

LEASE AGREEMENT
(PARCELS B, C and D)

THIS IS A LEASE AGREEMENT, entered into on June 20 2019, between:

THE CITY OF FORT LAUDERDALE, a municipal
corporation of Florida, referred to as "Lessor",

and

FIRST INDUSTRIAL HARRISBURG, L.P., a
Delaware limited partnership, referred to as
"Lessee".

Whereas, the Lessor is the owner in fee simple of the real property described in Exhibit A (the 'Premises') and has authority to lease the Premises to Lessee as provided in this Lease; and

Whereas, Lessor has jurisdiction over the development, operation, management and maintenance of the Fort Lauderdale Executive Airport (the "Airport").

Whereas, several proposals were submitted, including one by the Lessee, in response to a Request for Proposal (the "RFP") issued by the Lessor; and

Whereas, on September 27, 2018, the Fort Lauderdale Executive Airport Aviation Advisory Board recommended award of the Premises to Lessee for development of industrial buildings; and

Whereas, Lessee's proposal, which is incorporated herein by reference, was selected as the one most advantageous to the Lessor; and

Whereas, it is the mutual desire of the parties that the Premises be leased and demised by Lessor to Lessee for the purposes set forth in this Lease, subject to and upon the express terms and conditions contained herein. The parties believe that this Lease is consistent in all material respects with the RFP; and

Whereas, pursuant to Resolution No. 19-32, adopted at its meeting of February 19, 2019 (the "Formal Approval Date") the City Commission of City authorized the proper City officials to enter into a Lease Agreement with FIRST

INDUSTRIAL HARRISBURG, L.P., a Delaware limited partnership for the lease of the Premises.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Lease, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, Lessor and Lessee agree as follows:

1. **PREMISES and INCORPORATION.** The Recitals are true and correct and incorporated herein by reference. Lessor leases to Lessee certain property at Fort Lauderdale Executive Airport, situated in Fort Lauderdale, Broward County, Florida, known as Parcels B, C and D (collectively, the "Premises"), more particularly described in and shown on the sketch and description identified as Exhibit "A," a copy of which is attached to and made a part of this Lease Agreement. Lessee acknowledges and agrees that all buildings, structures, hangars, pavements and other leasehold Improvements now existing or to be constructed on the Premises shall become the property of Lessor at Lessor's option upon the expiration or earlier termination of this Lease.

2. **PURPOSE.** In accordance with its proposal, the Lessee shall construct up to five (5) buildings, with a total of up to 400,000 square feet on the Premises within five (5) years from the Effective Date of this Agreement. The Premises shall be used for a single or multi-building, single or multi-tenant industrial development and such other related and co-related facilities and usages reasonably attendant to such usage as permitted by applicable zoning requirements. Certain uses are prohibited as set forth in paragraph 17 and as described in the Declaration of Deed Restrictions and Protective Covenants as recorded in Official Records Book 3324, Page 79, as amended by that instrument recorded in Official Records Book 3325, Page 755 and that instrument recorded in Official Records Book 12321, Page 258 all of the Public Records of Broward County, Florida.

3. **DEFINITIONS.** The following terms, when used in this Lease Agreement, shall be defined as follows:

(a) *Affiliate* of a specified Person means a Person who (i) is directly or indirectly controlled by, or under common control with, the specified Person; or (ii) owns directly or indirectly thirty-five (35%) percent or more of equity securities of the specified Person; or (iii) is a general partner, officer, director, non-financial institution trustee or fiduciary of the specified Person or of any person described in (i) or (ii), preceding; or (iv) is a son, daughter, spouse, parent, sibling or in-law of the specified Person.

(b) Intentionally Deleted.

(c) *Airport* means Fort Lauderdale Executive Airport, located in Fort Lauderdale, Broward County, Florida, also known as FXE.

- (d) *Agreement, Lease Agreement, or Lease* means this Lease Agreement, including any supplements, modifications, amendments or exhibits thereto.
- (e) *Approved Plans* shall mean plans and specifications for Improvements to the Premises that have received the necessary approval from the Airport Manager, the Aviation Advisory Board, and the City Commission, as applicable.
- (f) *Aviation Advisory Board* means the advisory board of the City created pursuant to Sections 7-31 et seq., of the Fort Lauderdale Code of Ordinances.
- (g) *City or Lessor* means the City of Fort Lauderdale, Florida, a municipal corporation organized and existing in the State of Florida.
- (h) *City Commission* means the governing body of City.
- (i) *CO Date* and the date(s) that any Improvements are deemed to be completely constructed, means the date(s) upon which a certificate of occupancy shall be issued by the appropriate City agency or department with respect to the buildings to be constructed on the Premises, or with respect to other Improvements, the date upon which the Improvements may first be put into service for the intended use, regardless of whether such is the actual first date of usage.
- (j) *Contract Administrator* means the Airport Manager.
- (k) *Commencement Date* means the first day of the month following the Formal Approval Date and the date the FAA issues its letter of no objection to the Lease.
- (k) *FAA* means the Federal Aviation Administration, or any successor agency.
- (l) *Formal Approval Date* means the date the City Commission of Lessor passed a Resolution approving the Lease between the Lessor and the Lessee during a regularly or specially scheduled meeting of the governing body of Lessor.
- (l) *Improvements and Leasehold Improvements* mean the planning, design and construction of a first class development of up to five (5) industrial buildings, with total square feet of up to 400,000, which buildings shall include upgraded elevations, landscaping, high cube ceilings, ample truck courts, enhanced front entries impressive glass lines and ample automobile parking fixtures, permanently affixed equipment, facilities (both above ground and below ground), and all other structures now or hereafter constructed on the Premises, and all additions, alterations, modifications, renovations and replacements thereto.
- (m) *Lessee* means FIRST INDUSTRIAL HARRISBURG, L.P., a Delaware limited partnership, its successors or assigns as permitted by this Lease.

(n) *Master Plan* means the Fort Lauderdale Executive Airport Master Plan and any Update to the Master Plan that is in effect on the Commencement Date and all amendments or replacements to said Master Plan or Update.

(o) *Part 150 Study* means the Airport FAR Part 150 Program or Update thereto, that is in effect on the Commencement Date, and all amendments or replacements to said Study or Update.

(p) *Person* means any individual, firm, trust, estate, partnership, joint venture, company, corporation, association, or any other legal entity or business enterprise.

(q) *Premises or Demised Premises or Leased Premises* means the property, the total square footage of which is 1,399,702, more or less, and more particularly described in Exhibit "A," subject to all easements, rights-of-way of record, restrictions and declarations and the Permitted Title Exceptions attached hereto as Exhibit "C", together with all buildings, hangars, structures, pavements, facilities and other Improvements now or hereafter constructed thereon, the equipment permanently affixed therein, such as electrical, plumbing, sprinkler, fire protection and fire alarm, heating, steam, sewage, drainage, refrigerating, communications, gas and other systems and their pipes, wires, mains, lines, tubes, conduits, equipment and fixtures, and all paving, drains, culverts, ditches and catch basins.

(r) *Term of this Lease, Term*, or words of similar import means the term set forth in Paragraph 4 of this Lease.

4. **TERM.** The parties acknowledge and agree that the Term of this Lease Agreement shall commence on the Commencement Date, and shall terminate fifty (50) years thereafter, unless sooner terminated as provided in this Lease.

5. **POSSESSION.** The parties agree that delivery of possession of the Premises to the Lessee occurred at the time of the commencement of the Term of this Lease Agreement.

6. **MUTUAL REPRESENTATIONS AND WARRANTIES.** The parties mutually represent, warrant and disclose to each other the following:

(a) **Municipality.** The Lessor is a municipal corporation organized and existing pursuant to the laws of the State of Florida.

(b) **Deed.** On March 11, 1947, there was executed and delivered to the Lessor by the United States of America a Deed conveying to the Lessor certain land situated near the territorial limits of the City of Fort Lauderdale, known as Prospect Field, which deed of conveyance was recorded in Deed Book 579, Page 130, of the Public Records of Broward County, Florida ("Deed"). The Premises above described constitute a portion of the property acquired by the Lessor under said

Deed. This Lease Agreement is subject to all the terms, conditions, restrictions and provisions of said Deed.

(c) **Disclosure.** The Lessee acknowledges that the Lessor has made full disclosure of all facts reflected by the aforesaid Deed, Lessor makes no representations or warranties whatsoever as to: (i) the condition of the Premises; or (ii) whether the Premises, or any part thereof, is in compliance with applicable federal, state, and local laws, ordinances, rules and regulations, including without limitation, City ordinances, rules and regulations; or (iii) the permitted or available uses of the Premises under applicable federal, state, or local laws, ordinances, rules and regulations, including without limitation, those of City. Lessor makes no representations or warranties whatsoever as to the legality, permissibility or availability of any use of the Premises that may be contemplated by the Lessee. **Lessor makes no representations or warranties concerning habitability or fitness of the Premises for a particular purpose.** The Lessee specifically acknowledges that it has made, or has had an opportunity to conduct, a thorough and complete inspection and due diligent investigation of the Premises and the suitability thereof for Lessee's purposes, and is fully advised of its extent and condition. The Premises and all components thereof, are hereby demised in **"AS IS CONDITION"** and **"WITH ALL FAULTS"** in the Premises' present state and condition. Lessee represents, acknowledges, and agrees that it has had sufficient opportunity to inspect the Premises and all components thereof, and hereby accepts the Premises, and all components thereof, in **"AS IS CONDITION"** and **"WITH ALL FAULTS."** Lessee **ASSUMES ALL RISK** of non-compliance of the Premises, or any part thereof, with any federal, state, or local laws, ordinances, rules and regulations, including without limitation, any City laws, ordinances, rules or regulations. Upon receipt of any notice of non-compliance with any such laws, ordinances, rules or regulations, Lessee agrees to make any and all repairs, alterations, and additions to the Premises and to take all corrective measures as may be necessary to bring the Premises into compliance with all laws, ordinances, rules and regulations. Lessee shall not be entitled to any adjustment of any rentals hereunder on account of the condition of the Premises; or any failure of any of the component parts to be in working order; or because of the necessity of Lessee to repair or take corrective actions with respect to any part thereof or because of the inability of obtaining or any delay in obtaining any required development approvals from any governmental agency having jurisdiction, including but not limited to City and its departments. Furthermore, Lessee hereby releases Lessor of any and all claims and liabilities whatsoever on account of the condition of the Premises or any failure of any of the component parts to be in working order or because of the necessity of Lessee to repair or take corrective actions with respect to any part of the Premises, or the necessity for obtaining any development approvals from any governmental agency, including the City and its departments. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that: (1) this subparagraph (c) is not intended to address or apply to the discharge of any **"Material"** (as hereinafter defined in Paragraph 32) at the Premises, and (2) with

respect to any such Material, the provisions of Paragraph 32 shall apply. This subparagraph specifically excludes environmental concerns, which are governed by the provisions of Paragraph 32 of the Lease Agreement.

(d) **Authority.** All steps, acts and conditions required by the City Charter of the Lessor to be done as a condition precedent to the execution of this Lease Agreement have been done, and the Lessor has full authority to enter into this Lease Agreement.

(e) **Lessee's ability.** Lessee represents and warrants to the Lessor that each of the following statements is currently true and accurate and agrees the Lessor may rely upon each of the following statements:

(1) Lessee is a Delaware limited partnership duly organized and validly existing under the laws of the state of incorporation and is authorized to transact business in the state of Florida, has all requisite power and authority to carry on its business as now or to be conducted, to own or hold its properties and to enter into and perform its obligations hereunder.

(2) This Lease Agreement has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by Lessee, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof:

- (i) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein.
- (ii) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on Lessee, or
- (iii) contravenes or results in any breach of, default under or, other than as contemplated by this Lease Agreement, results in the creation of any lien or encumbrance upon any property of the Lessee under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Lessee's charter documents, or, any other agreement or instrument to which the Lessee is a party or by which Lessee may be bound.

(3) This Lease Agreement constitutes a legal, valid and binding obligation of Lessee enforceable against Lessee in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(4) There are no pending or, to the knowledge of Lessee, threatened actions or proceedings before any court or administrative agency against Lessee, which question the validity of this Lease Agreement or any document contemplated hereunder, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of Lessee.

(5) Lessee has filed or caused to be filed all federal, state, local and foreign tax returns, if any, which were required to be filed by Lessee prior to delinquency, and has paid, or caused to be paid, all taxes shown to be due and payable on such returns or on any assessments levied against the Lessee.

(6) As of the Effective Date, Lessee agrees it has and shall have and continue to maintain the financial capacity necessary to carry out its obligations and responsibilities in connection with construction of the Improvements as contemplated in this Lease Agreement.

(7) At the time of submitting its Proposal, Lessee had, and will continue to have and at all times during the term of this Lease Agreement, will maintain the experience, expertise, and capability to develop, cause the construction, and complete the Improvements and oversee and manage the design, planning, construction, completion, marketing and operations of the business contemplated in this proposal.

