

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: May 7, 2024

[X] Consent [ ] Regular  
[ ] Workshop [ ] Public Hearing

Submitted By: Department of Airports

**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to approve:** Ground Lease Agreement (Lease) with 3114 Tuxedo, LLC (Tuxedo), for the lease of approximately 74,097 square feet of ground area, consisting of three parcels of land located adjacent to Pine Lake/Stub Canal, east of the Palm Beach International Airport (PBI), together with a non-exclusive, revocable license to a strip of land between Tuxedo’s property and Pine Lake/Stub Canal, for ten years, commencing on May 7, 2024, and expiring on May 6, 2034, with two renewal options of five years each, for payment of initial annual rental in the amount of \$62,982.45.

**Summary:** The Lease provides for the lease of three small parcels of remnant land lying between Tuxedo’s property and Pine Lake/Stub Canal, consisting of a total of approximately 74,097 square feet of ground, for the passive storage of materials and equipment used in connection with Tuxedo’s construction contracting business on Tuxedo’s adjoining property. Initial annual rental is \$62,982.45, which will be adjusted every three years, commencing on October 1, 2025. The initial term of the Lease is ten years with two renewal options of five years each. The Lease provides for termination for convenience by either party upon 120 days’ written notice. The Lease also grants Tuxedo a non-exclusive, revocable license to clear non-native vegetation, trash and debris on a strip of land between Tuxedo’s property and Pine Lake/Stub Canal. The license is for the benefit of the County, and the license area may not be used for any other purpose whatsoever. The parcels are small remnants of land that have no aeronautical use based on their location, do not have access to a public roadway and do not comply with minimum lot size requirements to permit independent development. Tuxedo owns the only parcel adjacent to two of the three parcels. The third parcel, consisting of approximately 6,617 square feet of ground area, is bordered by a parcel owned Tuxedo and parcel owned by one other owner. Notice was sent by certified mail to the two property owners requesting letters of interest. Tuxedo was the sole respondent to express interest in leasing the parcel. The Department of Airports recommends approval of the Lease due to the lack of access and inability to develop the parcels for other uses. **Countywide (HJF)**

**Background and Justification:** The Lease requires that Tuxedo maintain ownership of the adjacent property and that Tuxedo, and its affiliated companies, maintain the business operation and ownership of the construction contracting business operated on the adjacent property throughout the term of the Lease. The Lease was submitted to the Federal Aviation Administration (FAA) for review on December 12, 2023, and on January 22, 2024, the FAA provided a letter indicating no objections provided all lease revenues are used exclusively for the operation and maintenance of the airport, which is required pursuant to FAA grant assurances. The lease of the parcels to Tuxedo is consistent with the requirements of Section 125.35, Florida Statutes and the Real Property, Acquisition, Disposition and Leasing Ordinance, codified in Article VI, Sections 22-101 – 22-107 of the Palm Beach County Code, which allow for the direct negotiation of the sale or lease of property that is only of use to adjacent property owners.

**Attachments:**

- 1. Location Map
- 2. Lease (3)

Recommended By:  3-26-24  
Department Director Date

Approved By:  4/4/24  
County Administrator for Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
Operating Revenues	<u>(\$25,227)</u>	<u>(\$62,983)</u>	<u>(\$62,983)</u>	<u>(\$62,983)</u>	<u>(\$62,983)</u>
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u>(\$25,227)</u>	<u>(\$62,983)</u>	<u>(\$62,983)</u>	<u>(\$62,983)</u>	<u>(\$62,983)</u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____


Is Item Included in Proposed Budget? Yes \_\_\_ No X  
 Does this item include the use of federal funds? Yes \_\_\_ No X  
 Does this item include the use of state funds? Yes \_\_\_ No X

Budget Account No: Fund 4100 Department 120 Unit 8340 Rsource 4416  
 Reporting Category \_\_\_\_\_

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


Initial annual rental under the Lease is \$62,982.45 and is subject to adjustment every 3-years commencing October 1, 2025. The fiscal impact for FY2024 includes rental from May 7 to September 30, 2024.

**C. Departmental Fiscal Review:**

  
 \_\_\_\_\_  
 3/25/24

**III. REVIEW COMMENTS**

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

  
 \_\_\_\_\_  
 3/28 OFMB QA 3/27

  
 \_\_\_\_\_  
 Contract Dev. and Control  
 4/1/24

**B. Legal Sufficiency:**

  
 \_\_\_\_\_  
 Assistant County Attorney

**C. Other Department Review:**




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

REVISED 11/17

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

### 3114 Tuxedo LLC General Location Map



	Tenant's Property
	County Parcels
	License Area

**GROUND LEASE AGREEMENT**  
**PALM BEACH INTERNATIONAL AIRPORT**

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

**and**

**3114 Tuxedo, LLC**

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**GROUND LEASE AGREEMENT**

**THIS GROUND LEASE AGREEMENT** (this "Lease") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Palm Beach County, a political subdivision of the State of Florida ("County"), and 3114 Tuxedo, LLC, a Florida limited liability company, having its office and principal place of business at 3114 Tuxedo Avenue, West Palm Beach, FL 33405 ("Tenant").

**WITNESSETH:**

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

**WHEREAS**, County is the owner of certain real property described in Exhibit "A", attached hereto and made a part hereof (the "Property"), and that certain real property depicted in Exhibit "B", attached hereto and made a part hereof (the "License Area"), both located east of the Airport in Section 32, Township 43 South, Range 43 East, and managed by the Department on behalf of County (the Property and License Area are collectively referred to as the "Premises"); and

**WHEREAS**, the Property and the License Area have no access from a public road; and

**WHEREAS**, pursuant to provisions of Chapter 125.35, Florida Statutes, and Palm Beach County Ordinance No. 2019-038, the Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance (the "PREM Ordinance"), County has determined that due to the size, shape and location of the Premises, as well as restrictions on use that County desires to impose on any use of the Premises, County has determined the Premises may be of use only to adjacent property owners; and

**WHEREAS**, pursuant to provisions of Chapter 125.35, Florida Statutes, notice was sent by certified mail to all property owners adjacent to the Premises requesting letters of interest; and

**WHEREAS**, Tenant, as the owner of that certain real property located adjacent to the Premises at 3114 Tuxedo Avenue described in Exhibit "C", attached hereto and made a part hereof (the "Tenant's Property"), has responded to County's notice and expressed interest in leasing the Premises; and

**WHEREAS**, County has determined that Tenant is the only adjacent property owner to respond expressing an interest in leasing the Premises, pursuant to County's notice; and

**WHEREAS**, Tenant desires to use the Property for the passive, open storage of materials and operable equipment, including rock, sand and piping, used in connection with construction contracting business of Tenant and its Affiliates.

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

## ARTICLE 1 - RECITALS

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

## ARTICLE 2 - DEFINITIONS

The following words, terms, and phrases wherever used in this Lease shall have the meanings set forth in this Article and the meanings shall apply to both singular and plural forms of such words, terms and phrases.

- 2.01 “Additional Insured” has the meaning set forth in Section 10.05.
- 2.02 “Additional Rent” has the meaning set forth in Section 5.09.
- 2.03 “Adjustment Date” has the meaning set forth in Section 5.04(A).
- 2.04 “Affiliate” means a business entity where all, or substantially all, of the assets and operations of such business entity are owned by, controlled by, or under common control of the principal(s) of Tenant.
- 2.05 “Airport” has the meaning set forth in the Recitals.
- 2.06 “Airport Rules and Regulations” means the Palm Beach County Airport Rules and Regulations adopted by Resolution No. R-98-220, as now or hereafter amended, and any successor ordinance or resolution regulating activities or operations on the Airport.
- 2.07 “Appraisal Adjustment Date” has the meaning set forth in Section 5.04(D).
- 2.08 “Assignment” has the meaning set forth in Article 15.
- 2.09 “Base Rental” means the initial annual ground rental set forth in Section 5.01 for the Rental adjustments occurring prior to the Appraisal Adjustment Date; and the Rental established pursuant to Section 5.04(D) for Rental adjustments occurring after the Appraisal Adjustment Date.
- 2.10 “Base Rental Year” means 2023 for Rental adjustments occurring prior to the Appraisal Adjustment Date; and the calendar year of each Appraisal Adjustment Date for Rental adjustments occurring after an Appraisal Adjustment Date.
- 2.11 “Bond Resolution” means the Palm Beach County Airport System Revenue Bond Resolution dated April 3, 1984 (R-84-427), as amended and supplemented, which is hereby incorporated herein by reference and made a part hereof.
- 2.12 “Board” means the Board of County Commissioners of Palm Beach County, Florida.

- 2.13 “Bond” has the meaning set forth in Section 5.06.
- 2.14 “Business Day” means any day other than a Saturday, Sunday or County holiday. Use of the word “day” as opposed to Business Day means a calendar day.
- 2.15 “Consumer Price Index” or “CPI” has the meaning set forth in Section 5.04(C).
- 2.16 “County Party” means the County and its elected officers, employees and agents.
- 2.17 “Damages” has the meaning set forth in Article 17.
- 2.18 “Department” means the Palm Beach County Department of Airports.
- 2.19 “Derelict Vehicle or Equipment” means a vehicle or any equipment that is in a wrecked, dismantled or partially dismantled condition, or which is discarded or in an inoperable condition.
- 2.20 “Director” means the Director or Acting Director of the Department of Airports.
- 2.21 “Effective Date” means the date that this Lease is approved by the Palm Beach County Board of County Commissioners and signed by the parties.
- 2.22 “Environmental Laws” means all applicable Federal, State and local laws, statutes, ordinances, rules, regulations and governmental restrictions relating to the protection of the environment, human health, welfare or safety, or to the emission, discharge, seepage or release of Hazardous Substances into the environment, including, but not limited to, ambient air, surface water, groundwater or land, or otherwise relating to the handling of such Hazardous Substances.
- 2.23 “FAA” means the Federal Aviation Administration.
- 2.24 “Governmental Approvals” has the meaning set forth in Section 3.03.
- 2.25 “Hazardous Substances” shall mean any contaminant, hazardous or toxic substance, material or waste of any kind or any other substance that is regulated by any Environmental Laws.
- 2.26 “Initial Term” has the meaning set forth in Section 3.01.
- 2.27 “Inspection Period” has the meaning set forth in Section 3.02.
- 2.28 “Inspections” includes, but is not limited to, the following: (a) physical inspection of the Premises; (b) soil investigation; (c) environmental assessment; (d) topographic studies; (e) engineering, utilities and site planning studies; (f) survey and (g) title examination and review.



