural, connecting points for all utilities/HVAC/fire protection/smoke evacuation, etc. plumbing. For utilities verification and/or information call MDAD Engineering Division at (305) 876-7126, Mr. J. Rodriguez.
 - b) Ensure that the design of the project located at the terminal building is in compliance with the MDAD Design Guidelines Manuals (MIA Terminal projects only) Guidelines are available on the Internet at www.miami-airport.com. Projects in the Cargo areas and at the

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TAC-R Design & Construction Procedures

General Aviation Airports do not need to comply with the MDAD Guidelines, except for the civil work as stipulated in the Design Guidelines.

NOTE: The MDAD TAC-R Project Manager participates in all of the following activities 5 through 23.

5. The MDAD TAC-R Project Manager prepares a Capital Project Fact Sheet (CPFS). This is an internal process by which the funding source is determined for design and/or construction cost of the project.
6. The tenant's consultant prepares bid documents that are reviewed at various levels of completion. The MDAD TAC Project Manager coordinates the number of reviews and the review process. The "Construction Contract, General and Legal Provisions and Division 1 for TAC projects and CSBE set aside TAC" projects will be used. This document consists of Advertisement for Bids, Instruction to Bidder, Bid Forms, Bid Bond, Condition of Award Requirements, Assignment Agreement, Contract, Surety Performance Bond, Surety Payment Bond, General Conditions, Special Provisions and the various Divisions. The document will be given to the tenant by the TAC-R Project Manager.
7. The tenant's consultant revises the plans to be in compliance with the reviewer's comments and obtains the reviewer's sign-off on the TAC-R Design Review- 100% Back Check Form prior to bidding.
8. Based on the terms of the Lease Agreement, hazardous materials survey, testing, abatement design and specs and removal may be coordinated by MDAD through the MARC and related costs will be paid by MDAD. For expediency, the tenant may be requested to perform the above. The tenant will be reimbursed by MDAD per the terms of the Lease Agreement.
9. The tenant's consultant prepares the project construction cost breakdown by trades along with the technical specifications and submits them through the MDAD TAC Project Manager to the MDAD Office of Minority Affairs, who recommends the Community Small Business Enterprise (CSBE) goals to the office of Miami-Dade Department of Business Development (DBD). The CSBE goals are presented to the Review Committee (RC) who meets every other Thursday morning at the Courthouse Center Building, Downtown Miami by DBD for their review and recommendation to the County Manager for his approval (DBD Worksheet). Once the County Manager signs the DBD Worksheet, a copy is sent to MDAD Minority Affairs who then send copies to the Tenant and to the MDAD TAC-R Project Manager. The tenant's consultant inserts the project's CSBE goals in the Bid Documents. The CSBE goals are a requisite for bidding the work. See attached forms
10. The MDAD TAC Project Manager coordinates a Legal Review meeting to review the project General Conditions and Special Provisions for bidding.
11. MDAD issues a Letter of Concurrence for the project to the tenant. The letter allows the tenant to obtain a building permit. See sample letter.
12. The tenant shall advertise the project in the various newspapers. The TAC-N Project Manager will provide the names of the newspapers. The actual text to be used is within the Construction Contract Bid Documents, as identified in item number 6; pages A.1, A.2 and A.3. Plans, Specifications and other Bid Documents as will be sent by the tenant's consultant to the following for public inspection: F.W. Dodge Corporation, Miami Builders' Exchange, Broward Builders Exchange in care of Construction Marketing Data, Black Business Association, Latin Builders Association, Allied Minority Contractors Association, Hispanic American Builders Association and the Dade County Department of Business Development.

13. A Pre-Bid meeting is scheduled and chaired by the tenant's consultant. The tenant's consultant prepares meeting minutes and if required issues addenda. The MDAD Project Manager invites other MDAD Division to participate.
14. The MDAD TAC-R Project Manager attends the bid opening which is held at the office of the tenant's consultant.
15. The tenant's consultant prepares the bid tabulation and contract award recommendation. A list of the CSBE Bid Documents (as received) is also prepared by the tenant's consultant for every bidder. A copy of the complete set of Bid Documents, including addenda and the CSBE Bid Documents are provided by the tenant's consultant to MDAD Minority Affairs through the TAC P.M. for review and transmittal to the Department of Business Development for compliance review and approval of project contract measures (CSBE). Contract award will only occur upon receipt of the Letter of Compliance from the DBD Director.
16. Contract Documents are executed between low bidder and tenant upon the MDAD Director's approval of the summary memo when required per the terms of the lease agreement. An executed copy the Contract Documents is to be provided to the MDAD TAC Project Manager.
17. The tenant/tenant's consultant issues the Notice to Proceed to the contractor. Prior to the issuance of the Notice to Proceed by the tenant, the following documents are required as per the terms of the Lease prior to the commencement of construction:
 - a) Performance and Payment Bonds and Insurance Certificates in compliance with the terms of the Lease and Contract Completion Bond if required by the terms of the Lease.
 - b) Copy of the Building Permit
 - c) Copy of the Lease Audit as applicable
 - d) The Environmental Insurance Policy as applicable
18. The MDAD TAC Project Manager issues the Wrap-up Insurance form to Risk Management.
19. A pre-Construction meeting is scheduled and chaired by the tenant's consultant. The tenant's consultant prepares meeting minutes. The MDAD TAC-R Project Manager participates in the meeting and invites other MDAD Divisions to participate.
20. It is the tenant's responsibility through his/her Consultant and or contractor to:
 - a. Coordinate schedules and locations for MIA terminal deliveries at the 2nd floor curbside with MDAD Landside Operations Division. Please call 305.876.7086 for coordination.
 - b. Coordinate schedules and construction as applicable within the MIA terminal with the MDAD Terminal Operations Division. Please call 305.876.7082 for coordination.
 - c. Coordinate airside accesses requirements with MDAD Airside Operations Division. Please call 305.876.7482 for coordination.
 - d. Coordinate the issuance of MDAD photo ID badges and requirements for orientation regarding airport security with the MDAD Safety and Security Operations Division. Please call 305.869.4028 for coordination.
 - e. Coordinate "SHUTDOWN PROCEDURES" with MDAD Engineering Maintenance Division. Please call 305.876.7477 for coordination.