(f) Subordination. This Lease and all provisions hereof are subject and subordinate to the terms and conditions of the instruments and documents under which Lessor acquired the subject property from the United States of America, including the Deed, and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the Lease of said lands from Lessor, and any existing or subsequent amendments thereto. This Lease and all provisions hereof, are subject and subordinate to any ordinances, rules or regulations, which have been, or may hereafter be adopted by the Lessor pertaining to the Airport. This Lease and all provisions hereof is subject and subordinate to the provisions of any existing or future Agreement between Lessor and the United States of America relative to the operation or maintenance of the Airport, or the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for development of the Airport, including without limitation the expenditure of federal funds for the development of the Airport under the provisions of the Federal Aviation Act of 1958, as amended from time to time. This Lease shall also be subject and subordinate to the provisions of all resolutions now existing and hereafter adopted by the Lessor in connection with any revenue bonds issued by the Lessor with respect to operations at the Airport, or any development of the Airport or any of its facilities, and to the provisions of all

documents executed in connection with any such bonds, including without limitation, any pledge, transfer, hypothecation or assignment made at any time by Lessor to secure such bonds. This Lease is also subject to the Permitted Title Exceptions attached hereto as Exhibit "C".

7. **GENERAL OBLIGATIONS OF THE PARTIES.** The following constitute obligations and covenants of the parties, their successors and assigns:

(a) **Compliance with regulations of government agencies.** The Lessee covenants and agrees that it will, at its own cost, make such Improvements on the Premises, and perform such acts, and do such things as shall be lawfully required by any government body or agency having jurisdiction over the Premises, in order to comply with sanitary requirements and other similar requirements designed to protect the public.

(b) **Indemnification against claims.** The Lessee shall indemnify and save the Lessor harmless from and against any and all claims, suits, actions, damages, causes of action, and costs arising during the term of this Lease Agreement (except causes of action which arise due to the negligent or intentional misconduct of Lessor, its agents or employees acting during the course and scope of their employment), for any bodily injury, loss of life or damage to property sustained in, about or upon the Premises, or the buildings and Improvements placed on them, or their appurtenances, and shall indemnify and save Lessor harmless from and against all costs, attorney's fees, expenses and liabilities incurred in and about any such claim, the investigation of them, or the defense of any action or proceeding brought on them, and from and against any orders, judgments or decrees which may be entered in them. Lessee shall further defend any action, complaint or proceeding brought against Lessor as the result of any matters above enumerated, all at no cost or expense to Lessor. This indemnity shall survive termination of this Lease and is not limited by the amount of insurance coverage.

Lessee agrees to indemnify and hold Lessor harmless from any claim of lien by any contractor, sub-contractor, materialman or any other Person, firm or corporation engaged by Lessee or Lessee's Parties whatsoever, and Lessee further agrees to hold the Lessor harmless and to indemnify the Lessor for all costs, including costs of defenses, attorneys' fees and other expenses, in connection with any claim of whatsoever kind, whenever the same may be presented, arising out of the construction of any Improvements or the making of any alterations whatsoever incidental to this Lease Agreement by Lessee.

(c) **No liens created.** Each party covenants and agrees that it has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title and interest of the other party in and to the Premises covered by this Lease Agreement, and that no third person shall ever be entitled to any lien, directly or indirectly derived through or under the other party, or its agents or servants, or on account of any act or omission of any other party, except for the lien, if any,

reserved upon the Lessee's leasehold interest in the Premises by a leasehold mortgage pursuant to Paragraph 41, below. All persons contracting with the Lessee, or furnishing materials or labor to the Lessee, or to its agents or servants, as well as all persons whomsoever, shall be bound by this provision of the Lease Agreement. Should any such lien be filed, the Lessee shall discharge the same within thirty (30) days after Lessee is notified of same, by paying the same or by filing a bond, or otherwise, as permitted by law. The Lessee shall not be deemed to be the agent of the Lessor so as to confer upon a laborer bestowing labor upon the Premises, or upon a materialman who furnishes material incorporated in the construction of Improvements upon the Premises, a mechanic's lien upon the Lessor's estate under the provisions of Chapter 713, Florida Statutes (2011), and any subsequent revisions or amendments of that law.

(d) Operating costs.

(1) The Lessee agrees promptly to pay when due all operating, maintenance and servicing charges and costs, including telephone, gas, electricity, water, water connection, sewer, sewer connections, stormwater management utility fees, and all other expenses incurred in the use and operation of the Premises.

(2) The Lessee agrees to obtain at its expense all permits and licenses which may be required by any governmental unit. Upon the Lessor's request, at reasonable intervals, the Lessee shall promptly furnish to the Lessor evidence satisfactory to the Lessor showing Lessee's compliance with its obligations under this Paragraph.

(e) Insolvency of Lessee. Should the Lessee, at any time during the term of this Lease Agreement, suffer or permit to be filed against it a composition or arrangement proceeding under state law, or make any assignment for the benefit of its creditors, or should a receiver be appointed for the Lessee's property because of the Lessee's insolvency and the appointment is not vacated within thirty (30) days thereafter, or should the Lessee's leasehold interest be levied on and the lien not discharged within thirty (30) days after levy has been made, or should the Lessee fail to promptly make the necessary returns and reports required of it by state and federal law, or should the Lessee fail promptly to comply with all governmental regulations, both state and federal, and should such failure in any manner jeopardize the rights of the Lessor, then, and in such event, and upon the happening of any of these events, the Lessor shall have the right, at its election, to consider the same a default on the part of the Lessee of the terms and provisions of this Lease Agreement, and, in the event of such default not being cured by the Lessee within a period of thirty (30) days from the date of the giving by the Lessor of written notice to the Lessee of the existence of such default, the Lessor shall have the option of declaring this Lease Agreement terminated, and the interest of the Lessee ended, or the Lessor may exercise any other options as prescribed by law or which appear in this Lease Agreement. The pendency of arrangement

proceedings to which the Lessee shall be a party shall not preclude the Lessor from exercising the options conferred upon it. In the event the Lessee, or receiver of the Lessee's property, shall seek an injunction against the Lessor's exercise of the options conferred, such action on the part of the Lessee, or receiver, shall automatically terminate this Lease Agreement as of the date of the making of such application. In the event a court shall enjoin the Lessor from exercising the options conferred in this Lease Agreement, such injunction shall automatically terminate this Lease Agreement.

(f) **Bankruptcy of Lessee.** Should the Lessee, at any time during the term of this Lease Agreement, suffer or permit an involuntary or voluntary petition in bankruptcy to be filed against it, or institute a composition or an arrangement proceeding under Chapters 7, 11, or 13 of the Bankruptcy Code or as the same may be amended from time to time, the Lessee agrees to provide adequate protection and adequate assurance of future performance to the Lessor which will include, but not be limited to the following:

- (1) All monetary and non-monetary defaults existing prior to the institution of the filing of the bankruptcy petition shall be cured within ten (10) days of written demand made upon the Lessee by the Lessor which will include all costs and reasonable attorneys' fees expended to the date of the curing of the default;
- (2) An additional two (2) months of advance rental will be required as additional security of future performance which must be paid to the Lessor within ten (10) days of the filing of the petition in bankruptcy; and
- (3) All obligations of the Lessee must be performed in accordance with the terms of the Lease Agreement.

If an involuntary petition is filed, the foregoing provisions of subparagraphs (f)(1) and (f)(2) shall only apply if such petition is not discharged or dismissed within thirty (30) days from the date it is filed.

If at any time during the pendency of the bankruptcy proceeding the Lessee or its successor in interest fails to perform any of the monetary or non-monetary obligations required under the terms of this Lease Agreement or fails to cure any pre-filing default or make the additional security deposit required under the adequate protection and adequate assurance of future performance clause above, the LESSEE STIPULATES AND AGREES TO WAIVE ITS RIGHTS TO NOTICE AND HEARING AND TO ALLOW THE LESSOR TOTAL RELIEF FROM THE AUTOMATIC STAY UNDER 11 U.S.C. 362 TO ENFORCE ITS RIGHTS UNDER THIS LEASE AND UNDER STATE LAW INCLUDING BUT NOT LIMITED TO ISSUANCE AND ENFORCEMENT OF A JUDGMENT OF EVICTION, WRIT OF ASSISTANCE AND WRIT OF POSSESSION.

(g) **Taxes.** For each year of the term of this Lease Agreement, the Lessee agrees to pay when due all federal, state, county and local taxes and special assessments of whatsoever kind levied and assessed against the Premises, if any, and all Improvements built on them. On or before March 31 of each lease year of the term of this Lease Agreement, the Lessee agrees to deliver to the Lessor official tax receipts showing the payment by Lessee of all taxes and special assessments. The Lessee further agrees to pay when due all ad valorem property taxes, sales and use taxes, special assessments and any and all other taxes or assessments imposed upon or being the liability of the Lessee arising, at any time, out of this Lease Agreement. Lessee shall also pay all sales, excise or rental tax prescribed by the laws of Florida. Any property taxes will be prorated, if applicable, to a period of time less than one (1) year.

The Lessee shall have the right to review or protest, or cause to be reviewed or protested, by legal proceedings, any such taxes, assessments, or other charges imposed upon or against the Premises, buildings, or other structures or Improvements on them and in case any such taxes, assessments or other charges shall, as a result of such proceedings or otherwise, be reduced, canceled, set aside or to any extent discharged, the Lessee shall pay the amount that shall be finally assessed or imposed against the Premises, buildings or other structures or Improvements which are finally determined to be due and payable on any such disputed or contested items. If necessary, or legally required, Lessee may exercise such review or protest right in the name of the Lessor, and Lessor agrees to cooperate with Lessee in its exercise of such right and will execute any documents needed by Lessee in connection with such right, provided that Lessee shall pay any costs incurred by Lessor as a result of such cooperation, and such document is for review or protest purposes and not otherwise adverse to City. If requested in writing by Lessor, Lessee shall deposit any disputed sum, including any applicable penalty fee, with an escrow agent mutually selected by the parties, for the protest period. All expenses of such litigation, including court costs, shall be paid by Lessee free of any expense to Lessor. If, as a result of any legal proceeding pursuant to the provisions of this Paragraph, there is any reduction, cancellation, setting aside or discharge of any such tax or assessment or other charges of City, the applicable refund shall be payable to the Lessee and, if such refund is made to the Lessor, then the Lessor shall hold such refund as a trust fund and shall immediately pay over the same to the Lessee. The term "legal proceeding," as used above, shall be construed as including appropriate appeals from any judgments, decrees or orders and certiorari proceedings and appeals from orders entered in them.

(h) **Repairs and Maintenance.**

(1) **Upkeep.** The Lessee agrees at its expense to keep and maintain the Premises, including the Improvements, landscaping, grounds, pavement, buildings, furnishings, fixtures and personal property in a good state of repair and first-class condition, whether such upkeep be ordinary or extraordinary, structural or otherwise. First class condition is defined as that condition

prevailing in similar Improvements recently constructed. Should the Lessee fail to make any required corrections, the Lessor shall have the right to enter the Leased Premises, or Improvements thereto, correct the deficiency, and recover the cost of such activities from Lessee as rent due on the next rent payment date.

(2) **Repairs.** The Lessee agrees at its expense to make all repairs to the buildings or Improvements situated upon the Premises, including electrical, plumbing, sewer and sewer connections which solely serve the Premises, structural and all other repairs that may be required to be made, and the Lessee at its expense will keep all buildings, including interiors, exteriors, roofs, fixtures and equipment, in a good state of repair and in first class condition and at all times well-kept; provided, however, that any Improvements owned, controlled or operated by Lessor, such as roads, fences and utility lines, shall be maintained by Lessor. In the exercise of such rights of access, repair, alteration or new construction, Lessor shall not unreasonably interfere with the actual use and occupancy of the Premises by Lessee.

(3) **Repair of Damage.** If the Premises or Improvements thereto are partially destroyed or damaged by fire or other casualty, then Lessee shall repair and restore the Premises or Improvements thereto as soon as it is reasonably practicable. Such repair or restoration shall commence not later than six (6) months after such damage, and be completed within a reasonable time thereafter. Such restoration shall be to substantially the same condition in which the Premises or Improvements thereto were before such damage. In the event that Lessee has not demonstrated reasonable attempt to commence repairs within a reasonable time from the date of said damage and thereafter diligently pursues completion of such repairs within said reasonable time, this Lease may be immediately terminated by the Lessor in total or a "pro rata" basis equal to the relationship the footprint of the Improvements partially destroyed or damaged bear to the total square footage of the Leased Premises. Such termination shall be made effective by serving notice upon the Lessee, and effective on the date of receipt of such notice by the Lessee. If during the final year of the Term of this Lease, the Improvements are partially destroyed or damaged by fire or other casualty such that the repair or restoration will not be completed by the end of Term of the Lease(as mutually agreed to by both parties in writing) in lieu of Lessee repairing or restoring the Premises or Improvements, this Lease may be immediately terminated by the Lessee or Lessor, on a pro rata basis equal to the footprint of the Improvements partially destroyed or damaged by fire or other casualty bears to the square footage of the entire Leased Premises. If during the last ten (10) years of the Term of this Lease, the Improvements are partially destroyed or damaged by fire or other casualty, then if Lessee is not able to operate its business in a commercially

reasonable manner on the damaged or destroyed portion of the Leased Premises, the Base Rent shall be reduced on a prorata basis and Lessee shall have no obligation to repair or restore the damaged or destroyed portion of the Premises or Improvements. Base Rent shall be reduced by that portion which the square footage of damaged or destroyed area bears to the square footage of the entire Premises. At the election of Lessor, the damaged portion of the Premises shall be surrendered and transferred to the Lessor provided such surrender does not interfere with the operations of the Lessee and the surrendered portion of the Leased Premises is adjacent to a publicly dedicated right of way.