- 2.29 “Lease” means this Lease and all exhibits attached hereto, which are incorporated herein by this reference. Words such as “herein,” “hereafter,” “hereof,” “hereby” and “hereunder” when used with reference to this Lease, refer to this Lease as a whole, unless context otherwise requires.
- 2.30 “Letter of Credit” has the meaning set forth in Section 5.06.
- 2.31 “License Area” means the unimproved real property between the Property and the edge of water, as depicted in Exhibit “B”, subject to easements, rights-of-way and any other encumbrances of record.
- 2.32 “Obstructions” has the meaning set forth in Section 22.03.
- 2.33 “Phase I EA” has the meaning set forth in Section 19.05.
- 2.34 “Plans” have the meaning set forth in Section 6.03(A).
- 2.35 “Premises” means the Property and the License Area.
- 2.36 “Property” means the unimproved real property consisting of three (3) non-contiguous parcels identified as Parcel “A”, Parcel “B” and Parcel “D”, and containing approximately 6,617 square feet, 17,480 square feet and 50,000 square feet, respectively, for a total of approximately 74,097 square feet, all as more particularly described on Exhibit “A”, subject to easements, rights-of-way and any other encumbrances of record.
- 2.37 “Renewal Term” has the meaning set forth in Section 3.01.
- 2.38 “Risk Management Department” means the Palm Beach County Risk Management Department.
- 2.39 “Security Deposit” has the meaning set forth in Section 5.06.
- 2.40 “Tenant Party” means Tenant and its subtenants, contractors, suppliers, employees, officers, licensees, agents and invitees.
- 2.41 “Tenant’s Property” means the real property described in Exhibit “C”.
- 2.42 “Term” means the Initial Term and Renewal Term.
- 2.43 “TSA” means the Transportation Security Administration or any successor agency responsible for airport security.

### **ARTICLE 3 - EFFECTIVE DATE, TERM AND EVALUATION OF THE PREMISES**

3.01 **Term.** The initial term of this Lease shall commence on the Effective Date and expire ten (10) years thereafter, unless sooner terminated pursuant to the terms of this Lease (the "**Initial Term**"). Provided Tenant is not in default of any of the terms and conditions of this Lease beyond the expiration of applicable notice and cure periods, this Lease may be extended for up to two (2) additional five (5) year terms (each, a "**Renewal Term**") at the mutual option of the County and Tenant, by amendment to this Lease. Except as otherwise provided for herein or as agreed to by the parties, any renewal of this Agreement shall be upon the same terms and conditions, except that upon the first renewal there shall be one (1) fewer renewal.

3.02 **Inspections.** Commencing on the Effective Date and expiring ninety (90) days thereafter ("**Inspection Period**"), Tenant may conduct any Inspections that Tenant deems appropriate with respect to the Premises. All Inspections performed hereunder shall be conducted at Tenant's sole cost and expense and shall be performed by licensed persons or firms dealing in the respective areas or matters. Tenant agrees to indemnify the County Parties from and against any and all Damages arising from or out of a Tenant Party's entry upon and inspection of the Premises except if such Damages are caused by a County Party's negligence or willful misconduct or County's breach of its obligations under this Lease. Tenant's obligation to indemnify the County Parties pursuant to this Section shall survive the expiration or termination of this Lease. Prior to the expiration of the Inspection Period, Tenant shall provide County with one (1) complete copy of all written reports detailing the results of the Inspections obtained by Tenant hereunder. If Tenant determines, in its sole discretion, that it will be unable to use the Premises for the uses permitted hereunder as the result of the Inspections, Tenant may elect to terminate this Lease upon written notice to County within sixty (60) days after the expiration of the Inspection Period, time being of the essence. If termination notice is timely given by Tenant pursuant to this Section, this Lease shall be deemed terminated, and the parties hereto shall be relieved of all liabilities and obligations under this Lease, except for those obligations arising hereunder prior to termination of this Lease or which expressly survive termination. In the event Tenant fails to properly exercise its right to terminate this Lease, Tenant shall be deemed to have waived such right. In the event Tenant terminates this Lease pursuant to this Section, Tenant, at its sole cost and expense, shall repair any damage resulting from the Inspections and restore the Premises to the condition in which it existed prior thereto, using materials of like kind and quality.

3.03 **Governmental Approvals.** County shall cooperate with Tenant in the pursuit of governmental approvals, permits and entitlements necessary for Tenant to conduct its operations on the Premises ("**Governmental Approvals**"), by executing applications and other instruments necessary to obtain the required Governmental Approvals 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 Department's Senior Deputy Director or Deputy Director of Airports Planning and Community Affairs, as designee of the Director. Tenant acknowledges that: (a) County shall be acting in its proprietary capacity in executing such applications or instruments and 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; and (b) any and all costs incurred in the pursuit of the Governmental Approvals shall be borne solely by Tenant.

3.04 FAA Review and Approval of Lease. This Lease is expressly subject to and conditioned upon satisfaction of the FAA's approval of this Lease. County shall submit a copy of this Lease to the FAA for review and approval within ten (10) business days of the Effective Date of this Lease. Either party shall have the right to terminate this Lease upon prior written notice to the other party in the event this condition is not satisfied within one hundred twenty (120) following the Effective Date. In the event a notice of termination is provided in accordance with the requirements of this Section, this Lease shall be deemed to be terminated, and the parties hereto shall be relieved of all liabilities and obligations under this Lease, except for those obligations arising hereunder prior to the termination of this Lease or which expressly survive termination.

#### **ARTICLE 4 - PREMISES AND PRIVILEGES**

4.01 Description of Premises. County hereby demises and leases to Tenant, and Tenant rents from County, the Property, and grants to Tenant a non-exclusive, revocable license to the License Area, all subject to the terms, conditions and covenants set forth herein.

4.02 Description of Specific Privileges, Uses and Rights. Tenant shall have the right to use the Property for the passive, open storage of materials and operable equipment, including rock, sand and piping, used in connection with the construction contracting business operation operated by Tenant and its Affiliates, based on Tenant's Property, and for no other purpose whatsoever. Tenant shall have a non-exclusive, revocable license to enter the License Area for the sole purposes of clearing non-native vegetation from the License Area and maintaining the License Area free of trash and debris.

4.03 Prohibited Uses, Products and Services. Tenant agrees the Premises shall be utilized solely for the uses permitted herein and for no other purpose whatsoever. Tenant shall not conduct any activities on the Premises not specifically authorized by this Lease or the Department.

4.04 Restrictions on Privileges, Uses and Rights.

- (A) The rights granted hereunder are expressly limited to use of the Premises pursuant to the terms and conditions of this Lease.
- (B) All storage on the Property shall be limited to storage incidental to Tenant's overall business operation on Tenant's Property. Notwithstanding the foregoing, the License Area shall not be used for storage of any type, for any length of time, and shall not be used for any propose other than for maintenance of the License Area.
- (C) No chemicals of any type may be used or stored on the Premises at any time.
- (D) Tenant shall not permit the Premises to be used for parking or storage of any vehicles at any time or for any purpose. Parking of boats, motor homes or inoperable vehicles, and the stockpiling or storage of shipping containers and similar items, or inoperable equipment or machinery of any type on the Premises is strictly prohibited.

4.05 Condition and Use of the Premises. Except as otherwise provided for herein, and subject to Tenant's rights to complete Inspections pursuant to Section 3.02, Tenant accepts the Premises in its "AS IS CONDITION" and "WITH ALL FAULTS," together with all defects, latent and patent, if any. Tenant further acknowledges that County has made no representations or warranties of any nature whatsoever regarding the Premises including, but not limited to, the physical and/or environmental condition of the Premises or any improvements located thereon; the value of the Premises or improvements; the zoning of the Premises; title to the Premises; the suitability of the Premises or any improvements for Tenant's intended use; or Tenant's legal ability to use the Premises for Tenant's intended use.

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

5.01 Rental. For the use and occupancy of the Property, Tenant shall pay to County initial annual rental of Eight-Five Cents (\$0.85) per square foot, for approximately Seventy-Four Thousand, Ninety-Seven (74,097) square feet of ground area, for a total of Sixty-Two Thousand, Nine Hundred Eighty-Two Dollars and Forty-Five Cents (\$62,982.45).

5.02 License Fee. In consideration of Tenant's obligation to clear non-native vegetation from the License Area and maintain the License Area free of trash and debris throughout the Term, no license fee shall be due for Tenant's right to enter the License Area for the purposes provided herein.

5.03 Commencement and Time of Payment of Rental. Payment of Rental by Tenant to County for the Property shall commence upon the Effective Date. Rental shall be payable in equal monthly installments, in advance, on or before the first (1<sup>st</sup>) day of each and every month throughout the Term of this Lease. All payments must be delivered (together with applicable sales taxes), without demand and without any deduction, holdback or set off whatsoever, to: Palm Beach County Department of Airports, 846 Palm Beach International Airport, Finance Division, West Palm Beach, Florida 33406, or at such other address as may be directed by the Department from time to time. Payments shall be made payable to "Palm Beach County."

5.04 Adjustment of Rental.

- (A) On October 1, 2025, and each three (3) year anniversary thereof (each such date, an "Adjustment Date"), the then current rental shall be adjusted in accordance with the provisions of this Section 5.04(A). The new rental shall be determined by an appraisal obtained by County, which shall set forth the fair market rental for the Property. The appraisal shall be performed, at County's sole cost and expense, by a qualified appraiser selected by County. County shall notify Tenant in writing of the fair market rental of the Property as established by the appraisal, which shall become the new rental subject to the limitations set forth in Section 5.04(B) below. Tenant shall commence paying the new rental on the Adjustment Date.
- (B) Notwithstanding the foregoing, the rental determined in accordance with Section 5.04(A) shall not exceed an amount that would be obtained by multiplying the Base Rental by a fraction, the numerator of which shall be the "Consumer Price Index" (as hereinafter defined) figure for May of the calendar year in which such adjustment is to become effective and the

denominator of which shall be the Consumer Price Index figure for April of the Base Rental Year.