- f. Coordinate requirements and specific procedures relating to permitting for DERM, DEP, dewatering excavating, trenching, stockpiling, maintenance and disposal of contaminated material with the MDAD Environment and Airport Engineering Division. Please call 305.869.1063 for coordination.
- 21. Weekly construction meetings are held and the tenant's consultant prepares minutes of the meeting. The MDAD TAC-R Project Manager participates in the meetings. The TAC-R Project Manager monitors construction progress.
- 22. Reviews pay estimates, work orders and change orders.
- 23. Project Close-out: A walk through is scheduled and coordinated through the MDAD TC -R Project Manager which includes MDAD Maintenance. MDAD staff participates as required. Project requirements for compliance per the contract documents, i.e., releases of liens, claims, warranties, manuals, instruction, etc., as-built mylars, microfiche, 35 mm apertures, copies of the Building Permit and Certificate of Occupancy, and final Change Order are submitted to the MDAD TAC-R Project Manager.

It is the responsibility of the tenant's consultant to ensure all Building Department and/or other Departments, Agencies, F.A.A. permits, requirements, inspections and required forms are completed in their entirety. It is the tenant's responsibility to ensure all documents are copied to MDAD TAC-R Project Manager. All project documentation and correspondence must include the MDAD project name and project number.

Date: _____

TAC-R Design Review - 100% Back Check

Project Name: _____ Project No. _____
 Airport Facility _____ Plans Date _____
 Project Manager _____

If you had comments and those comments have been addressed and incorporated in the 100% revised final drawings, please sign your name and date. Your signature is required in order for MCC/TAC to issue the Letter of Concurrence to the Tenant. The Letter of Concurrence enables the tenant to obtain a building permit.

REVIEWERS	SIGNATURE	DATE
Titus Crissan <i>Maintenance (876-7898)</i>	_____	_____
Victor Guildaud <i>HNTB (551-8100)</i>	_____	_____
Pedro Hernandez <i>Environ Engr. (876-7928)</i>	_____	_____
Maria Perez <i>Telecomm. (876-7092)</i>	_____	_____
Maria Pereiras <i>Terminal Ops. (876-7082)</i>	_____	_____
Terry Wagner <i>Landside Ops. (876-7024)</i>	_____	_____
Ron Smith <i>Airside Ops. (876-7038)</i>	_____	_____
Frank Stirrup <i>Civil (876-7922)</i>	_____	_____
Francis Telesca <i>Development (876-7052)</i>	_____	_____
Sunil Harman <i>Development (876-0120)</i>	_____	_____

12/03/01
 TAC-R Design & Construction Procedures



MEMORANDUM
(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: July 16, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 14(A)(7)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(7)
7-16-24

RESOLUTION NO. _____

RESOLUTION APPROVING DEVELOPMENT LEASE AGREEMENT BETWEEN THE COUNTY AND OCEAN AVIATION TMB, LLC (“OCEAN AVIATION”) WITH A TERM OF 40 YEARS WITH ONE FIVE YEAR RENEWAL OPTION; REQUIRING RELIANCE TO INVEST NO LESS THAN \$67,200,000.00 INTO DEVELOPMENT OF AVIATION AND ANCILLARY FACILITIES; AUTHORIZING THE COST REIMBURSEMENT FOR ONE-HALF OF CONSTRUCTION COSTS FOR A 32,000 SQUARE FOOT COMMON-USE RAMP ESTIMATED TO TOTAL \$211,200.00; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXECUTE SUCH DEVELOPMENT LEASE AGREEMENT AND ALL RIGHTS CONTAINED THEREIN, INCLUDING THE TERMINATION PROVISIONS; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO PROVIDE THE DEVELOPMENT LEASE AGREEMENT TO THE COUNTY PROPERTY APPRAISER IN ACCORDANCE WITH RESOLUTION NO. R-791-14

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Approves the Development Lease Agreement between the County and Ocean Aviation TMB, LLC (“Ocean Aviation”), in the form substantially attached to the accompanying memorandum (“Development Lease Agreement”), which provides for a term of 40 years with one five year extension; requires Ocean Aviation to invest no less than \$67,200,000.00 into new aviation and ancillary facilities; and authorizes the County to reimburse Ocean Aviation for one-half of all costs related to the construction of a 32,000 common-use square foot aircraft ramp estimated to total approximately \$211,200.00.

Section 2. Authorizes the County Mayor or County Mayor’s Designee to execute the Development Lease Agreement and to exercise all rights contained therein, including the termination provisions.

Section 3. Directs the County Mayor or County Mayor’s designee to provide a copy of the Restated Development Lease the County Property Appraiser in accordance with Resolution No. R-791-14.

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

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

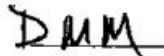
The Chairperson thereupon declared this resolution duly passed and adopted this 16th day of July, 2024. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



David M. Murray