(4) **Surrender.** At the expiration or termination of this Lease, any or all buildings and other permanent improvements, (which shall include all landscaping, air conditioning systems, mechanical, plumbing and electrical systems but shall exclude trade fixtures which can be removed without structural damage to the building or other improvements) to the Parcel will remain intact on the Premises and become the property of the Lessor free and clear of all expenses, liability, liens and encumbrances, other than the Permitted Title Exceptions. The Lessee at its expense agrees to deliver the Premises to the Lessor upon the termination of this Lease Agreement in a good state of repair, and buildings so delivered shall be comparable to buildings of similar construction, age and condition, except for ordinary wear and tear, condemnation and the provisions set forth above. The Lessee shall at its expense take all actions required by federal, state, local and City laws, rules and regulations to remove or have removed from the Premises all hazardous substances or other Materials, however stored, and whether or not such hazardous substances or Materials have been discharged into the ground. All such hazardous substances and Materials shall be removed by the Lessee in a manner that complies with all applicable federal, state, local and City laws, rules and regulations and the provisions of Paragraph 32 shall be applicable.

(i) **Quiet enjoyment.** Subject to the Permitted Title Exceptions attached hereto and subject Lessee's payment of its rental obligations, Lessor covenants, warrants and agrees that Lessee shall be entitled peacefully to enjoy, to occupy and to possess the Premises throughout the lease term without interference, hindrance or molestation.

(1) **Drainage Easements.** Lessee has identified drainage easements as reflected on the Fort Lauderdale Industrial Airpark Plat-Section 2 as recorded in Plat Book 63, Page 8 in the Public Records of Broward County, Florida which may impact the development of the Demised Premises and shall seek to vacate the drainage easements in accordance with the City's Unified Land Development Regulations. The City manager is hereby delegated authority to consent and join in applications for land development approvals, including

without limitation an application to vacate the drainage easements, where such applications require evidence of the consent of the property owner. All such applications shall be filed and processed at Lessee's expense. If the City denies the applications to vacate in its regulatory capacity, then the Lessee's sole remedy is to terminate this Agreement according to the provisions of Section 38(a) of the Lease. Notwithstanding anything to the contrary contained herein, Lessee acknowledges that when the Lessor acts or exercises any rights or obligations under this Lease, including without limitation the specific approval and consent rights of the Lessor set forth herein, it is doing so in its capacity as the fee simple owner and Lessor of the Demised Premises and not in the exercise of its municipal regulatory authority, and that the role of the Lessor as a municipality (including its regulatory and sovereign powers) is separate and distinct from the role of the Lessor as the fee simple owner and Lessor of the Property under this Lease.

(2) Memoranda of Leases. Further, Lessee has identified certain "Memoranda of Leases" recorded in Official Records Book 16584, Page 79; Book 32825, Page 1061; Book 32905, Page 472 and Book 35298, Page 82, all in the Public Records in and for Broward County, Florida. Lessor agrees to record a termination of each Memorandum of Lease and acknowledges that claims to possession of the Premises or any leasehold interest held by prior lessees under the underlying leases would violate the Lessee's covenant of Quiet Enjoyment and entitled the Lessee to remedies set forth in paragraph 22(b) such that the Lessor would have to defend and protect the interest of Lessee in the Premises.

(j) Receipts. The Lessee shall, within thirty (30) days after written demand by the Lessor, obtain and deliver to the Lessor receipts, satisfactions and discharges showing the payment of any obligation required of Lessee by the Lease Agreement.

(k) Signs. All signs or any advertising erected, maintained or displayed at or on the Premises or upon any Improvements shall comply with the Sign Code of the City of Fort Lauderdale (Section 47-22, Uniform Land Development Regulations) and all other applicable local, state and federal laws, rules, regulations and ordinances pertaining to signage. No billboards or off-premise signage, temporary signs or advertising displays, such as banners, balloons, flashing sign boards, and/or any similar visual devices shall be permitted at the Premises. Upon the expiration or earlier termination of this Lease, Lessee shall remove, obliterate or paint out, as directed by City, all signs and advertising on the Premises and, in connection therewith, shall restore the portion of the Premises affected by such signs or advertising to the same condition as the same existed prior to the placing thereon of such signs or advertising. In the event Lessee fails to remove, obliterate or paint out each and every sign or advertising and to restore the Premises, the City may, after written notice to Lessee with an opportunity to cure, perform the necessary work and the Lessee shall pay the costs thereof to the City upon demand.

- (l) **Obstruction lights.** Lessee shall install, maintain and operate at its own expense, such obstruction lights on the Premises as the FAA may direct, or as Lessor may reasonably require, and shall energize such lights for such periods as may be directed or requested by Lessor or the control tower at Airport.
- (m) **Litigation venue.** The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida, and that all litigation in the federal courts shall take place in the Southern District in and for the State of Florida.
- (n) **Recording of Lease.** Lessee shall, at its own expense, record this Lease Agreement or a Memorandum of Lease in the Public Records of Broward County, Florida. If the latter is desired, Lessee shall prepare the document and submit it to Lessor for execution, subject to approval as to its form by the City Attorney of Lessor. Lessee shall immediately forward a copy of the recorded Lease or the recorded Memorandum of Lease to the City.
- (o) **Observance of Rules and Regulations.** Lessee covenants and agrees to use reasonable efforts to observe and obey, and to require its sublessees, officers, employees, guests, invitees, and those doing business with it, to observe and obey such non-discriminatory ordinances, rules, regulations and standards of the City of Fort Lauderdale and the Airport, including any amendments thereto. The obligation of the Lessee to require this adherence by sublessees, guests, invitees and business visitors shall apply only while such persons are on or in occupancy of any portion of the Premises.
- (p) **Conduct of Operations.** Lessee and all sublessees shall conduct their operations under this Lease in an orderly and commercially reasonable manner, based on the nature of the operations, so as not to annoy, disturb, endanger or be offensive to others at the Airport.
- (q) **Adherence to Noise Regulations.** Lessee and all sublessees shall take all reasonable care to reduce to a minimum, vibrations tending to damage any equipment, structure, building or portion of a building which is on the Premises or is a part thereof, or is located elsewhere on the Airport, and to keep the sound level of their operations within levels required by applicable City codes, ordinances and resolutions. The parties agree that aircraft operating within federal noise requirements shall not be deemed in violation of this provision.
- (r) **No Nuisances.** Lessee and all sublessees shall commit no nuisance, waste or injury on the Premises and shall not do or permit to be done anything, which may result in the creation or commission or maintenance of such nuisance, waste or injury on the Premises.

(s) **Utilities.** Lessee and all sublessees shall not do or permit anything to be done, which may interfere with the effectiveness or accessibility to the utility systems, installed or located on or about the Premises.

(t) **Flammables.** All flammable liquids kept or stored at the Premises must at all times be handled, stored and used in accordance with all applicable federal, state, City and local laws, ordinances, statutes, rules and regulations.

(u) **Intentionally Omitted. Derelict Vehicles.** Lessee and all sublessees shall not permit the temporary or permanent storage at the Premises of any other derelict vehicle whatsoever. A derelict vehicle is a vehicle that does not display a current and valid state license tag. Any derelict vehicle that is not removed from the Premises within thirty (30) days after notice from the City will constitute a material breach of this Agreement.

(v) **Emergency Evacuation and Hurricane Plan.** Within thirty (30) days of the date of this Agreement, Lessee shall adopt an emergency evacuation and hurricane plans consistent with any existing plans for the Airport reasonably required by the Lessor. These plans shall constitute detailed procedures of actions to be taken by Lessee and its sublessees, in the event the need for evacuation or a hurricane alert warning arises.

(w) **Regulatory Approvals.** Lessee agrees to reasonably cooperate with City in connection with City's efforts to obtain Regulatory Approvals, including but not limited to Airport FAR Part 150 Program and any updates thereto, Airport Master Plan Updates if applicable to the Premises, and any approvals required pursuant to Chapter 380 and Chapter 333, Florida Statutes. From and after the date of execution of this Lease, Lessee covenants and agrees (i) to reasonably support the City's efforts to obtain the regulatory approvals; and (ii) to execute any document(s) or instrument(s) reasonably required by the City in order to assist City in obtaining the Regulatory Approvals, provided that Lessee shall not be required to bear any expense in connection therewith and that Lessee shall not be deemed an agent of the City.

8. **RENT.** All Rent (whether Base Rent or additional rent) shall commence on the Commencement Date. All rental payments shall be paid in advance in equal monthly installments, plus applicable sales or excise taxes, on the first day of each month to which applicable according to the following schedule:

- (a) Parcel B: \$208,951.68 annually (\$.67 per square foot)
- Parcel C: \$300,306.18 annually (\$.67 per square foot)
- Parcel D: \$229,123.76 annually (\$.67 per square foot)

TOTAL ANNUALLY: \$738,381.62
TOTAL MONTHLY: \$ 61,531.80

Seven Hundred Thirty Eight Thousand Three Hundred Eighty One and 62/100 Dollars (\$738, 381.62) is the basic annual rental for the first year of this Lease Agreement, referred to as the "Base Rent."

(b) It is agreed between Lessor and Lessee that the Base Rent specified above shall be subject to an increase at annual intervals, such increase to be calculated in accordance with the following terms and conditions:

(1) Lessor and Lessee agree that the Base Rent for the remainder of the term of this Lease Agreement shall be adjusted, on the anniversary of the Commencement Date, and with further adjustments to occur at each one (1) year interval thereafter (the "Adjustment Date"). Such adjustments shall be based upon the Cost of Living Index known as the Consumer Price Index (All Items, 1982-84 = 100), United States, All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor. For computation purpose, the Numerator and Denominator are defined as follows:

Numerator - The Consumer Price Index for the third (3rd) month preceding each Lease Adjustment Date.

Denominator - The Consumer Price Index for the third (3rd) month preceding the Commencement Date of the lease term.

The resulting fraction shall be applied to the minimum guaranteed annual rental (Base Rent) to arrive at the new annual rental. Should the Bureau mentioned above discontinue the publication of an Index approximating the Index contemplated above, then such Index as may be published by another United States governmental agency which most nearly approximates the Index referred to above shall govern and be substituted as the Index to be used, subject to the application of an appropriate conversion factor to be furnished by the governmental agency publishing such Index.

(2) Intentionally Deleted.

(3) Intentionally Deleted

(4) At no time shall the adjusted rent be less than the Base Rent specified above or more than two percent (2%) greater than the prior year's Base Rent.

(c) Additional Rent. All other sums of money or charges required to be paid by Lessee under this Lease shall be deemed as "additional rent" which shall include, but not be limited to, water, sewer, utility fees, electricity, late fees, attorneys' fees or interest charges.

(d) **Late Payment.** The Lessor shall be entitled to collect interest at the rate of nine (9%) percent per annum from the date due until the date paid on any amounts that are past due beyond any applicable cure period. Lessor's right to require payment of such interest and the obligation of the Lessee to pay the same shall be in addition to and not in lieu of the right of Lessor to enforce other provisions in this Lease, including termination of the Lease Agreement, and to pursue other remedies as provided by law.

(e) **Dishonored Checks.** In the event Lessee delivers a dishonored check or draft to Lessor in payment of any obligation arising under this Lease Agreement, the Lessee shall incur and pay any charges assessed to City as a result of the dishonored check or draft. In the event Lessee delivers a dishonored check or draft, the Airport Manager may require that future payments be made by cashier's check or other acceptable means by making such demand in writing to Lessee.

(f) **Place of Payment.** All payments required to be made by Lessee under this Lease Agreement shall be made payable to the "City of Fort Lauderdale," either by wire transfer (if wire transfer is an option and subject to Lessee's receipt of Lessor's confirmed wire instructions) or delivered or mailed to the address below (or an address as may be substituted therefore by the Lessor):

City of Fort Lauderdale-Airport
c/o Colliers International-LB Unit 678
P.O. Box 4857
Portland, Oregon 97208-4857

9. **SECURITY DEPOSIT.**

(a) The Lessee shall post a security deposit with the City equal to two (2) monthly installments of Base Rent ("Security Deposit"). The Security Deposit shall serve as security for the payment of all monies due to Lessor and shall also secure the performance of all obligations of Lessee to the Lessor. The Security Deposit shall be in the form of an Irrevocable Letter of Credit ("Letter of Credit") in form and substance satisfactory to Lessor. In the event of any failure by Lessee to pay when due any rentals or charges or upon any other failure to perform its obligations or other default under this Agreement, then in addition to any other rights and remedies available to Lessor at law or in equity, Lessor shall be entitled to draw down the full amount of the Security Deposit and apply the same to all amounts owed. Upon notice of any such draw, Lessee shall immediately replace the Security Deposit with a new Letter of Credit in the full amount of the Security Deposit required hereunder. The Lessor, upon fourteen (14) calendar day's notice to Lessee, may require an increase in the Security Deposit to reflect any increases in the monies payable hereunder. The Security Deposit shall be kept in full force and effect throughout the term of this Lease and for a period of six (6) months thereafter. Not less than one hundred twenty (120) calendar days prior to any expiration date of a Letter of Credit, Lessee shall submit evidence in a form satisfactory to Lessor that said security instrument has been renewed. A failure to

renew a Letter of Credit, or to increase the amount of the Security Deposit if required pursuant to this Paragraph, shall be a default of this Agreement entitling Lessor to all available remedies. The Security shall not be returned to Lessee until all obligations under this Lease are performed and satisfied.