- (C) For the purposes hereof, the "Consumer Price Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers, United States city average, all items (1982 - 1984 = 100), not seasonally adjusted, or any successor thereto as promulgated by the Bureau of Labor Statistics of the United States Department of Labor. In the event that the Consumer Price Index ceases to use the 1982 - 1984 average of one hundred (100) as the standard reference index base period, the then current standard reference index base period shall be utilized. In the event the Consumer Price Index (or successor or substitute Consumer Price Index) is not available, a reliable governmental or other nonpartisan publication evaluating information theretofore used in determining the Consumer Price Index shall be used.
- (D) Notwithstanding any provision of this Lease to the contrary, on October 1, 2034 (the "Appraisal Adjustment Date"), the then current rental shall be adjusted and the new rental shall be determined by appraisal only, and such adjustment shall not be subject to the limitations set forth in Section 5.04(B). The rental established pursuant to this Section 5.04(D) shall become the new Base Rental for purposes of future rental adjustments pursuant to Section 5.04(B).
- (E) Notwithstanding any provision of this Lease to the contrary, Tenant acknowledges and agrees that County shall have the right to establish and maintain the rental rate hereunder to ensure compliance with the provisions of Section 710 (rate covenant) of the Bond Resolution.
- (F) The amount of any rental adjusted pursuant to this Section 5.04 shall not be less than the rental for the prior period. This Lease shall automatically be considered as amended to reflect the adjusted rental rate, without formal amendment hereto, upon County's written notification of the establishment of the adjusted rental rate applicable to the Property. Any delay or failure of County in computing the adjustment in the rental, as hereinabove provided, shall not constitute a waiver of or in any way impair the continuing obligation of Tenant to pay such adjusted annual rental from the applicable Adjustment Date or the Appraisal Adjustment Date.

5.05 Late Payments - Interest. Tenant shall pay to County interest at the rate of one and one-half percent (1.5%) per month on any late payments commencing ten (10) days after the amounts are due and following five (5) business days written notice from County to Tenant. The Department, in its sole and absolute discretion, may elect to waive the aforementioned late fees in appropriate circumstances as determined by the Department.

5.06 Security Deposit. Prior to the Effective Date, and throughout the Term, Tenant shall maintain a security deposit with County in the amount of Fifteen Thousand Dollars (\$15,000.00) (the "Security Deposit"). The Security Deposit shall serve as security for the

payment of all sums due to County and shall also secure the performance of all obligations of Tenant to County. The Security Deposit shall be either in the form of a clean, Irrevocable Letter of Credit ("Letter of Credit") or a Surety Bond ("Bond") in form and substance satisfactory to County, or cash. In the event of any failure by Tenant to pay any Rentals or charges when due or upon any other failure to perform any of its obligations or other default under this Lease, then in addition to any other rights and remedies available to County at law or in equity, County shall be entitled to draw on the Security Deposit and apply same to all amounts owed. Upon notice of any such draw, Tenant shall immediately replace the Security Deposit with a new Letter of Credit or Bond in the full amount of the Security Deposit required hereunder. The Security Deposit shall be kept in full force and effect throughout the Term of this Lease and any extension thereof and for a period of six (6) months after the termination of this Lease. Not less than forty-five (45) days prior to any expiration date of a Letter of Credit or Bond, Tenant shall submit evidence in form satisfactory to County that such security instrument has been renewed. Failure to renew a Letter of Credit or Bond shall: (a) entitle County to draw down the full amount of such Security Deposit; and (b) constitute a default of this Lease entitling County to all available remedies. The Security Deposit shall not be returned to Tenant until all obligations under this Lease are performed and satisfied. Prior to consent from County to any assignment of this Lease by Tenant, Tenant's assignee shall be required to provide a Security Deposit to County in accordance with the terms and conditions of this Section.

5.07 Triple Net Lease. This Lease shall be deemed to be "triple net" without cost or expense to County including, but not limited to, cost and expenses relating to taxes, insurance, and the maintenance and operation of the Premises.

5.08 Taxes and Fees. Tenant shall pay, on or before their respective due dates, all Federal, State and local taxes and fees, and all special assessments of any kind, which are now or may hereafter be levied upon the Premises (including improvements thereon) or the estate hereby granted, or upon Tenant, or upon the business conducted on the Premises, or upon any of Tenant's property used in connection therewith, or upon any rentals or other sums payable hereunder, including, but not limited to any ad valorem taxes, and sales or excise taxes on rentals, and personal property taxes against tangible and intangible personal property of Tenant. Tenant hereby covenants and agrees to pay monthly to County, as "Additional Rent," any sales, use or other tax, or any imposition in lieu thereof (excluding State and/or Federal Income Tax) now or hereinafter imposed upon the rents, use or occupancy of the Premises imposed by the United States of America, the State of Florida or Palm Beach County, notwithstanding the fact that the statute, ordinance or enactment imposing the same may endeavor to impose the tax upon County as landlord/lessor, to the extent as applicable.

5.09 Additional Rent. Any and all sums of money or charges required to be paid by Tenant under this Lease, other than the annual Rental, shall be considered "Additional Rent", whether or not the same is specifically so designated and County shall have the same rights to enforce due and timely payment by Tenant of all Additional Rent as are available to County with regards to annual rent.

5.10 Accord and Satisfaction. In the event Tenant pays any amount that is less than the amount stipulated to be paid under this Lease, such payment shall be considered to be made only on account of the stipulated amount. No endorsement or statement on any check or letter shall be deemed an accord and satisfaction. County may accept any check or payment without prejudice

to County's right to recover the balance due or to pursue any other remedy available to County pursuant to this Lease or under the law.

## **ARTICLE 6 - CONSTRUCTION OF IMPROVEMENTS**

6.01 Tenant Construction of Improvements. Tenant shall make no additions, alterations or improvements to the Property, without the prior written approval of the Department, which approval may be withheld, conditioned or delayed in the Department's sole and absolute discretion. No improvements whatsoever shall be permitted to be constructed within the License Area.

6.02 Lighting Improvements. Tenant acknowledges that lighting may present a hazard to air navigation due to the location of the Property; therefore, Tenant shall install no lighting whatsoever on the Property.

### 6.03 Construction Requirements.

- (A) Construction Plans. Prior to constructing any improvements on the Property that may be approved by County, Tenant, without cost to County, shall prepare detailed preliminary construction plans and specifications for the improvements (hereinafter collectively referred to as the "Plans") in accordance with standards established by the Department and deliver the preliminary Plans to the Department for review, comment and adjustment. The Department may require Tenant to submit FAA FORM 7460-1 - NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION, in electronic format, thru the FAA's website at <https://oeaaa.faa.gov/oeaaa/external/portal.jsp> during concept development for determination of no hazard to air navigation and to ensure no interference with radio navigation facilities. Tenant shall comply with any conditions included in any FAA final determination resulting therefrom. The Department shall review the preliminary Plans and provide a written response to Tenant within fifteen (15) Business Days after receipt of the preliminary Plans; provided, however, in the event the preliminary Plans are subject to review by another governmental authority with jurisdiction over the Airport, including, but not limited to, the FAA, the timeframe for review shall be extended by the amount of time necessary for such authority or agency to complete its review. In the event the Department does not approve the preliminary Plans, Tenant will be notified of the reasons for the disapproval and the necessary modifications and/or alterations to the Plans. Tenant shall resubmit modified Plans to the Department within thirty (30) days of the date of the Department's written notice of disapproval and Department shall provide a written response to Tenant within fifteen (15) Business Days thereafter whether the modified Plans have been approved; provided, however, in the event the modified Plans are subject to review by another governmental authority with jurisdiction over the Airport, including, but not limited to, the FAA, the timeframe for review shall be extended by the amount of time necessary for such authority or agency to complete its review. Within one hundred twenty (120) days following approval of the preliminary Plans by the Department, Tenant shall prepare

or cause to be prepared final working Plans in substantial conformity to the approved preliminary Plans and shall submit the final working Plans to the Department for approval. Upon approval of the final working Plans by the Department, Tenant shall obtain all permits and other government approvals required for the commencement of construction. Prior to commencement of construction, Tenant shall deliver to the Department one (1) complete set of the final working Plans as approved by the governmental agencies exercising jurisdiction thereover. Minor changes from the final working Plans shall be permitted if such changes may be reasonably inferred from the final working Plans, or if they are made to comply with requirements of any governmental agency exercising jurisdiction thereover. All improvements constructed upon the Property shall be completed at Tenant's sole cost and expense, and shall be completed in accordance with the approved Plans

- (B) Within sixty (60) days following Tenant's receipt of a final building permit, certificate of occupancy or certificate of completion, as appropriate, for any improvements constructed pursuant to this Article, Tenant, at its sole cost and expense, shall have prepared and deliver to the Department: one (1) complete set of as-built drawings in a hardcopy format, one (1) complete set of as-built drawings in a PDF format and one (1) complete set of as-built drawings in Auto CADD files in the latest version acceptable to the Department.

6.04 Contractor Insurance. Prior to the construction of any improvements approved by the Department, including fencing, Tenant shall require its general contractor to provide the following insurance:

- (A) Commercial General Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) per aggregate, which shall not exclude products/completed operations. County and Tenant shall each be endorsed as an additional insured on the Commercial General Liability policy, and County's endorsement shall comply with the requirements of Article 10.
- (B) Business Auto Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per accident.
- (C) Workers' Compensation insurance in compliance with Chapter 440, Florida Statutes and all federal laws. The Workers' Compensation policy shall include Employer's Liability with minimum limits of One Million Dollars (\$1,000,000) per accident.

6.05 No Liens. Tenant agrees that nothing contained in this Lease shall be construed as consent by County to subject the estate of County to liability under the Construction Lien Law of the State of Florida and understands that County's estate shall not be subject to such liability. Tenant shall notify any and all parties or entities performing work or providing materials relating to any improvements made by Tenant of this provision of this Lease. If so requested by County,



Tenant shall file a notice satisfactory to County in the Public Records of Palm Beach County, Florida, stating that County's estate shall not be subject to liens for improvements made by Tenant. In the event that a construction lien is filed against the Premises or other County property in connection with any work performed by or on behalf of Tenant, Tenant shall satisfy such claim, or transfer same to security, within thirty (30) days from the date of filing. In the event that Tenant fails to transfer or satisfy such claim within the thirty (30) day period, County may do so and thereafter charge Tenant all costs incurred by County in connection with the satisfaction or transfer of such claim, including attorneys' fees, and Tenant shall promptly pay to County all such costs upon demand, as Additional Rent. Nothing in this Section shall prevent the Tenant from reasonably contesting any lien or claim filed by any contractor, subcontractor or material supplier provided Tenant has otherwise complied with the provisions of this paragraph.