(b) Each Letter of Credit provided hereunder or under any other Paragraph or provision of this Lease shall be provided by a financial institution of recognized standing authorized to do business in the State of Florida. Throughout the term of the Letter of Credit, the financial institution that has issued the Letter of Credit must maintain a relationship with a financial institution having an office in Broward, Miami-Dade or Palm Beach County, Florida, at which the Letter of Credit may be presented for drawing down, and the financial institution issuing the Letter of Credit must have been in business with a record of successful continuous operation for at least five (5) years. Each Letter of Credit shall be in a form and substance satisfactory to Lessor. Lessee's obligation to post a Security Deposit shall apply to all heirs, successors, and assigns.

10. INTEREST. All delinquent payments to the Lessor shall bear interest at the rate equivalent to the periodic composite of current annual interest rates on five (5) year United States Government agency issues in effect as of the date of delinquency, but not less than eighteen percent (18%) per annum. Such interest shall be calculated from the due date, exclusive of any grace period, to the date of payment, on a daily basis, and will be due and payable when billed.

11. LIEN UPON REVENUES, ETC. In the event of the Lessee's breach of any material provisions of this Lease, the Lessor shall, subject to the provisions of Paragraph 41 of this Lease, have a lien upon all revenues, income, rents, earnings and profits from the Premises as additional security to the Lessor for the Lessee's faithful performance of each of the terms and provisions, and to secure payment of all sums owing to Lessor. Such liens shall be superior in dignity to the rights of the Lessee and any of its creditors or assignees or any trustee or receiver appointed for the Lessee's property, or any other person claiming under the Lessee. Upon the Lessor's termination of Lessee's rights under this Lease by reason of the Lessee's default, all such revenues, income, rents, earnings and profits derived or accruing from the Premises from the date of such termination by the Lessor shall constitute the property of the Lessor, and the same is declared to be a trust fund for the exclusive benefit of the Lessor and shall not constitute any asset of the Lessee or any trustee or receiver appointed for the Lessee's property. The provisions of this Paragraph shall be effective without the Lessor's re-entry upon the Premises or repossession of them, and without any judicial determination that the Lessee's interest under the Lease has been terminated. Despite any provision in this Paragraph that is or may appear to be to the contrary, Lessor acknowledges that the lien of a leasehold mortgagee upon Lessee's revenues, income, rents, earnings and profits as described above shall be recognized as superior to Lessor's lien.

12. ABATEMENT OF RENT. If at any time Lessee shall become entitled to an abatement of rental by the provisions of this Lease Agreement, the abatement of such

rental shall be made on an equitable basis giving effect to the amount and character of the space of which the Lessee is being deprived as compared with the entire Premises. Pursuant to paragraph 38(a), Lessee shall not be entitled to an abatement or reduction in rent in the event it terminates its leasehold interest in a portion of the Demised Premises.

13. AVIATION FUELS. Intentionally Deleted.

14. ACCESS TO PREMISES. Lessor represents and warrants that Lessee shall have the right of ingress and egress to and from public thoroughfares and over Airport paved roads, such that at all times during the term of this Lease Agreement, Lessee, its successors and assigns and their respective guests and invitees shall have vehicular ingress and egress to and from the Premises from public thoroughfares. Notwithstanding the above, the City may, from time to time, substitute other suitable means of ingress and egress so long as an alternate adequate means of access is available. The City may at any time temporarily or permanently close, or consent to, or request the closing of any such roadway, and any other such area at the Airport presently or hereafter used as such, so long as reasonably sufficient alternate means of ingress and egress is made available to the Premises.

15. INSPECTION OF PREMISES. No more than one (1) time every five (5) years of the Term, except in cases involving public safety or police emergency, the Lessor, its officers, employees, agents, representatives and contractors, and other governmental agencies having jurisdiction shall have the right to enter the Premises and the buildings and Improvements constructed on them upon reasonable notice to Lessee during business hours for the purpose of inspecting the same, for observing the performance of the Lessee of its obligations under the Lease, or for any other purposes not inconsistent with the terms of this Lease Agreement, but consistent with reasonable security measures of the Lessee. Lessor agrees that such right will not be exercised arbitrarily or in a manner that would unnecessarily disturb occupants of the Premises, except in cases involving public safety or police emergency. This right of entry shall impose no duty on the City to take any such action and shall impart no liability on the City should it not take such action.

16. EASEMENTS AND UTILITIES.

(a) Intentionally Omitted

(b) Lessee shall pay for all electric, water, garbage and other utilities charges for the Premises. Any metering devices installed by the Lessee for such utilities shall be installed at Lessee's cost and shall become property of the City upon installation. Extension of utility mains or services to meet the needs of the Lessee on the Premises shall be completed at Lessee's expense and shall become the property of City upon installation.

17. PROHIBITED SERVICES AND USES. The Premises shall be used for no purposes other than as specifically allowed by this Lease. The Premises shall not be used in any manner that is incompatible with or which violates any provision of any FAA rules,

regulations or advisory circulars, state laws or regulations, or City ordinances, applicable county ordinances, administrative code provisions or regulations, as each is amended from time to time, and including without limitation FAA Advisory Circular No. 150/5300-13, Chapter 333, Florida Statutes, and Chapter 7 of the City of Fort Lauderdale Code of Ordinances. In addition, Lessee shall be expressly prohibited from providing the following services and conducting the following uses:

- (a) Terminal facilities for passenger operations, other than those covered by Federal Aviation Regulations (FAR) Parts 91, 125, 135.
- (b) Sale or dispensing of alcoholic beverages (except as expressly permitted herein).
- (c) Carrying, storing, receiving or distributing hazardous materials in excess of the amounts allowed under Environmental Laws.
- (d) Adult entertainment.
- (e) Any use, which conflicts with the Foreign Trade Zone (FTZ) activities and regulations.
- (f) Those prohibited uses referenced in the Permitted Title Exceptions, including without limitation, those matters referenced in the Declaration of Deed Restrictions and Protective Covenants recorded in Official Records Book 3324, Page 79, as amended by that instruments recorded in Official Records Book 3325, Page 755, and in Official Records Book 12321, Page 258, all of the Public Records of Broward County, Florida.
- (g) Any other use prohibited by law.

18. **ZONING.** The Lessee accepts the zoning of the Premises as of the commencement of the term of this Lease Agreement, which zoning is compatible and consistent with the usages and purposes contemplated in this Agreement. Lessee further accepts the existing zoning ordinances of the Uniform Land development Regulations of the City of Fort Lauderdale insofar as they are applicable to the Premises.

19. **RESTRAINTS UPON LESSEE.** Lessee understands and agrees that it is expressly subject to all applicable zoning restrictions and all rules, regulations and City ordinances pertaining to the Airport.

20. **COMPLIANCE WITH LAWS.** Lessee shall comply with all federal, state, local and City laws, ordinances, resolutions, statutes, and governmental rules, regulations and orders, including the Minimum Standards provided in Paragraph 33 below, as the same are amended from time to time. A violation of any such laws, ordinances, resolutions, statutes, rules, regulations or orders shall constitute a material breach of this Lease, and in such event City shall be entitled to exercise all rights and remedies hereunder and at law and in equity upon expiration of any cure periods.

21. ACCELERATION; GRACE PERIOD; DEFAULT.

(a) Time of the essence. The Lessee agrees promptly to perform, comply with and abide by this Lease Agreement, and agrees that time of payment and of performance are of the very nature and essence of this agreement.

(b) Default in rent; grace period. Except as otherwise specifically provided in this Lease Agreement, the Lessee shall have a grace period of thirty (30) days within which to pay any and all sums of rent (including Base Rent) due. If any sums of money required to be paid by the Lessee to the Lessor shall, subject to Paragraph 41 of this Lease Agreement, remain unpaid after such latter period, then the Lessor shall have the following options and privileges:

(1) Partial acceleration. The Lessor may declare one year's rental as presently due and payable. Such declaration shall not be construed as a splitting of a cause of action, nor shall it alter or affect the obligations of the Lessee to pay rent under the terms of this Lease Agreement for the period unaffected by the declaration.

(2) Other remedies. In addition to partial acceleration as outlined above, the Lessor may exercise any or all other options available to it, including any legal or equitable remedies which it may have, which options may be exercised concurrently or separately with the exercise of the above option, including those remedies specified in subparagraph 21(c), below.

(c) Default in provisions and Cure Period. If Lessee shall default in the performance of any term of this Lease Agreement (including the payment of rent), then the Lessor, or its agent, shall send to the Lessee a written notice of default, specifying the nature of the default, and Lessee shall, within thirty (30) days after the date of the notice, cure and remedy the default, and this Lease Agreement shall then continue as before.

(1) If the Lessee shall fail to timely cure and remedy such default, the Lessor shall have the right to declare, by written notice to the Lessee, that the Lease Agreement is in default, and to use all remedies available to the Lessor under this Lease Agreement.

(2) If default shall be made in any covenant, agreement, condition or undertaking contained in this Lease Agreement to be kept, observed and performed by Lessee, other than the payment of any rent, which default cannot with due diligence be cured within a period of thirty (30) days, and if written notice of the default shall have been given to Lessee, and if Lessee, prior to the expiration of thirty (30) days from and after the giving of such notice commences to eliminate the cause of such default and proceeds diligently, continuously and with reasonable dispatch to take all commercially

reasonable steps and do all commercially reasonable work required to cure such default and does so cure such default, then Lessor shall not have the right to declare the Lease term ended by reason of such default; provided, however, that the curing of any default in such manner shall not be construed to limit or restrict the right of Lessor to declare the Lease term ended and enforce all of its rights and remedies under this Lease Agreement for any other default not so cured.

(d) That upon any default and the failure to cure the same within the cure period provided herein, and at any time thereafter during the occurrence of such default, the Lessor may at its option immediately terminate the rights of Lessee hereunder by giving written notice thereof, which termination shall be effective upon the date specified in such notice or the Lessor may exercise any and all other remedies available hereunder, at law or in equity.

(e) Habitual Default. Notwithstanding any other provision of this Lease, in the event that Lessee has frequently, regularly and repetitively defaulted in the performance of or breached any of the terms, covenants and conditions required in this Lease to be kept or performed by the Lessee, and regardless of whether the Lessee has cured each individual condition of breach or default, the Lessee may be determined by the Airport Manager to be a "habitual violator." At the time such determination is made, the Airport Manager shall issue to the Lessee written notice advising of such determination and citing circumstances therefore. Such notice shall also advise Lessee that there shall be no further notice or grace periods to correct any subsequent breaches or defaults and that any subsequent breaches or defaults of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and collectively, shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the Lessor may terminate this Agreement upon giving of written notice of termination to Lessee, such termination to be effective upon delivery of the notice to the Lessee.

(f) No acceptance by the City of rent, fees, charges or other payments in whole or in part for any periods after a default of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Lessee shall be deemed a waiver of any right on the part of the City to terminate this Lease, or to exercise any other available remedies.

(g) Upon expiration or earlier termination of this Agreement, Lessee shall remain liable for all obligations and liabilities that have accrued after the date of this Lease and prior to the date of expiration or termination.

22. TERMINATION BY LESSEE. Lessee shall have the right to terminate this Agreement in whole or in part by giving written notice to Lessor of such termination upon or after the happening of one or more of the following events:

(a) If any court of competent jurisdiction shall issue an injunction, order or decree preventing or restraining the use by Lessee of all or a substantial part of the Premises which judicial ruling does not arise from activities solely within the control of Lessee, , or the use of any part which is used by the Lessee and which is necessary for Lessee's operations on the Airport and which ruling does not arise or result from activity sole within the control of Lessee, which remains in force and unvacated or unstayed for a period of at least ninety (90) consecutive days and results in the material interference with Lessee's normal business operations; or

(b) If the Lessor shall default in fulfilling any of the material terms, covenants or conditions to be fulfilled by it which has a substantial impact on the Lessee's or its subtenants business operations and shall fail to remedy such default within sixty (60) days following receipt by Lessor of written demand from Lessee to do so, or if by reason of the nature of such default the same cannot be remedied within sixty (60) days, then Lessee shall have the right to terminate this Agreement if Lessor shall have failed to commence to remedy such default within the sixty (60) days following such written demand, or having so commenced, shall fail to diligently continue;

23. OWNERSHIP AT TERMINATION.

(a) With the exception of condemnation as provided in Paragraph 43 and trade fixtures described below, all buildings, structures, Improvements and fixtures of every kind erected or placed on the Premises shall remain the property of the Lessee until the end of the term or earlier termination of this Lease Agreement for any other reason, at which time such buildings, structures, Improvements and fixtures of every kind shall be and become the property of the Lessor and shall be left in their good condition ordinary wear and tear excepted, at the end of the term or earlier termination of this Lease Agreement for any other reason. A fixture is defined as an article which was a chattel, but which, by being physically annexed or affixed to the realty by the Lessee and incapable of being removed without structural or functional damage to the realty, becomes a part and parcel of it.