#### **ARTICLE 7 - OBLIGATIONS OF TENANT**

7.01 Observance of Rules and Regulations. Tenant covenants and agrees to observe and obey, and to require all Tenant Parties to observe and obey such rules and regulations of the Department and County (including amendments and supplements thereto) regulating the conduct and operations of Tenant and others on the Premises as may from time to time be promulgated. The obligation of Tenant to require such observance and obedience on the part of a Tenant Party shall pertain only while such Tenant Party is on or in occupancy of any portion of the Premises.

7.02 Noise and Vibrations. Tenant shall take all reasonable measures to minimize noise impacts to adjacent properties, resulting from its operations on the Property.

7.03 Regulation of Conduct. Tenant shall control the conduct, demeanor and appearance of its employees, subtenants and others doing business with Tenant on the Property.

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

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

7.06 Vapors, Fumes or Emissions. Tenant shall not create, nor permit to be caused or created upon the Premises any obnoxious odor, smoke, noxious gases or vapors. Tenant shall ensure that emissions generated by any such trucks, and other vehicles comply with all provisions of applicable environmental emissions laws and regulations.

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

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

7.08 Flammable Liquids. Tenant shall not keep or store any flammable liquids at the Premises.

7.09 Derelict Vehicles or Equipment; Removal. Tenant shall not permit the temporary or permanent storage or placement of any Derelict Vehicles or Equipment on the Premises. Tenant shall cause Derelict Vehicles or Equipment to be removed from the Premises within twenty-four (24) hours after written notice from the Department. Tenant shall be responsible for obtaining towing services for the removal of Derelict Vehicles or Equipment and abandoned or unauthorized vehicles at no cost to County.

7.10 Security of the Premises. Tenant acknowledges and accepts full responsibility for the security and protection of the Premises, and any and all inventory, equipment, facilities and improvements now existing or hereafter placed on or installed in or upon the Premises, and for the prevention of unauthorized access to its facilities. Tenant fully understands that the police security protection provided by County is limited to that provided to any other business situated in Palm Beach County, Florida by the Palm Beach County Sheriff's Office, and expressly acknowledges that any special security measures deemed necessary or desirable for additional protection of the Premises and improvements constructed thereon, shall be the sole responsibility of Tenant and shall involve no cost to County.

## **ARTICLE 8 - MAINTENANCE AND REPAIR**

8.01 Maintenance/Repair of the Property. Tenant shall be responsible for any and all repairs and maintenance of the Property (which shall include, but shall not be limited to, vegetation, landscaping or fencing thereon). Tenant shall undertake any necessary anti-erosion measures, including, but not limited to, the planting and replanting of grasses as needed to prevent erosion. Tenant shall be responsible for maintaining all landscaping on the Property in good condition and free of unsightly conditions. Tenant's landscaping responsibilities shall include, without limitation, maintaining grass, shrubs and trees.

8.02 Maintenance/Repair of the License Area. Tenant shall be responsible for the removal of any non-native vegetation, trash and debris, and shall maintain the License Area in good condition and free of unsightly conditions.

8.03 Cleanliness of Premises. Tenant shall maintain the Premises in a neat, orderly, sanitary, clean and presentable condition at all times.

8.04 Inspections. The Department shall have the right to enter the Premises during regular business hours upon reasonable prior notice to Tenant to inspect same for the purpose of determining whether Tenant is in compliance with the requirements of this Lease. In the event Tenant is not in compliance with this Lease, as reasonably determined by the Department, the Department shall provide Tenant with written notice of such noncompliance. If corrective action is not initiated within thirty (30) days and pursued in a diligent manner to completion, the Department may cause the same to be accomplished at Tenant's sole cost and expense. Tenant agrees that Tenant shall assume and be liable to County for payment of all costs incurred by County, plus a twenty five percent (25%) administrative overhead fee, which costs and administrative overhead fee shall constitute Additional Rent hereunder and shall be due and payable within thirty (30) calendar days of the date of the Department's written notice.

## ARTICLE 9 - UTILITIES

Tenant shall install no utilities on the Premises whatsoever, including, but not limited to, electrical, water, wastewater or stormwater drainage facilities.

## ARTICLE 10 - INSURANCE REQUIREMENTS

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

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

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

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

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

10.05 Additional Insured Endorsement. Tenant shall endorse County as "Additional Insured" on each of the liability policies required to be maintained by Tenant hereunder, with the exception of Workers' Compensation/Employers Liability and Business Auto Liability. The "Additional Insured" endorsements shall provide coverage on a primary basis. Each "Additional Insured" endorsement shall read: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406", or as otherwise approved or modified by County.

10.06 Certificate of Insurance. Tenant shall provide the Department with a certificate of insurance, or certificates of insurance, evidencing limits, coverages and endorsements required herein. All certificates of insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. In the event coverage is cancelled or is not renewed, Tenant shall provide County a new certificate of insurance or certificates of insurance evidencing replacement coverage no later than thirty (30) days prior to the expiration or cancellation of the coverage. The certificate holder's name and address shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, and Employees, c/o Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, FL 33406 e-mail: [properties@pbia.org](mailto:properties@pbia.org)", or as otherwise approved or modified by County.

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

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

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

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

#### **ARTICLE 11 - DAMAGE TO OR DESTRUCTION OF PREMISES**

11.01 Removal of Debris. If the Premises, or any portion thereof, is damaged by fire, the elements or other casualty, Tenant shall promptly remove all debris resulting from such damage from the Premises. Tenant shall take all necessary actions to place the Premises in a neat and orderly condition to ensure the safety of persons entering upon the Premises. If Tenant fails to promptly comply with the provisions of this Section, County may take such measures as it deems necessary to render the Premises in a neat, orderly, and safe condition. Tenant agrees that Tenant 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 the Department.

11.02 Tenant's Obligations. Tenant assumes full responsibility for the condition of the Premises and the character, acts and conduct of all persons admitted to the Premises by or with the actual or constructive consent of Tenant or with the consent of any person acting for or on behalf of Tenant. If the Premises, or any portion thereof, are damaged in any way whatsoever, whether by an act of God or by the act, default or negligence of a Tenant Party, Tenant shall, at its sole cost and expense, restore the Premises to the condition existing prior to such damage. Tenant shall commence restoration as soon as reasonably practicable after any such damage and shall diligently pursue such restoration to completion in accordance with the construction requirements set forth in Article 6. All repairs and restoration shall be performed by Tenant at Tenant's sole cost and expense, in accordance with the construction requirements contained herein. If Tenant fails to restore the Premises as required by this Section, County shall have the right to enter the Premises and perform the necessary restoration. Tenant agrees that Tenant shall fully assume and be liable to County for payment of the costs of restoration, plus a twenty five percent (25%) administrative overhead fee, which costs and administrative overhead fee, shall be due and payable to County within thirty (30) days from the date of the written notice provided by the Department.

#### **ARTICLE 12 - ENCUMBRANCES**

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

#### **ARTICLE 13 - TITLE TO IMPROVEMENTS**

Upon expiration of the Term or earlier termination of this Lease, all landscaping and other improvements, above and below ground, constructed or placed upon the Premises by Tenant, if any, title to which has not previously vested in County hereunder shall become the absolute property of County, and County shall have every right, title, and interest therein, free and clear of any liens, mortgages, and other encumbrances. Upon the request of County, Tenant shall provide County with a bill of sale or other evidence of the transfer of ownership of such improvements together with evidence satisfactory to County that the improvements are free from liens, mortgages and other encumbrances. The provisions of this Article shall survive expiration or termination of this Lease.

#### **ARTICLE 14 - EXPIRATION, DEFAULTS, REMEDIES AND TERMINATION**

14.01 Expiration. This Lease shall automatically terminate at the end of the Term.

14.02 Termination For Convenience. Either party may terminate this Lease in its entirety upon one hundred twenty (120) days written notice to the other party, whereupon this Lease shall terminate and County and Tenant shall each be relieved of all further obligations hereunder, except those obligations accruing prior to the date of termination. County may terminate this Lease immediately upon the failure by Tenant to maintain ownership of the Tenant's Property, or the failure by Tenant to maintain an active construction contracting business operation thereon by Tenant or Affiliate.

14.03 Revocation of License. Notwithstanding any provision of this Lease to the contrary, the rights granted to Licensee to the License Area amount only to a non-exclusive license to use the License Area, which license is expressly revocable by County for any reason whatsoever upon notice to Tenant. Upon notice from County of the revocation of the license granted hereby, the license granted in this Lease shall terminate as to the License Area and County shall be relieved of all further obligations as to the License Area hereunder accruing subsequent to the date of such termination.

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

- (A) The vacating or abandonment of the Premises by Tenant.
- (B) The failure by Tenant to make payment of Rental or any other payment required to be made by Tenant hereunder, as and when due, where such failure shall continue for a period of three (3) Business Days after such payment is due and payable.
- (C) The failure by Tenant to observe or perform any of the covenants, conditions or provisions of this Lease to be observed or performed by Tenant, where such failure continues for a period of fifteen (15) days after written notice thereof from County to Tenant; provided, however, that if the nature of Tenant's default is such that more than fifteen (15) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant commenced such cure within such fifteen (15) day period and thereafter diligently pursues such cure to completion. Nothing contained in this paragraph shall be deemed to alter or affect the cure period for performance of any covenant, condition or provision for which a specific time period is provided in this Lease.
- (D) To the extent permitted by law: (a) the making by Tenant or any guarantor thereof of any general assignment, or general arrangement for the benefit of creditors; (b) the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy [unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days]; (c) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (d) the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

Notwithstanding any provision of this Lease, Tenant acknowledges and agrees the Department may require Tenant to immediately cease any activity which could result in an airport hazard or endanger safety of any Airport user, as reasonably determined by the Department.

14.05 Remedies. In the event of a material default by Tenant, County may at any time thereafter, with or without notice or demand and without limiting any other right or remedy which County may have under the law by reason of such default or breach, elect to exercise any one of the following remedies:

- (A) Declare the entire rent for the balance of the Term or any part thereof due and payable forthwith, and bring an action for the recovery thereof.
- (B) Terminate Tenant's right to possession of the Premises by any lawful means and re-enter and re-take possession of the Premises for the account of Tenant, in which case the rent and other sums hereunder shall be accelerated and due in full, and Tenant shall be liable for the difference between the rent which is stipulated to be paid hereunder plus other sums as described herein and what County is able to recover from its good faith efforts to relet the Premises, which deficiency shall be paid by Tenant. Upon such reletting, all rentals received by County shall be applied, first to the payment of any indebtedness, other than rent due hereunder from Tenant; second, to the payment of any reasonable costs and expenses of such reletting, which shall include all damages incurred by County due to Tenant's default including, but not limited to, the reasonable cost of recovering possession of the Premises including reasonable attorneys' fees, and reasonable real estate commissions paid by County relating to the unexpired term of this Lease; third, to the payment of rent due and unpaid hereunder; and the remainder, if any, shall be paid to Tenant.
- (C) Treat this Lease as terminated and re-enter and re-take possession of the Premises for the account of County, thereby terminating any further liability under this Lease on the part of Tenant and County. Notwithstanding the foregoing, County shall have a cause of action to recover any rent remaining unpaid when County retakes possession of the Premises for the account of County.
- (D) Stand by and do nothing, holding Tenant liable for rental as it comes due.
- (E) Pursue any other remedy now or hereinafter available to County under the laws of the State of Florida.

Notwithstanding anything in this Lease to the contrary, County shall have the right to bring an action for its damages upon the occurrence of a default by Tenant and County reserves all rights which laws of the State of Florida confer upon a landlord against a tenant in default, however, under no circumstances shall Tenant be liable for special or consequential damages, except in the event of a holdover by tenant, or matters relating directly or indirectly to County's operation of the Airport. Tenant hereby waives any additional notice Tenant may be entitled to pursuant to Florida law.

14.06 Termination by Tenant. Tenant may terminate this Lease, if Tenant is not in default of this Lease (including, but not limited to, its payments to County hereunder), by giving County sixty (60) days advance written notice, upon or after the happening of any one of the following events:

- (A) The default by County in the performance of any covenant or agreement herein required to be performed by County and the failure of County to remedy such default for a period of thirty (30) days after receipt from Tenant of written notice to remedy same; provided, however, that no notice of cancellation, as provided herein, shall be of any force or effect if County shall have remedied the default within such thirty (30) day period; or in the event the same cannot be cured within such thirty (30) day period and County has commenced such cure and thereafter diligently pursues the same until completion.
- (B) The lawful assumption by the United States Government or any authorized agency thereof, of the operation, control or use of the Airport and facilities, or any substantial part or parts thereof, in such a manner as to substantially restrict the operation of Tenant, for a period of at least ninety (90) days.

14.07 Default by County. County shall not be in default unless County fails to perform obligations imposed upon County hereunder within a reasonable time, but in no event later than thirty (30) days after written notice by Tenant to County, specifying wherein County has failed to perform such obligations; provided, however, that if the nature of County's default is such that more than thirty (30) days are reasonably required for its cure, then County shall not be deemed to be in default if County commenced such cure within such thirty (30) day period and thereafter diligently pursues such cure to completion.

14.08 Surrender of the Premises. Tenant expressly agrees that it shall immediately surrender the Premises to County in good condition, upon expiration or termination of this Lease, depreciation and wear from ordinary use for the purpose for which the Premises was leased being excepted. In the event Tenant shall holdover, refuse, or fail to give up the possession of the Premises at the termination of this Lease, Tenant shall be liable to County for any and all damages, and in addition thereto, Tenant shall also be strictly liable to pay to County during the entire time period of such holdover, double rental, as provided for in Section 83.06, Florida Statutes. Tenant shall remove all of its personal property from the Premises prior to the expiration of this Lease. Any personal property of Tenant not removed by Tenant shall, at the option of County, become the property of County, or alternatively, may be disposed of by County at Tenant's expense.

#### **ARTICLE 15 - ASSIGNMENT, TRANSFER AND SUBLETTING**

Tenant shall not, in any manner, assign, transfer, sublet or otherwise convey an interest in this Lease, the Premises or any portion thereof ("Assignment"), without the prior written consent of County, as provided herein. Any attempted Assignment without County approval shall be null and void. In the event County consents in writing to an Assignment, Tenant shall have the right to assign this Lease to the extent permitted by County's consent to such Assignment, provided that the use of the Premises shall be limited to the same uses as are permitted under this Lease. County shall consent to an Assignment of this Lease in its entirety only where all, or substantially all, of



the assets of Tenant, including Tenant's Property, are acquired by another entity by reason of a merger, acquisition, or other business reorganization, provided that Tenant provides written notice to County ten (10) days prior to the change in ownership. Any such Assignment shall be subject to the same conditions, obligations and terms as set forth herein. Nothing contained herein shall preclude Tenant from assigning an equity interest in Tenant; provided, however, Tenant shall not be released from its responsibilities and duties under the Lease. County may freely assign this Lease at any time without the consent of Tenant, and upon assumption by such assignee of County's obligations hereunder, County shall be released from all liability and obligation arising hereunder upon such assignment.

#### **ARTICLE 16 - LEASEHOLD MORTGAGE**

Tenant may not encumber its leasehold estate and interest in the Premises by mortgage, security agreement or other such instrument.

#### **ARTICLE 17 - INDEMNIFICATION**

Tenant agrees to protect, defend, reimburse, indemnify and hold the County Parties free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages (including attorney fees at trial and appellate levels) and causes of action of every kind and character (collectively referred to herein as "Damages") against, or in which County is named or joined, arising out of this Lease or use or occupancy of the Premises by any Tenant Party, including, but not limited to those arising by reason of any damage to property or the environment, or bodily injury (including death) incurred or sustained by any party hereto, or of any party acquiring any interest hereunder, and any third or other party whomsoever, or any governmental agency, arising out of or incident to or in connection with a Tenant Party's acts, omissions or operations hereunder, or the performance, non-performance or purported performance of a Tenant Party or any breach of the terms of this Lease; provided, however, Tenant shall not be responsible to a County Party for Damages that are solely attributable to the negligence or willful misconduct of such County Party. Tenant further agrees to hold harmless and indemnify the County Parties for any fines, citations, court judgments, insurance claims, restoration costs or other liability resulting from or in any way arising out of or due to a Tenant Party's activities or operations or use of the Premises whether or not Tenant was negligent or even knowledgeable of any events precipitating a claim or judgment arising as a result of any situation involving the activities. This indemnification shall be extended to include all deliverers, suppliers, furnishers of material, or anyone acting for, on behalf of or at the request of Tenant. Tenant recognizes the broad nature of this indemnification and hold-harmless provision, and acknowledges that County would not enter into this Lease without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with the laws of the State of Florida. The obligations arising under this Article shall survive the expiration or termination of this Lease.

#### **ARTICLE 18 - SIGNAGE**

Tenant may not install or maintain any signage on the Premises.

## ARTICLE 19 - LAWS, REGULATIONS AND PERMITS

19.01 General. Tenant agrees that throughout the Term and any extension thereof, Tenant shall at all times be and shall remain in full and complete compliance with all applicable Federal, State and local laws, statutes, regulations, rules, rulings, orders, ordinances and directives of any kind or nature but not limited to, as now or hereafter amended, including, but not limited to, TSA directives, FAA Advisory Circulars and Airport Rules and Regulations.

19.02 Permits and Licenses Generally. Tenant agrees that it shall, at its sole cost and expense, be strictly liable and responsible for obtaining, paying for, and maintaining current, and fully complying with, any and all permits, licenses and other governmental authorizations, however designated, as may be required at any time throughout the Term of this Lease or any extension thereof by any Federal, State or local governmental entity or any court of law having jurisdiction over the operations and activities conducted on the Premises by Tenant, including ensuring that all legal requirements, permits, and licenses necessary for, or resulting directly or indirectly from, Tenant's operations and activities on the Premises have been obtained and are in full legal compliance. Upon the written request of County, Tenant shall provide to County certified copies of any and all permits and licenses which County may request.

19.03 Air and Safety Regulation. Tenant agrees that it shall conduct its operations and activities under this Lease in a safe manner, shall comply with all safety regulations of the Department and with safety standards imposed by applicable Federal, State and local laws and regulations and shall require the observance thereof by all Tenant Parties transacting business with or for Tenant, resulting from, or in any way related to, the conduct of a Tenant's business on the Premises. Tenant shall procure and maintain such fire prevention and extinguishing devices as required by County and by law and shall at all times be familiar and comply with the fire regulations and orders of County and the fire control agency with jurisdiction at the Airport, as same may now exist or hereafter come into being. Tenant hereby agrees that neither Tenant, nor employee or contractor or any person working for or on behalf of Tenant, shall require any personnel engaged in the performance of Tenant's operations to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health or safety, as determined by standards adopted pursuant to the Occupational Safety and Health Act of 1970, as same may be amended from time to time, as well as all State and local laws, regulations, and orders relative to occupational safety and health.

### 19.04 Environmental and Natural Resource Laws, Regulations and Permits.

- (A) Notwithstanding any other provision of this Lease to the contrary, Tenant hereby expressly covenants, warrants, guarantees and represents to County, upon which County expressly relies, that Tenant is knowledgeable of, and shall fully comply with, any and all Environmental Laws applicable to Tenant and its operations hereunder.
- (B) Tenant acknowledges that operations involving the generation, processing, handling, storing, transporting and disposal of Hazardous Substances are subject to regulation under applicable Environmental Laws and are expressly prohibited on the Premises under this Lease.