(b) Subject to the conditions stated herein, trade fixtures which are owned by the Lessee or its sublessees at the expiration of the term or earlier termination of this Lease Agreement, for any reason, shall continue to be owned by Lessee, and at the time of such expiration or earlier termination, Lessee at its option may remove all such personalty provided such removal does not cause structural damage to the buildings or land, provided Lessee is not then in default of any covenant or condition of this Lease Agreement; otherwise, all such property shall remain on the Premises until the damages suffered by Lessor from any such default have been ascertained and compensated by Lessee. Trade fixtures, such as machinery or equipment, owned by the Lessee or its sublessees which are used in the operation of their business may be removed upon termination or expiration of this Lease provided such removal does not cause structural damage to the building, Improvements or the land. Notwithstanding, all buildings, landscaping, mechanical, plumbing and

electrical systems, fixtures, machinery, equipment, improvements and appurtenances attached or affixed to, or built into, the Premises at the commencement of, or during the Term, whether or not placed there by or at the expense of Lessee, shall become and remain a part of the Premises and shall be deemed the property of Lessor (the "Lessor's Property"), without compensation or credit to Lessee; and shall not be removed by Lessee at the expiration of the Term unless Lessor requires their removal (including, but not limited to, alterations to the Premises). In no event shall Lessee remove any of the following materials or equipment without Lessor's prior written consent (which consent may be given or withheld in Lessor's sole reasonable discretion): any power wiring or power panels, lighting or lighting fixtures, wall or window coverings, carpets or other floor coverings, heaters, air conditioners or any other HVAC equipment, fencing or security gates, or other similar building operating equipment and decorations. Any damage to the Premises caused by the removal by Lessee of any such personalty shall be repaired by Lessee immediately at its expense

(c) While this Lease Agreement is in effect, Lessee shall be entitled to depreciation on the buildings, other structures and Improvements and fixtures, which are now or shall subsequently be erected upon the Premises.

24. CONTINUED PERFORMANCE AFTER DEFAULT. Continued performance by either party pursuant to the terms of this Lease Agreement after a default of any of the terms, covenants and conditions, shall not be deemed a waiver of any right to terminate this Lease Agreement for any subsequent default, and no waiver of any such default shall be construed to be or operate as a waiver of any subsequent default.

25. RE-ENTRY AND REPOSSESSION.

(a) If the Lessee shall fail to keep and perform any of the covenants, conditions and agreements provided in this Lease to be performed by Lessee, and such default shall not be remedied within the grace period provided elsewhere in this Lease, the Lessor shall have the right to treat such default as intentional, inexcusable and material, and the Lessor, by notice in writing transmitted to the Lessee, as provided in Paragraph 47, entitled "NOTICES", may at its option declare the Lessee's interest under this Lease ended and without further force and effect. Thereupon the Lessor is authorized to re-enter and repossess the Premises and the buildings, Improvements and personal property on them and the Lessee, or any subtenants does in such event waive any demand for possession of the Premises, and agrees to surrender and deliver up the Premises peaceably to Lessor. In the event of such action, the Lessee or subtenants shall have no claim whatsoever against the Lessor by reason of Improvements made upon the Premises, rents paid, or from any other cause whatsoever.

(b) The provisions of this Paragraph shall not be construed so as to divest the Lessor, in the event of such default, of any legal right or remedy which it may have by statutory or common law, enforceable at law or in equity. It is intended that the

provisions of this Paragraph shall afford to the Lessor a cumulative remedy, in addition to such other remedy or remedies as the law affords a Lessor when the terms of a lease have been breached by a Lessee.

26. **REMOVAL OF LESSEE'S PROPERTY BY LESSOR.** If, under the terms of this Lease Agreement, Lessee is entitled to remove its property from the Premises, but shall fail to do so on or before the termination or expiration of the term or on or before the termination or expiration of this Lease Agreement for any other cause specified in this Lease Agreement, then Lessor may remove such property and retain the same in its possession, and may sell the same at public auction, the proceeds of which shall be applied first to the expenses of such removal and storage and sale, and the balance paid to the Lessee upon the demand of Lessee, providing that the proceeds of such sale exceed the expenses of such removal, storage and sale.

27. **NONWAIVER.** Failure of the Lessor to insist upon the strict performance of any of the covenants, conditions and agreements of this Lease in any one or more instances, shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements. The Lessee covenants that no surrender or abandonment of the Premises or of the remainder of the term shall be valid unless accepted by the Lessor in writing. The Lessor shall be under no duty to relet the Premises in the event of an abandonment or surrender or attempted surrender or attempted abandonment of the Premises by the Lessee. Upon the Lessee's abandonment or surrender or attempted abandonment or attempted surrender of the Premises, the Lessor shall have the right to retake possession of the Premises or any part of them, and such retaking of possession shall not constitute an acceptance of the Lessee's abandonment or surrender.

28. **HOLD HARMLESS.** Lessee shall at all times protect, defend, indemnify and hold Lessor, its agents, officers and employees harmless against any and all claims (including those for bodily injury, disease, sickness, death, property damage), losses, liabilities, cost, damage, demands, fines, penalties, causes of actions, administrative proceedings, liabilities, and expense and expenditures of any kind, including reasonable attorneys' fees, court costs and expenses, arising (i) from Lessee's use of the Airport or occupancy of the Premises or caused by the acts, omissions or negligence of Lessee, its employees, agents, servants, or officers, (ii) out of or in any way connected with the Premises or the subject matter of this Lease, including without limitation, any and all claims, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any Person or property (iii) from the failure by Lessee or any of its, agents, contractors, employees or sublessees to perform Lessee's responsibilities, duties and obligations under this Lease in accordance with the terms hereof, (ii) the negligence, reckless, misconduct or willful or intentional acts or omission of Lessee, Lessee's employees, sublessees, servants, or invitees entering the Premises under express or implied invitation of Lessee, (iii) from the Lessee's or sublessee's construction, installation, demolition or depreciation of the Improvements or sublessee improvements, (iv) the operation of Lessee's business in the Premises, and any other activities on or about the

Premises, including without limitation, any claims, liabilities or damages relating to products liability. The indemnification provided in this paragraph shall survive the termination or expiration of this Lease, but shall end, with respect to any claim or cause of action, with the expiration of any applicable statute of limitations for such claim or cause of action and is not limited by the amount of insurance coverage. Lessee agrees to pay for all reasonable attorneys' fees, experts' fees and costs incurred by Lessor in Lessor's enforcement against Lessee of the provision of this paragraph. The Lessee further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claim(s) is groundless, false or fraudulent. In connection with its design and construction of the Improvements and management, operation, promotion and subleasing of the, Premises, including, but not limited to Lessee's business operations, Lessee shall insert into each and every contract or Lease it enters into a clause exculpating Lessor from personal liability under the contract or lease and a clause pursuant to which the third party/sublessee agrees to indemnify and hold harmless Lessor for the matters set forth in this paragraph. Nothing in this Lease Agreement shall be construed as a waiver of the protections, immunities and limitations afforded City by Section 768.28, Florida Statutes.

29. **INDEMNITY AGAINST COSTS AND CHARGES.** In the event of a breach of any of the provisions of this Lease and to the extent permitted by law, the party not in breach shall be entitled to recover from the breaching party all costs, expenses, reasonable attorneys' fees and damages which may be incurred or sustained by reason of such breach. Any sums due the Lessor under this Paragraph shall constitute a lien against the interest of the Lessee in the Premises and all its property situated on them to the same extent and on the same condition as delinquent rent would constitute a lien on the Premises and property.

30. **INSURANCE.**

(a) As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Lessee, at the Lessee's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Lessee. The Lessee shall provide the Lessor a certificate of insurance evidencing such coverage. The Lessee's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Lessee shall not be interpreted as limiting the Lessee's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of A-, VII or better. All insurance policies are subject to approval by the Lessor's Risk Manager.

The coverages, limits, and endorsements required herein protect the interests of the Lessor, and these coverages, limits, and endorsements may not be relied upon by the Lessee for assessing the extent or determining appropriate types and limits of

coverage to protect the Lessee against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Lessor's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Lessee under this Agreement.

The following insurance policies and coverages are required:

Property Coverage

Coverage must be afforded in an amount not less than 100% of the replacement value of the property with a deductible of no more than \$25,000 each claim. Coverage form shall include, but not be limited to:

- All Risk Coverage including Flood and Windstorm with no coinsurance clause
- Any separate Flood and/or Windstorm deductibles are subject to approval by the Lessor

This policy shall insure the interests of the Lessor and Lessee in the property against all risk of physical loss and damage, and name the Lessor as a loss payee.

All rights of subrogation shall be waived against Lessor under the property coverage policy.

The Lessee shall, at the Lessee's own expense, take all reasonable precautions to protect the Premises from damage or destruction.

Builder's Risk Coverage

For improvements under construction, coverage must be afforded in an amount not less than 100% of the total project cost, including soft costs, with a deductible of no more than \$25,000 each claim. Coverage form shall include, but not be limited to:

- All Risk Coverage including Flood and Windstorm with no coinsurance clause
- Waiver of Occupancy Clause Endorsement, which will enable the Lessor to occupy the facility under construction/renovation during the activity
- Storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project
- Equipment Breakdown for cold testing of all mechanized, pressurized, or electrical equipment

This policy shall insure the interests of the Lessor, Lessee, and subcontractors in the property against all risk of physical loss and damage, and name the Lessor as a loss payee. This insurance shall remain in effect until the work is completed as evidenced by a Certificate of Occupancy.

Collection of Insurance. In the event of destruction of or damage to over fifty percent (50%) of any of the Premises or the buildings, other structures and Improvements covered

by insurance and Lessee's election to rebuild the Premises or the buildings, other structures and Improvements pursuant to the Lessee's option provided in this Lease, the funds payable pursuant to such insurance policies shall be payable to, and deposited in, a commercial national bank as trustee, located in Fort Lauderdale, Florida, selected by the Lessor, as a trust fund, and the funds shall be used for the purpose of reconstruction or repair, as the case may be, of any of the buildings, other structures or Improvements so damaged or destroyed. Such reconstruction and repair work shall be done in strict conformity with the ordinances and charter of the Lessor. Should the cost of reconstruction or repair exceed the amount of funds available from the proceeds of such insurance policy, then in such event, such funds shall be used as far as the same will permit in paying the cost of the reconstruction or repair. In the event that the cost of such reconstruction or repair work shall be less than the proceeds derived from such insurance policies, the surplus shall be payable to Lessee.

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$2,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$2,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

If Lessor requires other fixed base operator tenants at Airport to increase their policy limits for the insurance described in this subparagraph, then Lessee agrees to increase its insurance limits accordingly.

Policy must include coverage for Contractual Liability and Independent Contractors.

The Lessor and the Lessor's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Lessee. The coverage shall contain no special limitation on the scope of protection afforded to the Lessor or the Lessor's officers, employees, and volunteers.

Pollution and Remediation Legal Liability (Hazardous Materials)

For the purpose of this section, the term "hazardous materials" includes all materials and substances that are designated or defined as hazardous by Florida or federal law or by the rules or regulations of Florida or any federal agency. If work being performed involves hazardous materials, the Lessee shall procure and maintain any or all of the following coverage, either in its corporate capacity or by and through its environmental contractors and consultants, which will be specifically addressed upon review of exposure. For purposes of this section, the environmental contractors and/or consultants shall satisfy the Insurance Certificate Requirements herein.

Contractors Pollution Liability Coverage

For sudden and gradual occurrences and in an amount not less than \$5,000,000 per claim arising out of this Agreement, including but not limited to, all hazardous materials identified under the Agreement.

Asbestos Liability Coverage

For sudden and gradual occurrences and in an amount not less than \$1,000,000 per claim arising out of work performed under this Agreement.

Disposal Coverage

The Lessee shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance, covering liability for sudden and accidental occurrences in an amount not less than \$1,000,000 per claim and shall include liability for non-sudden occurrences in an amount not less than \$1,000,000 per claim.

Hazardous Waste Transportation Coverage

The Lessee shall designate the hauler and furnish a Certificate of Insurance from the hauler for Automobile Liability insurance with Endorsement MCS90 for liability arising out of the transportation of hazardous materials in an amount not less than \$1,000,000 per claim limit and provide a valid EPA identification number.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

If the Lessee does not own vehicles, the Lessee shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Lessor must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Lessor's Risk Manager, if they are in accordance with Florida Statute.

The Lessee waives, and the Lessee shall ensure that the Lessee's insurance carrier waives, all subrogation rights against the Lessor and the Lessor's officers, employees, and volunteers for all losses or damages. The Lessor requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Lessee must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

(b) **Precautions.** In order to reduce the hazards and risks of interruption of business occasioned by windstorm and other acts of God, the Lessee agrees that it will at its expense take commercially reasonable precautions to protect the Premises from damage or destruction.