- (C) Violation of any part of the foregoing provisions or disposal by Tenant of any Hazardous Substances in violation of the provisions of this Article shall be deemed to be a default under this Lease and shall be grounds for termination of this Lease unless cured within ten (10) days of receipt of notice from County or as expeditiously as possible if the default cannot be completely cured within the ten (10) day period. Tenant shall be strictly liable for, and hereby expressly assumes all responsibility for all citations, fines, environmental controls and monitoring, clean-up and disposal, restoration and corrective measures resulting from or in any way connected with the improper use, handling, storage, and/or disposal of Hazardous Substances by a Tenant Party on or from the Premises, regardless of whether or not a default notice has been issued and notwithstanding any other obligations imposed upon Tenant pursuant to the terms of this Lease. All such remedies of County with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive expiration or termination of this Lease.
- (G) Except to the extent caused by the negligence of County, its agents or employees Tenant agrees to protect, defend, reimburse, indemnify and hold the County Parties harmless from and against any and all Damages arising from, resulting out of or in any way caused by or connected to a Tenant Party's failure to comply with applicable Environmental Laws. Tenant understands that this indemnification is in addition to and is a supplement of Tenant's indemnification agreement set forth in Article 17. Tenant acknowledges the broad nature of this indemnification and hold-harmless clause and that County would not enter into this Lease without the inclusion of such clause, and voluntarily makes this covenant and expressly acknowledges the receipt of Ten Dollars (\$10.00) and such other good and valuable consideration provided by County in support of this indemnification in accordance with laws of the State of Florida. The obligations arising under this Section shall survive the expiration or earlier termination of this Lease.

19.05 Environmental Assessment. At least one hundred twenty (120) days, but no more than one hundred eighty (180) days, prior to the expiration or earlier termination of this Lease, Tenant shall cause a Phase I Environmental Assessment (the "Phase I EA") of the Premises to be prepared and delivered to County. If requested by County or, if the Phase I EA indicates that there is a potential that environmental conditions may exist on the Premises or the adjacent property based on activities of a Tenant Party occurring on or after the Effective Date of this Lease, Tenant shall promptly cause a Phase II Environmental Assessment of the Premises to be prepared and delivered to County. The EAs shall be prepared by a professional geologist or engineer licensed by the State of Florida, acceptable to County, and shall be prepared to meet the standards of practice of the American Society of Testing and Materials, to determine the existence and extent, if any, of Hazardous Substances on the Premises. The EAs shall state that County is entitled to rely on the information set forth in the EAs. The EAs shall be prepared and delivered to County at Tenant's sole cost and expense. The Phase II EA must address any potential environmental conditions or areas of contamination identified in the Phase I portion of the assessment. Tenant shall, at its sole cost and expense, promptly commence and diligently pursue to completion any

assessment, remediation, clean-up and/or monitoring of the Premises necessary to bring the Premises and/or adjacent property into compliance with Environmental Laws. The requirements of this paragraph shall be in addition to any other provisions of this Lease relating to the condition of the Premises and shall survive the termination or expiration of this Lease. Nothing in this Section shall be construed as obligating Tenant to remediate any condition identified in the County Environmental Assessments or caused by the activities of a County Party.

#### **ARTICLE 20 - AMERICANS WITH DISABILITIES ACT**

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

#### **ARTICLE 21 - DISCLAIMER OF LIABILITY**

COUNTY HEREBY DISCLAIMS, AND TENANT HEREBY RELEASES THE COUNTY PARTIES, FROM ANY AND ALL LIABILITY, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE AND NUISANCE), FOR ANY LOSS, DAMAGE, OR INJURY OF ANY NATURE WHATSOEVER SUSTAINED BY ANY TENANT PARTY DURING THE TERM OF THIS LEASE OR ANY EXTENSION THEREOF INCLUDING, BUT NOT LIMITED TO, LOSS, DAMAGE OR INJURY TO THE IMPROVEMENTS OR PERSONAL PROPERTY OF A TENANT PARTY THAT MIGHT BE LOCATED OR STORED ON THE PREMISES, UNLESS SUCH LOSS, DAMAGE OR INJURY IS CAUSED BY A COUNTY PARTY'S SOLE NEGLIGENCE OR IS CAUSED BY COUNTY'S BREACH OF ITS OBLIGATIONS UNDER THIS LEASE. THE PARTIES HERETO EXPRESSLY AGREE THAT UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, OR EXEMPLARY DAMAGES WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY, NEGLIGENCE, AND NUISANCE), SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR ANY OTHER DAMAGE RELATED TO THE LEASING OF THE PREMISES PURSUANT TO THIS LEASE.

#### **ARTICLE 22 - GOVERNMENTAL RESTRICTIONS**

22.01 Condemnation by the United States. In the event a United States governmental agency shall demand and take over the Premises for public purposes for a period in excess of one hundred twenty (120) days, either party may terminate this Lease by providing written notice of such termination to the other party and the parties shall thereupon be released and fully discharged from any and all liability hereunder arising after such termination or as a result thereof. This Section shall not act or be construed as a waiver of any rights Tenant may have against the United States as a result of such taking.

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

levy, and collect any ad valorem, non-ad valorem, license, personal, intangible, occupation, or other tax which shall be lawfully imposed on the Premises, the business or property of Tenant.

22.03 Height Restriction. The height of all temporary and permanent structures, objects of natural growth and other obstructions (“Obstructions”) on the Premises, including, but not limited to, lighting poles, flag poles, signage, promotional displays and cranes and other similar equipment, shall be limited to such height so as to comply with 14 CFR Part 77, as now or hereafter amended. All Obstructions to be constructed or installed on the Premises shall be reviewed by the FAA prior to construction or installation. In no event shall any Obstructions be constructed or installed on the Premises, which are determined by the FAA to be an airspace obstruction or to pose a potential threat to air navigation. All Obstructions shall be consistent with the Palm Beach County Airport Zoning Ordinance (as codified in Article 16 of the Palm Beach County Unified Land Development Code), as now or hereafter amended. Upon notification by County that any Obstruction located on the Premises is adversely affecting air navigation or has resulted in a notice from the FAA or Florida Department of Transportation or has resulted in complaints from pilots operating aircraft at the Airport, Tenant shall immediately take whatever action is necessary to mitigate or remove such Obstruction. In addition to any other remedies provided for herein, Tenant agrees that County shall be entitled to engage in self-help in the event of: (a) any violation of this Section of this Lease; or (b) a determination by County and/or the FAA that an Obstruction located on the Premises is adversely affecting air navigation. Without limiting the generality of the foregoing, Tenant acknowledges that County shall be entitled to enter the Premises and address the Obstruction, which may include, but is not limited to, trimming or removing trees.

22.04 Right of Flight. County hereby reserves unto itself and its successors and assigns, for the use and benefit of the public, the right of flight for: (a) the passage of aircraft in, through and across the airspace above the surface of the Premises, together with the right of the aircraft to make noise and exhaust emissions, light, vibrations, radio, television and other electromagnetic emissions and other effects as may be necessary for or incidental to the operation of aircraft; (b) navigation of or flight in said airspace; and (c) aircraft landing on, taking off from or operating at the Airport. Tenant on behalf of itself, and its subtenants, successors and assigns, hereby waives, releases and forever discharges County and its elected officials, officers, employees, agents, attorneys, consultants, representatives, successors and assigns from all claims, demands, judgments, orders, awards, liabilities, costs, attorneys’ fees, causes of action, administrative proceedings and lawsuits of every kind, nature or description, whether known or unknown, fixed or contingent, which County or any person claiming through or under it ever had, now has or hereafter may acquire, upon or by reason of the exercise of the rights reserved herein. It is further agreed that County shall have no obligation whatsoever, now or at any time in the future, to avoid or mitigate damages arising as a result of the exercise of the rights reserved herein or the operation of the Airport.

22.05 Operation of Airport. Tenant expressly agrees for itself, its sublessees, successors and assigns, to prevent any use of the Premises, which would interfere with or adversely affect the operation, maintenance or development of the Airport, or otherwise constitute a hazard to air navigation. Notwithstanding any provision of this Lease to the contrary Tenant, for itself and its sublessees, successors and assigns, agrees that County shall be entitled to self-help in the event a of an immediate hazard exists upon the Premises affecting the flight of aircraft over the Premises. Without limiting the generality of the foregoing, Tenant acknowledges that County shall be entitled to enter the Premises and physically remove or mitigate the hazard, at Tenant’s expense.

In the event Tenant fails to promptly mitigate a hazard or adverse effects on air navigation following notification from County, Tenant shall reimburse County for any and all costs and expenses incurred by County in exercising its self-help rights hereunder, plus a twenty five percent (25%) administrative overhead fee, which costs, expenses and administrative overhead fee shall constitute Additional Rent hereunder and shall be due and payable within thirty (30) calendar days of the date of the Department's written notice. Tenant acknowledges and agrees that the right of self-help shall be in addition to any and all remedies available under the law and this Lease, including, but not limited to, immediate injunctive relief, both temporary and permanent, and the right of specific performance.

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

22.07 Exclusive Rights. Except as otherwise provided for in this Section, Tenant understands and agrees that the rights granted under this Lease are nonexclusive, other than the exclusive right of use of the Premises, and that County may grant similar privileges to another lessee or other lessees on other parts of the Airport.

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

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

23.01 Nondiscrimination in County Contracts. Tenant acknowledges that County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Tenant is prohibited from discriminating against any employee, applicant, or client because of race, color, national origin, religion, ancestry, sex, age, familial status, marital status, sexual orientation, gender identity and expression, disability, or genetic information.

23.02 Federal Nondiscrimination Covenants. Tenant shall comply with the Nondiscrimination Requirements set forth in Exhibit "D". County may update the Nondiscrimination Requirements by providing written notice thereof to Tenant, whereupon, this Lease shall be considered amended, without formal amendment thereto, to replace Exhibit "D".

#### **ARTICLE 24 - COUNTY NOT LIABLE**

County shall not be responsible or liable to Tenant for any claims for compensation or any losses, damages or injury whatsoever sustained by Tenant resulting from failure of any water supply, heat, air conditioning, electrical current, or sewerage or drainage facility, or caused by natural physical conditions on the Premises, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water,

windstorm, tornado, hurricane, act of God or state of war, civilian commotion or riot, or any cause beyond the control of County. All personal property placed on or moved on to the Premises shall be at the sole risk of Tenant. County shall not be liable for any damage or loss of any personal property placed or moved on to the Premises.

#### **ARTICLE 25 - AUTHORIZED USES ONLY**

Notwithstanding anything to the contrary herein, Tenant shall not use or permit the use of the Premises or the Airport for any illegal or improper purpose or for any purpose which would invalidate any policies of insurance, now existing or hereafter written on the Premises or the Airport for County or Tenant.