(c) **Insurance Certificate Requirements**

(1) The Lessee shall provide the Lessor with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.

(2) The Lessee shall provide to the Lessor a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

(3) In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Lessee to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

(4) In the event the Agreement term goes beyond the expiration date of the insurance policy, the Lessee shall provide the Lessor with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Lessor reserves the right to suspend the Agreement until this requirement is met.

(5) The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract.

(6) The Lessor shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.

(7) The Lessor shall be granted a Waiver of Subrogation on the Lessee's Workers' Compensation insurance policy.

(8) The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

The Lessee has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Lessor as an Additional Insured shall be at the Lessee's expense.

If the Lessee's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Lessee may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Lessee's insurance coverage shall be primary insurance as applied to the Lessor and the Lessor's officers, employees, and volunteers. Any insurance or self-insurance maintained by the Lessor covering the Lessor, the Lessor's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Lessee that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Lessor, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered a default under this Lease. In addition, Lessee must provide to the Lessor confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Lessor reserves the right to review, at any time, coverage forms and limits of Lessee's insurance policies.

The Lessee shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Lessee's insurance company or companies and the Lessor's Risk Management office, as soon as practical.

It is the Lessee's responsibility to ensure that any and all of the Lessee's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Lessee.

31. STANDARD PROTECTION CLAUSES.

(a) It shall be a condition of this Lease, that the Lessor reserves the right unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for the navigation of or flight in the airspace, and for use of the airspace for landing on, taking off from or operating on the Airport.

(b) The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Premises, to such a height so as to comply with Federal Aviation Regulations, Part 77.

(c) The Lessee expressly agrees for itself, its successors and assigns, to prevent any use of the Premises that would unreasonably interfere with or materially and adversely affect the operation or maintenance of the Airport, or otherwise constitute a material and adverse Airport hazard.

32. SPECIFIC COMPLIANCE WITH ENVIRONMENTAL LAWS.

(a) **“Environmental Agency”** means a governmental agency at any level of government having jurisdiction over Hazardous Substances and Hazardous Substances Laws and the term as used herein shall also include a court of competent jurisdiction when used as a forum for enforcement or interpretation of Hazardous Substances Laws.

(b) **“Hazardous Substances” or “Materials”** means any pollutant, or hydrocarbon contamination, hazardous materials, or other contaminants or regulated materials, hazardous or toxic substances, materials or wastes, including, but not limited to those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table, 49 CFR 172.101 or by the Environmental Protection Agency as hazardous substances, 40 CFR Part 302, as now in effect or as same may be amended from time to time, or such substances, materials and wastes which are now or hereafter become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyl, (iv) radon, (v) any substance designated as a “hazardous substance” pursuant to Sec. 311 of the Clean Water Act, 33 U.S.C. Sec. 1251, et seq. or listed pursuant to Sec. 307 of the Clean Water Act, 33 U.S.C. Sec. 1317, (vi) defined as “hazardous waste” pursuant to Sec. 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901, et seq., (vii) defined as a “hazardous substance pursuant to Sec. 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601, et seq., or (viii) designated as a “hazardous substance” as defined in Chapter 403, Part IV, Florida Statutes, or (ix) any other similar federal, state or local regulations.

(c) **“Hazardous Substances Laws” or “Environmental Laws”** means , all local, state and federal laws, ordinances, statutes, rules, regulation and orders applicable to the Premises as same may now exist or may from time to time be amended, relating to industrial hygiene, environmental protection and/or regulation, or the use, analysis, generation, manufacture, storage, disposal or transportation of Hazardous Substances and all applicable rules, regulations, laws and ordinances duly and legally promulgated by any governmental authority having jurisdiction over the Premises.

(d) **“Products”** is defined in Sec. 377.19 (11), Florida Statutes, as same may be amended from time to time, as any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing head gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, used oil, kerosene, benzene, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(e) **“Property damage”** as used in this paragraph includes, but is not limited to, damage to the property of the LESSEE, LESSOR and/or of any third parties caused by or resulting from LESSEE’s breach of any of the covenants in this paragraph and shall include remedial activities performed by an Environmental Agency or by LESSEE pursuant to directives from an Environmental Agency.

(f) During the Term, and with respect to Hazardous Substances brought onto the Leased Premises by any person whomsoever other than LESSOR, its agents, employees, contractors or licensees acting within the course and scope of their duties, LESSEE shall have the absolute responsibility to ensure that the Leased Premises are used at all times and all operations or activities conducted thereupon are in compliance with all Hazardous Substances Laws and all permits, licenses and other Environmental Agency approvals required for any such activity conducted upon the Leased Premises. Further, LESSEE covenants any Hazardous Substance brought upon the Leased Premises by any person whomsoever, other than LESSOR, its agents, servants, employees, contractors or licensees acting within the course and scope of their duties, shall be handled, treated, dealt with and managed in conformity with all applicable Hazardous Substances Laws and prudent industry practices regarding management of such Hazardous Substances. LESSEE covenants that any and all Hazardous Substances removed from the Leased Premises shall be removed and transported solely by duly licensed haulers to duly licensed facilities for final disposition of such Hazardous Substances and wastes and only in accordance with Hazardous Substances Laws and consistent with all conditions of any and all permits, licenses and other Environmental Agency approvals required for such removal and transportation. Specifically, Lessee shall address the following for protection of the environment within permissible limits or with permissible storage, use or procedures as required by the Environmental Laws:

(1) Use, storage, treatment and disposal of Materials, including contracting with a licensed hazardous waste transporter or treatment and disposal facility for transport and disposal of hazardous waste and other regulated Materials.

(2) Use, disposal and treatment of stormwater runoff, including the construction and installation of pre-treatment devices or mechanisms on the Premises, if applicable.

(3) Inspection, licensing, insurance and registration of existing and future storage tanks, storage systems and ancillary facilities, including the installation and operation of monitoring devices and leak detection systems.

(4) Facilities on the Premises for management and, as necessary, pretreatment of industrial waste, industrial wastewater, and regulated materials and the disposal thereof.

(5) Compliance with reporting requirements of Title III of the Superfund Amendment, Chapter 27 of the Broward County Code of Ordinances, Chapters 13 and 28 of the Fort Lauderdale Code of Ordinances and any other environmental regulations, as applicable and as such laws may be enacted and amended from time to time.

(g) The release of any Materials on the Premises, or as a result of Lessee's operations at the Airport or the Leased Premises, that is in an amount constituting a violation of any applicable Environmental Laws, caused by Lessee, or any of its sublessees or the officers, employees, subcontractors, invitees, or agents of Lessee or its sublessees (collectively, "Lessee Parties"), whether committed prior to or subsequent to the date of execution of this Agreement, shall be, at the Lessee's expense, and upon written notice of City or any of its agencies or any local, state, or federal regulatory agency, immediately contained or removed to meet the requirements of applicable Environmental Laws. If Lessee does not take action immediately to have such Materials contained, removed and abated, the City or any of its agencies may upon reasonable notice to Lessee (which notice shall be written unless an emergency condition exists) undertake the removal of the Materials; however, any such action by the City or any of its agencies shall not relieve the Lessee of its obligations under this or any other provision of this Agreement or applicable Environmental Laws. No action taken by either the Lessee or the City to contain or remove Materials, or to abate a discharge, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its discharge.

(h) Lessee shall provide the City with notice of reportable releases of Materials occurring at the Premises or on account of Lessee's operations at the Airport or Leased Premises caused by Lessee or Lessee Parties. Lessee shall maintain a log of all such notices to the City, and shall also maintain all records required by applicable Environmental Laws.

(i) As required by applicable Environmental Laws, Lessee shall provide the federal, state, City, county and local regulatory agencies with notice of spills, releases, leaks or discharges of Materials on the Premises or on the Airport

property caused by Lessee or Lessee Parties which exceeds an amount required to be reported. Lessee shall further provide the City with written notice of not less than one (1) business day following commencement of the same, of the curative measures, remediation efforts and monitoring activities to be effected on the Premises. Lessee shall have a current contingency plan in effect relating to such releases which provide minimum standards and procedures for storage of regulated materials and other Materials, prevention and containment of spills and releases, and transfer and disposal of regulated materials and other Materials. The contingency plan shall describe design features, response actions, and procedures to be followed in case of releases or other accidents involving hazardous materials, bio-hazardous materials, petroleum products or other Materials, as necessary.

(j) The City, upon reasonable written notice to Lessee, shall have the right to inspect all documents in Lessee's possession relating to the environmental condition of the Premises, including without limitation, the release of Materials at the Premises, or any curative, remediation, or monitoring efforts, and any documents required to be maintained under applicable Environmental Laws, including any development orders issued to the City pertaining to the Airport or Environmental Laws pertaining to the Airport pursuant to Chapter 380, Florida Statutes including but not limited to, manifests evidencing proper transportation and disposal of Materials, environmental site assessments, and sampling and test results.

(k) Lessee agrees to permit inspection of the Premises, upon reasonable notice and during regular business hours by appropriate federal, state, county, City, and local agency personnel in accordance with applicable Environmental Laws and as required by any development order issued to the City pertaining to the Airport, pursuant to Chapter 380, Florida Statutes.

(l) If the City arranges for the removal of any Materials on the Premises that were caused by Lessee after expiration or any cure provision provided herein to Lessee, or Lessee Parties, the costs of such removal incurred by the City shall be paid by Lessee to the City within ten (10) calendar days of City's written demand including invoices of sufficient detail for Lessee's evaluation, with interest at the rate of eighteen (18%) percent per annum thereafter accruing.

(m) Notwithstanding anything else to the contrary in this Paragraph, Lessee shall not be liable for the discharge of any Materials caused by anyone other than the Lessee, or Lessee Parties. Nothing herein shall relieve Lessee of its general duty to cooperate with the City in providing access to the Premises so that the City can ascertain the source and contain, remove, and abate any Materials at the Premises. The City and its employees, contractors, and agents, at times in accordance with applicable laws, rules and regulations, shall have the right to enter the Premises upon reasonable notice for the purposes of the foregoing activities or conducting such environmental assessments (testing and sampling), inspections, and audits as warranted, at City's sole cost and expense.

(n) Lessee hereby agrees that upon any assignment of this Lease, and at any time during the last year of the Term of this Lease, the City shall have the right to require Lessee to conduct a Termination of Lease Assessment and Facility Exit Inspection of the Premises, at Lessee's expense. If such assessments identify a violation of applicable Environmental Laws, the City shall have the right to require the Lessee to conduct such further reasonable assessment of the Premises as required by applicable Environmental Laws, at the Lessee's expense, which may include, but shall not be limited to, soil and water samples. Nothing herein shall prevent Lessee from contesting or challenging any violation of Environmental Law finding by the City.

(o) Should any Termination of Lease Assessment or Facility Exit Inspection of the Premises identify a violation of applicable Environmental Laws that requires further actions to achieve compliance, then, upon expiration of any Lessee cure provisions, the City shall have the right to have legally required actions conducted in accordance with applicable Environmental Laws at the Lessee's expense. Nothing herein shall be construed to limit City's reasonable right of entry onto the Premises pursuant to other provisions of this Paragraph or of this Agreement, or pursuant to its regulatory powers. Lessee shall have the right to split any soil or water samples obtained by City.

(p) Lessee shall reimburse to the City the cost of such assessments and inspections within ten (10) calendar days following written demand therefore including detailed invoices, with interest at the rate of eighteen (18%) percent per annum thereafter accruing.

(q) In the event Materials on the Premises not caused by Lessee of Lessee Parties, prevent Lessee from using the Premises for the purposes intended, the rent shall be abated in accordance with Paragraph 12, hereof, from the date that the use of the Premises for its intended purposes is precluded and until the Premises again become available for the Lessee's use. City shall use commercially reasonable efforts to not disrupt Lessee's business; however, in no event shall Lessee be entitled to any amount on account of lost profits, lost rentals, or other claims of damage, resulting from City's clean-up or remediation activities.

(r) The provisions of this Paragraph shall survive the expiration or earlier termination of this Agreement.

(s) The Premises shall not be used for any improper or immoral purposes or in any manner that constitutes a nuisance, either public or private or other prohibited uses.

(t) Lessee shall provide City, if requested by the Airport Manager, with a list of all hazardous, bio-hazardous, or other Materials stored, used, generated or disposed of on the Premises during Lessee's occupation of the Premises under this Lease and under any prior leases throughout the term of the Lease.

(u) Lessee acknowledges and agrees that the City makes no representations or warranties whatsoever as to whether any Materials exist on or in the Premises or Improvements in violation of any Environmental Laws or in violation of any order or directive of any federal, state or local court or entity with jurisdiction of such matter. It shall be the responsibility of Lessee to make sufficient inspection of the Premises and the Improvements to satisfy itself as to the presence or absence of any such Materials.

(v) Lessee shall comply with all applicable Environmental Laws related to rare, protected, threatened, and/or endangered species as listed by the Federal, State, or local regulatory agencies are protected from harm or removed by obtaining all applicable permits through the proper agencies and shall follow all proper procedures for their removal.