#### **ARTICLE 26 - MISCELLANEOUS**

26.01 Waiver. The failure of either party to insist on strict performance of any of the agreements, terms, covenants and conditions hereof shall not be deemed a waiver of any rights or remedies that either party may have for any subsequent breach, default, or non-performance, and neither parties' right to insist on strict performance of this Lease shall be affected by any previous waiver or course of dealing.

26.02 Subordination.

- (A) Subordination to Bond Resolution. This Lease and all rights granted to Tenant hereunder are expressly subordinated and subject to the lien and provisions of the pledge, transfer, hypothecation or assignment made by County in the Bond Resolution, and County and Tenant agree that to the extent permitted by authorizing legislation, the holders of the bonds or their designated representatives may exercise any and all rights of County hereunder to the extent such possession, enjoyment and exercise are necessary to ensure compliance by Tenant and County with the terms and provisions of this Lease and Bond Resolution
- (B) Subordination to State/Federal Agreements. This Lease shall be subject and subordinate to all the terms and conditions of any instrument and documents under which County acquired the land, of which the Premises are a part, or improvements thereon, and shall be given only such effect as will not conflict with nor be inconsistent with such terms and conditions. Tenant understands and agrees that this Lease shall be subordinate to the provisions of any existing or future agreement between County and the United States of America or State of Florida, or any of their agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of state or federal funds for the development of the Airport.

26.03 Easements. Nothing in this Lease shall impair any existing utility easements, nor impair the right of access to any existing utility lines. County reserves the right to grant easements, licenses and rights-of way to others over, under, through, across or on the Premises reasonably necessary for the development, operation or provision of utility services to adjacent County-owned

properties; provided that such grant is not materially detrimental to the proper conduct of Tenant's operations. The County agrees to cooperate in good faith with Tenant to determine the appropriate location of such easements, licenses and rights-of-way in an effort to avoid unnecessarily impacting Tenant's operations. Tenant agrees to consent and join to such easements, licenses and rights-of-way upon the written request of County.

26.04 Independent Contractor. Tenant or any successor in interest to this Lease, is and shall be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and County shall in no way be responsible therefor.

26.05 Governmental Authority. Nothing in this Lease shall be construed to waive or limit County's governmental authority as a political subdivision of the State of Florida to regulate Tenant or its operations. County's obligations under this Lease are made in a proprietary capacity, rather than in a governmental capacity and such agreements shall not be construed as limiting, prohibiting or eliminating the obligation of the parties to comply with all applicable rules, regulations, ordinances, statues and laws, nor to alter or impair County's governmental functions, including, but not limited to, County's right to lawfully exercise its regulatory authority over the development of the Premises, nor as enabling, permitting, or creating any cause of action or claim arising out of the lawful exercise of County's governmental authority.

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

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

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

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

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



County:

Attn: Director of Airports  
Palm Beach County Department of Airports  
846 Palm Beach International Airport  
West Palm Beach, Florida 33406-1470  
Electronic Mail: [properties@pbia.org](mailto:properties@pbia.org)  
Fax: 561-471-7427

With a copy to:

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

Tenant:

ATTN: Stephen A. MacDonald  
3114 Tuxedo, LLC  
3114 Tuxedo Avenue  
West Palm Beach, FL 33405

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

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

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

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

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

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

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

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

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

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

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

26.21 Consent or Action. In the event this Agreement is silent as to the standard for any consent, approval, disapproval, termination, determination, or similar discretionary action, the standard shall be at the sole, absolute and unfettered discretion of County or Department, rather

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

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

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

26.24 Incorporation by References. All exhibits attached hereto and referenced herein shall be deemed to be incorporated in this Lease by reference.

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

26.26 Force Majeure. Notwithstanding anything to the contrary set forth herein, neither party shall be liable for failure to perform any of its obligations under this Lease in the event it is prevented from so performing by an event of force majeure, including, strike, lockout, breakdown, accident, weather, order or regulation of or by any governmental authority or failure to supply or inability by the exercise of reasonable diligence to obtain supplies, parts or employees necessary to furnish such services or because of war or other emergency or for any other cause beyond its reasonable control. Where there is an event of force majeure the party prevented from or delayed in performing its obligations under this Lease must immediately notify the other party giving full particulars of the event of force majeure preventing that party from, or delaying that party in, performing its obligations under this Lease and that party must use its reasonable efforts to mitigate the effect of the event of force majeure upon its or their performance of the contract and to fulfill its or their obligations under the Lease. Upon completion of the event of force majeure the party affected must as soon as reasonably practicable recommence the performance of its obligations under this Lease. An event of force majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event, nor does that event affect the obligation to pay money in a timely manner which matured prior to the occurrence of that event.

26.27 Radon. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from County's public health unit.

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

(Remainder of page left blank intentionally.)

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

**ATTEST:**  
**JOSEPH ABRUZZO,**  
**CLERK OF THE CIRCUIT COURT**  
**AND COMPTROLLER**

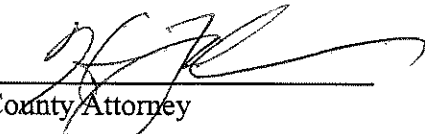
**PALM BEACH COUNTY,**  
**A POLITICAL SUBDIVISION OF THE**  
**STATE OF FLORIDA, BY ITS BOARD**  
**OF COUNTY COMMISSIONERS**


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

By: \_\_\_\_\_  
Maria Sachs, Mayor

**APPROVED AS TO FORM AND**  
**LEGAL SUFFICIENCY**

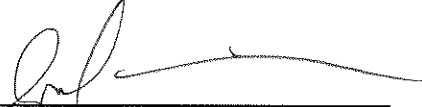
**APPROVED AS TO TERMS**  
**AND CONDITIONS**


By:   
County Attorney

By:  RW  
Director, Department of Airports

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

**TENANT:**  
**3114 TUXEDO, LLC**

  
Signature

  
Signature

APRIL C. NIEDDA  
Print Name

STEPHEN A MACDONALD  
Print Name

  
Signature

MEMBER  
Title

KIM O'BRIEN  
Print Name

(Seal)

Exhibit "A"

The "Property"

Exhibit "A"

The "Property"

**LEGAL DESCRIPTION:**

Three parcels of land situate in Section 32, Township 43 South, Range 43 East, City of West Palm Beach, Palm Beach County, Florida, begin more particularly described as follows:

**Parcel "A"**

**BEGIN** at the Westernmost South Corner of MADJOHN INDUSTRIAL PARK as recorded in Plat Book 125 at Page 192, Palm Beach County public records;  
thence North 53°39'53" West, along the Westerly prolongation of the South line of said plat, a distance of 169.90 feet, to a point;  
thence South 88°13'20" East, departing said West line, for a distance of 137.32 feet to a point on the West line of said plat;  
thence South 00°13'37" West, along said West line, a distance of 96.41 feet to a point on the Southwesterly line of said plat and the **POINT OF BEGINNING**.

Containing in all 6,617 square feet, more or less.

**Parcel "B"**

**COMMENCE** at the Southeast Corner of MADJOHN INDUSTRIAL PARK as recorded in Plat Book 125 at Page 192, Palm Beach County public records;  
thence North 88°11'30" West, along the south line of said plat, a distance of 50.00 feet to a point on the Western line of that certain Parcel recorded in Official Records Book 33508, Page 1620 and the **POINT OF BEGINNING**;  
thence South 00°05'47" West, along said Western line, a distance of 156.78 feet to a point;  
thence North 53°39'53" West, departing said West line, a distance of 276.48 feet to a point on the South line of said plat;  
thence South 88°11'30" East, along the south line of said plat, a distance of 223.10 feet to the **POINT OF BEGINNING**.

Containing in all 17,480 square feet, more or less.

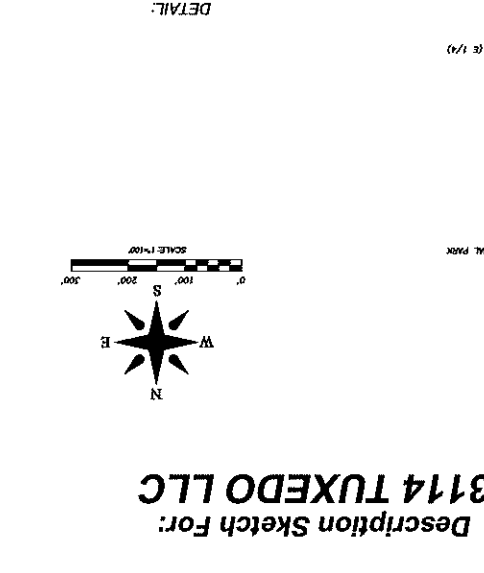
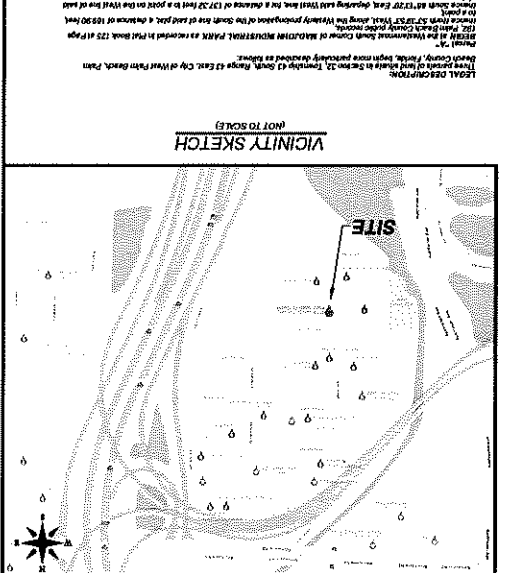
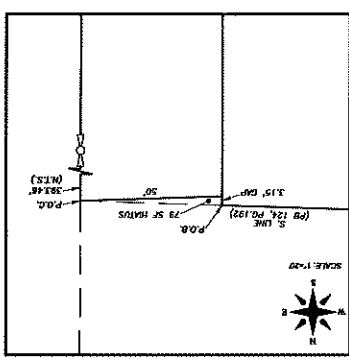
**Parcel "D"**

A parcel of land lying in Section 32, Township 43 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

**COMMENCE** at the East Quarter (E 1/4) corner of Section 32;  
thence South 00°05'40" West, along the East line of the Southeast one-quarter of said Section 32, a distance of 206.54 feet to the **POINT OF BEGINNING** of the hereinafter described parcel;  
thence South 00°05'40" West, along said East line of the Southeast one-quarter of said Section 32, a distance of 1000.00 feet;  
thence North 89°54'20" West, for a distance of 50.00 feet;  
thence North 00°05'40" East, for a distance of 1000.00 feet;  
thence South 89°54'20" East, for a distance of 50.00 feet to the **POINT OF BEGINNING**.

Said lands containing 50,000 square feet, more or less.

**NOTES:**  
 1. The field or conventional surveying was conducted by the surveyor or his/her duly authorized representative. No search of the public records was made to determine if any recorded interests exist in the land surveyed. The surveyor is not responsible for any errors or omissions in the field notes or in the plat hereon.  
 2. The plat is a true and correct copy of the field notes and is not to be construed as a warranty of title or as a representation of title.  
 3. This sketch is not to be used for any purpose other than that for which it was prepared.  
 4. This is a true and correct copy of the field notes and is not to be construed as a warranty of title or as a representation of title.  
 5. The surveyor is not responsible for any errors or omissions in the field notes or in the plat hereon.



- LEGEND**
- 1. ANGLE IRON
  - 2. CHAIN SURVEY
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Exhibit "B"

The "License Area"

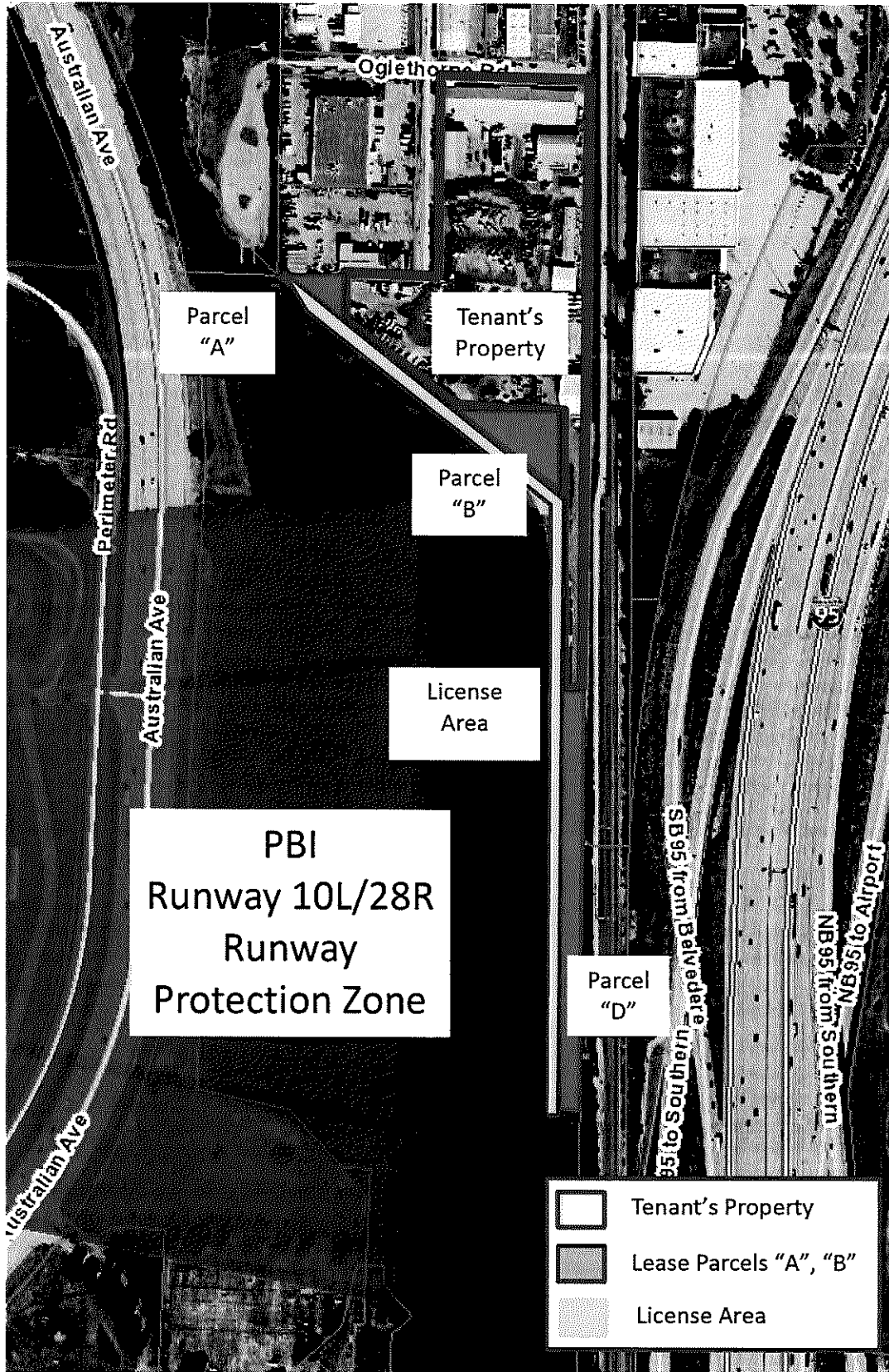




Exhibit "C"

"Tenant's Property"

Two parcels of land in Section 32, Township 43 South, Range 43 East, Palm Beach County, Florida, more particularly described as follows:

*(Description from Quitclaim Deed recorded in ORB 33508, Page 1620)*

Beginning at the East quarter corner (E1/2) of Section 32; thence, South 00°05'34" West, along the east line of the Southeast one-quarter (SE1/4) of said Section 32, for a distance of 206.54 feet; thence, North 89°54'26" West for a distance of 50.00 feet; thence 00°05'48" East along the existing Right-of-Way line of C.S.X. Railroad, for a distance of 208.08 feet to the North line of said Southeast quarter (SE1/4); thence continue 00°05'48" along said Right-of-Way, for a distance of 390.26 feet; thence North 88°11'35" East, for a distance of 50.00 feet; thence South 00°05'41" West, along the East line of the Northeast one-quarter (NE1/4) of Section 32, for a distance of 393.46 feet to the Point of Beginning. Containing 29,949 square feet, more or less.

AND

*(Description from Warranty Deed recorded in ORB 31852, Page 758)*

Tract A, MADJOHN INDUSTRIAL PARK, according to the plat thereof as recorded in Plat Book 124, pages 192 and 193, public records of Palm Beach County Florida;

Together with:

A 25 foot wide parcel of land known as the Service Alley lying East of Lot 6, Block 2, Tuxedo Park, according to the plat thereof as recorded in Plat Book 11, page 46, public records of Palm Beach County Florida, being more particularly described as follows:

Beginning at the Southeast corner of Lot 6, Block 2, TUXEDO PARK, according to the plat thereof as recorded in Plat Book 11, page 46, public records of Palm Beach County Florida; thence, North along the East line of said Lot 6, a distance of 102.85 feet more or less to the South right of way line of Oglethorpe Road; thence, Easterly along a projection of said South right of way line a distance of 25 feet to the East boundary line of said plat of TUXEDO PARK and the East line of Section 32, Township 43 South, Range 43 East, Palm Beach County, Florida; thence, Southerly along the East line, a distance of 102.85 feet more or less to the South line of said plat of TUXEDO PARK; thence, Westerly along said South line, a distance of 25 feet to the Point of Beginning.

**EXHIBIT "D"**  
**FEDERAL NONDISCRIMINATION COVENANTS**

WHEN USED HEREIN, THE TERM "CONTRACTOR" MEANS TENANT-LESSEE-CONCESSIONAIRE-OPERATOR-PERMITTEE OR OTHER PARTY TO AN AGREEMENT WITH PALM BEACH COUNTY.

**COUNTY NONDISCRIMINATION PROVISIONS**

Palm Beach County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the CONTRACTOR warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

**FEDERAL NONDISCRIMINATION REQUIREMENTS**

**A. Title VI Clauses for Compliance with Nondiscrimination Requirements.**

During the performance of this Agreement, CONTRACTOR, for itself, its assignees, and successors in interest, agrees as follows:

1. **Compliance with Regulations:** CONTRACTOR will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities ("Nondiscrimination Acts and Authorities" as set forth in paragraph B below), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** CONTRACTOR, with regard to the work performed by it during this 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. CONTRACTOR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when this Agreement 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 CONTRACTOR 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 CONTRACTOR of CONTRACTOR's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** CONTRACTOR 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, CONTRACTOR 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 contractor's noncompliance with the non-discrimination provisions of this Agreement, County 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 CONTRACTOR under this Agreement until CONTRACTOR complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** CONTRACTOR will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. CONTRACTOR 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 CONTRACTOR becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, CONTRACTOR may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, CONTRACTOR may request the United States to enter into the litigation to protect the interests of the United States.

**B. Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities, as may be amended, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 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 USC § 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 USC § 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 USC § 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 contractors, 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 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 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 nondiscrimination 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 USC 1681 et seq).

**C. Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program.**

1. CONTRACTOR for itself and its 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 CONTRACTOR will use the CONTRACTOR Premises and any License Area in compliance with all other requirements imposed by or pursuant to the Nondiscrimination Acts And Authorities.
2. In the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate this Agreement and to enter or re-enter and repossess the CONTRACTOR Premises and any License Area and the facilities thereon, and hold the same as if this Agreement had never been made or issued.

**D. Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program.**

CONTRACTOR for itself and its successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the CONTRACTOR will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. In the event of breach of any of the above nondiscrimination covenants, County will have the right to terminate this Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if this Agreement had never been made or issued.

**E. Airport Concession Disadvantaged Business Enterprises ("ACDBE").**

This Agreement may be subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. It is the policy of County that ACDBEs shall have the maximum practicable opportunity to participate in the performance of contracts. CONTRACTOR agrees that it will not discriminate against any business owner because of the owner's race, color, national origin or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. CONTRACTOR agrees to include the aforementioned statement in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

**F. General Civil Rights Provision.**

CONTRACTOR 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. If CONTRACTOR transfers its obligation to another, the transferee is obligated in the same manner as CONTRACTOR. This provision obligates CONTRACTOR for the period during which the property is owned, used or possessed by CONTRACTOR and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.