(w) Upon expiration or earlier termination of this Lease, LESSEE shall cause all Hazardous Substances within containers which are bought upon the Leased Premises subsequent to the Commencement Date by any person whomsoever, other than LESSOR, its agents, servants, employees, contractors or licensees acting within the course and scope of their employment, to be removed from the Leased Premises and to be transported for use, storage or disposal in accordance and in compliance with all applicable Hazardous Substances Laws; provided, however, that LESSEE shall not take any remedial action in response to the presence of Hazardous Substances in or about the Leased Premises, nor enter any settlement agreement, consent decree or other compromise in respect to any claims relating to any Hazardous Substances Laws in any way connected with the Leased Premises, without first notifying LESSOR of LESSEE's intention to do so and affording LESSOR reasonable opportunity to appear, intervene, or otherwise appropriately assert and protect LESSOR's interest with respect thereto.

(x) Hazardous Substances Indemnification. LESSEE agrees to and shall indemnify, defend and hold LESSOR harmless of and from any and all claims, demands, fines, penalties, causes of action, administrative proceedings, liabilities, damages, losses, costs and expenses, which are asserted against the LESSOR for bodily injury, disease, sickness, death, property damage (including the loss of use therefrom), damage or injury to the environment or natural resources, or some or all of the foregoing, and which relate, refer, or pertain to:

(1) the existence of Hazardous Substances on, under, or over the Leased Premises, or

(2) Hazardous Substances being released into the air, water, groundwater, or onto the ground in connection with the use of or operations on the Leased Premises, or

- (3) gaseous emissions (excluding methane, radon, and other naturally occurring gases) from the Leased Premises, or
- (4) the use, generation, or storage of Hazardous Substances on the Leased Premises, or
- (5) the disposal of Hazardous Substances, or
- (6) some or all of the foregoing.

This indemnity applies to activity during the Term as a result of Hazardous Substances brought onto the Leased Premises by any person whomsoever, other than LESSOR, its agents, servants, employees, contractors or licensees acting within the course and scope of their duties. Both parties acknowledge that a Phase I and Phase II environmental assessment was performed by Terracon Consultants, Inc. at the direction of Lessee which assessment reveals the following See attached Exhibit "D" summarizing the results of the Phase II. Both parties acknowledge that Lessee shall not be liable for this release or discharge which occurred prior to Lessee acquiring possession and was not caused by Lessee.

(y) LESSEE shall further indemnify, defend and hold LESSOR harmless from and against any and all liability, including, but not limited to, all damages directly arising out of the use, generation, storage or disposal of Hazardous Substances in, on, under, above or about the Leased Premises during the Term, including, without limitation the following when required by Hazardous Substances Laws or by governmental entities and agencies that enforce Hazardous Substances Laws (herein "Environmental Agencies"):

- (1) all required or necessary inspections, investigations, applications, permits, plans, licenses, consent orders, and the like; and,
- (2) all cleaning, detoxification, remediation, cleanup and disposal; and
- (3) all tests, audit, monitoring, and reporting; and
- (4) all fees, costs, assessments, fines and penalties charged by Environmental Agencies.

(z) LESSEE further agrees that its indemnification obligations shall include, but are not limited to, liability for damages resulting from the bodily injury, disease, sickness, personal injury or death of any agent, licensee, subtenant, vendor, employee or volunteer of LESSEE, regardless of whether LESSEE has paid the employee under the Workers' Compensation Laws of the State of Florida, or other similar federal or state legislation for the protection of employees.

(aa) LESSEE agrees that the foregoing obligations to indemnify, defend and hold LESSOR harmless extends to and includes all reasonable attorneys' fees, experts' fees and costs incurred in the defense of any of the foregoing claims or demands as well as enforcement of the provisions of this paragraph respecting Hazardous Substances. The indemnification provided in this Lease shall survive the termination of this Lease, but shall end, with respect to any claim or cause of action, with the expiration of any applicable statute of limitation for such claim or cause of action and is not limited by the amount of insurance coverage.

(bb) LESSOR reserves the right to select counsel of its own choosing, subject to LESSEE approval, which shall not be unreasonably, withheld, conditioned or delayed, in the event LESSEE is called upon to defend LESSOR pursuant to this indemnity.

(cc) Notwithstanding anything to the contrary contained in this Lease, the parties acknowledge and agree that Section 32 shall solely govern environmental matters and provisions of this agreement.

(dd) Notwithstanding anything to the contrary contained in the Lease, Lessee's obligations under Section 32 shall not apply to the release of Hazardous Substances that originated from other properties and migrated to the Premises. In the event of such an occurrence, the Lessee shall not be entitled to any relief from the Lessor, including, without limitation, any cleanup, removal or remediation of the Hazardous Substance, any liability for damages, such as loss rent or loss of beneficial use of all or a portion of the Premises, abatement of rent or any other relief or consequential damages.

(ee) In any matter asserted against the LESSOR by third parties which falls within the scope of this indemnity, neither the provisions of this Lease, nor the LESSEE's indemnification of the LESSOR are intended to waive or affect, and shall not be construed to waive or affect, the LESSOR's sovereign immunity, and at all times the LESSOR shall retain its sovereign immunity.

33. Intentionally Omitted.

34. STORMWATER MANAGEMENT PROGRAM. Lessee acknowledges that the City of Fort Lauderdale has adopted a stormwater management program (Article IV of Chapter 28 of the Code of Ordinances of the City of Fort Lauderdale) that imposes a stormwater management utility fee upon every lot and parcel within the City of Fort Lauderdale for services and facilities provided by the stormwater management program. Lessee specifically agrees that any such fee imposed on the Premises shall be paid timely and in whole solely by Lessee.

35. POLICE POWERS. City cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations governing the Premises, any Improvements thereon, or any operations

at the Premises. Nothing in this Lease shall be deemed to create an affirmative duty of City to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes, administrative codes, ordinances, rules and regulations, federal laws and regulations, state laws and regulations, and grant agreements. In addition, nothing herein shall be considered "zoning by contract."

Certain provisions of this Lease may require the City and/or its boards, departments or agencies, acting in their governmental capacity, to consider certain changes in the City's Comprehensive Land Use Master Plan and/or Unified Land Development Regulations or take other governmental actions. All such considerations and actions shall be undertaken in accordance with established requirements of state statute, and the City of Fort Lauderdale Charter and City of Fort Lauderdale ordinances, in the exercise of the City's jurisdiction under its police power. Nothing in this Agreement is intended to limit or restrict the powers and responsibilities of the City in acting on such applications by virtue of the fact that the City may have consent to such applications as a property owner.

36. Intentionally Omitted.

37. MATTERS RESERVED BY THE LESSOR.

(a) Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting or permitting to be erected any building or other structure on the Airport, which, in the reasonable opinion of the Lessor would limit the usefulness of the Airport or constitute a hazard to aircraft utilizing the Airport.

(b) Lessor reserves the authority to ensure that facilities of the Airport are made available to the public on fair and reasonable terms without unjust discrimination. This Lease shall be subordinate to the authority of the Lessor to establish sufficient control over the operations of Lessee at the Airport to guarantee that patrons will be treated fairly.

(c) Lessor reserves the right to further develop and improve the Airport, including but not limited to, all landing areas and Taxiways of the Airport, as Lessor sees fit, regardless of the desires or views of Lessee, and without interference or hindrance, subject to Paragraph 14 of this Lease Agreement.

(d) Except to the extent required for the performance of the obligations of Lessee, nothing contained in this Agreement shall grant to Lessee any rights whatsoever in the airspace above the Premises other than those rights which are subject to Federal Aviation Administration orders, regulations or advisory circulars currently or subsequently effective. Lessor reserves the right to take any action whatsoever that it considers necessary to protect the aerial approaches of the Airport against obstruction, including but not limited to, the demolition or removal of structures upon the Premises, together with the right to prevent Lessee from

erecting or permitting to be erected any building or other structure at the Airport which, in the reasonable opinion of the Lessor, would limit the usefulness of or interfere with the operations at the Airport, or constitute a hazard to aircraft.

38. BUILDING REQUIREMENT AND CONCEPTUAL SITE PLAN REVIEW.

(a) The Lessee is required to construct and maintain Improvements on the Premises substantially similar to the Site Plan attached hereto as Exhibit "B" and incorporated herein by this reference. Notwithstanding anything to the contrary in this paragraph 38 (a), Lessee shall have the right to modify the Site Plan as reasonably necessary to respond to Lessor reasonable requirements or in response to economic or market conditions subject to Lessor's written consent which shall not be unreasonably withheld, delayed or conditioned. Lessee shall submit applications and materials for development approvals to the City of Fort Lauderdale and any other jurisdiction with authority over the development of the Improvements not later than six (6) months following the Commencement Date of this Lease and secure all development approvals within twelve (12) months after the Commencement Date. Within thirty days after submitting all applications, Lessee shall send notice to Lessor establishing the date when all development applications were submitted to the appropriate governing authorities. Notwithstanding the foregoing, in the event, after good faith and diligent effort by the Lessee, Lessee has not obtained all development approvals, including without limitation vacation or termination of the drainage easement as reflected on the Fort Lauderdale Industrial Airpark Plat from the City of Fort Lauderdale or other authorities for its Improvements or portion thereof within twelve (12) months following submission of all applications for development approvals, Lessee may terminate this Lease on or before twelve (12) months following the date of submission of the applications and materials for land development approvals, with such termination made effective by Lessee serving notice upon the Lessor, and effective on the date of receipt of such notice by Lessor after which the parties shall have no further duties or obligations under this Lease except for those matters which survive termination.

Notwithstanding the foregoing, in the event, after good faith and diligent effort by the Lessee, the Improvements, or a portion thereof, as approved by the Lessor have not been completed and CO issued for the Improvements within sixty (60) months following the Commencement Date of this Lease (the "Construction Period") or if during the Construction Period, the Lessee makes a commercial decision based on credible market conditions that it is economically feasible to construct only a portion of the Improvements, Lessee shall have the option to terminate this Lease as to that portion of the Premises which has not been improved, by Lessee serving notice upon the Lessor, and with such termination being effective on the date of receipt of such notice by the Lessor after which the parties shall have no further duties or obligations under this Lease as to that portion of the Premises which has been surrendered to Lessor except for those matters which survive termination. Notwithstanding Lessee's determination to construct only a portion of the Improvements shall not entitle Lessee to receive an abatement or reduction in

rent (whether Base Rent or additional rent).

During the Construction Period, in the event the Unified Land Development Regulations of the City are amended such that it significantly impacts the Lessee planning, design and construction of the Improvements and materially impacts the economic viability of the Lessee's business operations on the Leased Premises, then Lessee shall have the right to terminate this Lease during the Construction Period and shall send written notice of its election to terminate this Lease to Lessor. Thereafter, all parties shall be relieved of any further obligations under this Lease except for those matters which survive termination.

(b) The conceptual site plan for any and all Improvements to be developed by Lessee on the Premises may be designed for any use and specifications permitted by applicable zoning requirements, subject to the prohibitions referenced above, and shall be reviewed and approved by Lessor's Aviation Advisory Board. Prior to any construction upon the Premises, including any alterations, changes or additions, the Lessee's complete building plans shall be reviewed and approved by Lessor's Airport Manager. All such approvals shall not be unreasonably withheld; provided, however, that any such conceptual site plan approval shall be specifically subject to Lessee showing that adequate on-site stormwater drainage is provided. No approval provided for herein shall be construed as relieving Lessee of any requirement contained in any applicable City, County, State or Federal law or regulation. Lessee shall be responsible at its sole cost and expense, to apply for and secure all necessary local, County, State, and Federal permits for the construction of Improvements on the Premises. This shall include, but not be limited to, applications for re-zoning and vacation of rights-of-way.

(c) All construction of Improvements shall be performed in such a manner as to provide that the Improvements shall:

(1) Be structurally sound and safe for human occupancy, and free from any hazards and be constructed in compliance with all applicable codes.

(2) Provide sufficient clearance for Taxiways, Runways and aprons, and shall not intrude into any aeronautical surfaces or exceed any height limitations and shall not interfere with operations or arriving and departing aircraft at the Airport and shall not conflict with any items of the FAA-approved Airport Layout Plan for the Airport.

(3) Comply with the provisions of the Deed under which Lessor acquired title to the airport from the United States of America, and the provisions of any grant agreements between the Lessor and the United States Government or the State of Florida that are applicable to the Premises.

(4) Comply with the terms and provisions of this Lease.

(5) Lessor reserves the right to require that all development within the Airport be consistent with the overall Airport system architecture and the Airport Master Plan, as well as being consistent with reasonable standards of safety and quality.

(d) It is understood and agreed that in the course of any construction undertaken by Lessee during the term of this Lease, Lessee shall be responsible for all costs associated with any removal, replacement, relocation and protection of all utilities, whether such utilities are located at the Premises or on adjacent property, including but not limited to water, sewer, telephone, electric, airfield lighting system, and Federal Aviation Administration navigational aid system.

(e) All Improvements and equipment constructed or installed by Lessee, its agents or contractors, including the plans and specifications relating to the same, shall comply with all applicable state, federal and City local ordinances, statutes, building codes, fire codes, regulations and rules. The approval by Fort Lauderdale Executive Airport staff or officers of any plans, specifications or designs shall not constitute a representation or warranty as to such compliance, and the responsibility therefore shall at all times remain with Lessee.

(f) All Improvements and equipment constructed, installed, operated or maintained on the Premises shall at all times comply with applicable federal, state or local ordinances, statutes, rules or regulations pertaining to environmental protection and regulation.

(g) Any work impacting any portion of the Airport other than the Premises shall be performed within schedules approved by the Airport Manager.

(h) Lessee shall coordinate all Improvements to and construction on the Premises with the FAA, including the filing of the required forms and the provision of any documentation the FAA may request or require.

(i) All Improvements hereafter made to the Premises shall comply with the provisions of the Americans with Disabilities Act of 1990, as the same may be amended from time to time.

(j) Lessee acknowledges the Premises, including the land, belong to the City. Therefore, Lessee shall not dispose of any fill, dirt, and sand at any time, except that such relocation of fill, dirt and sand shall be done in accordance with a plan approved by the Airport Manager.

39. CONSTRUCTION CONTRACTS BONDS, CONTRACT PROVISIONS.

(a) Lessee agrees that prior to commencing any work or construction on the Premises, the Lessee shall require the contractor building the Improvements to maintain at all times a valid payment and performance bond and a valid labor and material bond, which shall be in an amount not less than the amount one hundred

percent (100%) of the price of the construction contract for the Improvements.. Each bond must guarantee to the City the completion of the work being performed by the contractor as well as full payment of all suppliers, materialmen, laborers or subcontractors employed in completing the improvement.

(b) The Performance Bond and Payment Bond shall remain in force for one (1) year after final completion of the construction work, with liability equal to One Hundred percent (100%) of the construction contract price. Lessee shall require and insure that its general contractor maintain the Performance Bond and Payment Bond throughout the course of the construction phase of the work, and for one (1) year following the final completion and acceptance by the Lessor of the construction work for the Improvements.

(c) The Performance Bond and Payment Bond must be executed by a surety company of recognized standing that is authorized to do business in the State as a surety, has a resident agent in the State, and has been in business with a record of successful continuous operation for at least five (5) years. The surety company shall hold a current Certificate of Authority as an acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the required bonding amount exceeds the underwriting limitation set forth in such circular, in order to qualify as a satisfactory surety, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised (31 CFR Section 223.10, Section 223.11). Further, the surety company shall provide the Parties with evidence satisfactory to each party, that such excess risk has been protected in an acceptable manner.

(d) The Performance Bond and Payment Bond shall be unconditional, must contain dual obligee riders, and comply with the provisions of Section 713.23 or Section 255.05, Florida Statutes.

(e) Lessee, at Lessee's sole cost, shall record the executed Payment Bond as an exhibit to the Project's Notice of Commencement in the official public records of Broward County, Florida. Tenant shall provide Landlord with a copy of the recorded Notice of Commencement prior to commencement of construction.

(f) Lessee agrees to include the following provisions in any contracts it enters into with contractors in connection with the construction and completion of any Improvements to the Premises:

(1) In consideration of the sum of twenty-five (\$25.00) Dollars and other good and valuable consideration, the Contractor shall indemnify and hold the City of Fort Lauderdale, its agents, officers and employees harmless from and against or on account of any injuries or damages, received or sustained by any person, persons or entity arising out of or in any way connected with

the operations or work to be performed on the subject property, including during any warranty period, by or in consequence of any negligence (excluding sole negligence of City officials, employees or agents acting within the course and scope of their employment), by use of any improper materials, by any intentional act, by any misconduct or recklessness, or by or on account of any other act or omission of said Contractor or its subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees.

(2) Contractor agrees to indemnify and hold the City of Fort Lauderdale harmless, including during any warranty period, against any claims or liability arising out of or in any way connected with the violation of any state, federal, City or local laws, ordinances, statutes, rules or regulations by Contractor, its subcontractors, agents, servants or employees. Contractor agrees to indemnify and hold the City of Fort Lauderdale harmless from all such claims and fees, and from any and all suits and actions of every nature and description that may be brought against the City on account of any claims, fees, royalties or costs for any invention or patent, and from any and all suits and actions that may be brought against City including during any warranty period for the infringement of any and all patents or patent rights claimed by any person, firm or corporation.

(3) Contractor further agrees to indemnify and hold the City of Fort Lauderdale, its agents, officers and employees harmless, from and against or on account of any injuries or damages, received or sustained by any person, persons, or entity arising out of or in any way connected with patent construction defects.

(4) These indemnifications shall survive the termination or expiration of this Lease Agreement. In the event that any action or proceeding is brought against the City by reason of any such claim or demand, Contractor, upon written notice from City shall resist and defend such action or proceeding by legal counsel satisfactory to City.

(g) Lessee agrees to include the following insurance provisions in any contracts it enters into with contractors in connection with the construction and completion of any Improvements to the Premises, and Lessee further agrees to provide City, prior to commencement of any Improvements, certificates of insurance evidencing the contractor's compliance with this Paragraph:

(1) Without limiting any of the other obligations or liabilities of Contractor, Contractor shall provide, pay for, and maintain in force until all of its work to be performed under this Lease Agreement has been completed and accepted (or for such duration as is otherwise specified hereinafter), the insurance coverages set forth herein. All policies shall be endorsed to

provide City with at least thirty (30) days prior written notice of any modification, cancellation, restriction or termination to the policy.

- (i) Workers' Compensation Insurance in compliance with the Workers' Compensation Law of the State of Florida and all applicable federal law.
- (ii) Employers' Liability with policy limits of One Hundred Thousand Dollars (\$100,000) per accident.
- (iii) Commercial General Liability with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. The City of Fort Lauderdale shall be named as an additional insured.
- (iv) Business Automobile Liability with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability, and which covers owned, leased, hired and other non-owned vehicles.

(h) Lessee shall have no power or authority to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of Lessor in and to the Leased Premises, and no person shall ever be entitled to any lien, directly or indirectly derived through or under the Lessee, or its agents, servants, employees, contractors or officers or on account of any act or omission of said Lessee as to Lessor's right, title or interest in and to the Leased Premises. All persons contracting with the Lessee, or furnishing materials, labor or services to said Lessee, or to its agents or servants, as well as all persons shall be bound by this provision of this Lease. Should any such lien be filed, Lessee shall discharge the same within thirty (30) days thereafter, by paying the same or by filing a bond, or otherwise, as permitted by law. Lessee shall not be deemed to be the agent of Lessor, so as to confer upon a laborer bestowing labor upon or within the Leased Premises or upon material men who furnish material incorporated in the construction and improvements upon the foregoing, a construction lien pursuant to Chapter 713, Florida Statutes or an equitable lien upon the Lessor's right, title or interest in and to the Leased Premises. These provisions shall be deemed a notice under Section 713.10(1), Florida Statutes of the "non-liability" of the Lessor.

40. CONSERVATION AREA EXCLUDED FROM LEASED PREMISES. The conservation areas described in that certain Deed of Conservation Easement and Agreement by and between the City of Fort Lauderdale and Broward County, Florida as recorded in Official Records Book 51269, Page 1388 and Official Records Book 51269, Page 1397, both in the Public Records in and for Broward County, Florida, are excluded from the Premises. Lessee assumes no liabilities in this Lease for compliance, monitoring

or other requirements that may apply to the conservation areas pursuant to these recorded instruments or any other wetlands permits that may apply to the conservation areas other than Lessee's responsibilities as the adjacent tenant not to encroach, trespass or disturb the conservation areas.

Notwithstanding, the Conservation Easements shall be accepted by Lessee as Permitted Title Exceptions and Lessee shall not be entitled to an abatement or reduction in rent (whether Base Rent or additional rent) or recovery of damages as a result of the Conservation Easements encumbrance or effect on the Leased Premises.

41. **RIGHTS OF LESSEE TO MORTGAGE LESSEE'S INTEREST UNDER THIS LEASE AND RIGHTS OF LEASEHOLD MORTGAGEE.**

(a) The Lessee shall have the right to mortgage Lessee's interest under this Lease Agreement to a lender authorized to make leasehold mortgage loans in the State of Florida without obtaining the prior consent of the Lessor, subject, however, to the other terms and conditions of this Lease Agreement.

(b) If the Lessee shall mortgage its leasehold interest and if the holder of the mortgage or pledge shall forward to the Lessor a duplicate original of the mortgage in form proper for recordation, or a copy of the mortgage certified as a true copy by the Office of Official Records of Broward County, Florida together with a written notice setting forth the name and address of the leasehold mortgagee, then, until the time that the leasehold mortgage shall be satisfied of record, the following provisions of this Paragraph shall apply.

(c) When giving notice to the Lessee with respect to any default under the provisions of this Lease Agreement, the Lessor will also serve a copy of such notice upon the leasehold mortgagee which copy shall be sent by Lessor by certified mail, return receipt requested, to such mortgagee. No such notice to the Lessee shall be deemed to have been given unless a copy of such notice has been mailed to such leasehold mortgagee, which notice must specify the nature of each such default.

(d) The leasehold mortgagee, upon mailing by Lessor of the notice referred to in subparagraph (c) of this Paragraph, shall have, in addition to any period of grace extended to the Lessee under the terms and conditions of this Lease Agreement, a period of sixty (60) days within which to cure the default or cause the same to be cured or to commence to cure such default with diligence and continuity; provided, however, that as to any default of the Lessee for failure to pay rent, taxes, insurance, security deposit, construction assurance deposit or other monetary obligations, the leasehold mortgagee shall be given written notice of such default by certified mail by Lessor, and the leasehold mortgagee shall have fifteen (15) additional days from the date the notice of default was mailed within which to cure such default.

(e) Upon the happening of any default and receipt of notice of default from the Lessor, the Lessee will notify the leasehold mortgagee promptly of such occurrence and shall state in the notice what action has been or will be taken by the Lessee to cure the default.

(f) In case the Lessee shall default under any of the provisions of this Lease Agreement, the leasehold mortgagee shall have the right to cure such default whether the same consists of the failure to pay rent, taxes, insurance, security deposit, construction assurance deposit or other monetary obligation or the failure to perform any other matter or thing which the Lessee is required to do or perform, and the Lessor shall accept such performance on the part of the leasehold mortgagee as though the same had been done or performed by the Lessee.

(g) In the case of any default by the Lessee, other than in the payment of money under this Lease Agreement, the Lessor, so long as no default in respect of the payment of minimum rental and additional rental shall exist, will take no action to effect a termination of the term of this Lease Agreement by the service of a notice provided for in Paragraph 47 below by reason of any such default, without first giving to the leasehold mortgagee a reasonable time, not to exceed forty-five (45) days from the mailing of notice by Lessor, within which either (i) to obtain possession of the Premises (including possession by a receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or (ii) to institute foreclosure proceedings and complete such foreclosure or otherwise acquire the Lessee's interest under this Lease Agreement with diligence and continuity and thereafter to commence and diligently proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a notice shall be cured, and provided further, that nothing in this Paragraph shall preclude the Lessor from exercising any rights or remedies under this Lease Agreement with respect to any other default by the Lessee during any period of such forbearance.

(h) In the event of the termination of this Lease Agreement or of any succeeding lease made pursuant to the provisions of this Paragraph prior to its stated expiration date, the Lessor will enter into a new lease of the Premises similar in terms and conditions as this Lease Agreement for the remainder of the Term with the leasehold mortgagee or, at the request of such leasehold mortgagee, to a corporation or other entity approved to conduct business in the State of Florida, formed by or on behalf of such leasehold mortgagee or by or on behalf of the holder of the note secured by the leasehold mortgage held by such leasehold mortgagee, for the remainder of the term, effective on the date of such termination, at the rent and additional rent and upon the covenants, agreements, terms, provisions and limitations contained in this Lease Agreement, provided that such leasehold mortgagee makes written request and executes, acknowledges and delivers to the Lessor such new lease within thirty (30) days from the date of such termination and

such written request and such new lease are accompanied by payment to the Lessor of all amounts then due to the Lessor, including reasonable attorneys' fees, court costs and disbursements incurred by the Lessor in connection with any such default and termination as well as in connection with the execution and delivery of such new lease, less the net income collected by the Lessor subsequent to the date of termination of this Lease Agreement and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the rent thereafter becoming due under such new lease. Any new lease referred to in this Paragraph shall not require any execution, acknowledgment or delivery by the Lessor in order to become effective as against the Lessor and the Lessor shall be deemed to have executed, acknowledged and delivered any such new lease immediately upon receipt by the Lessor of such new lease accompanied by (i) payment to the Lessor of all amounts then due to the Lessor of which the leasehold mortgagee shall theretofore have received written notice; and (ii) an agreement by the leasehold mortgagee to pay all other amounts then due to the Lessor of which the leasehold mortgagee shall not theretofore have received written notice. In addition, immediately upon receipt by the Lessor of such new lease, as provided in this subparagraph, the Lessor shall be deemed to have executed, acknowledged and delivered to the leasehold mortgagee an assignment of all subleases covering the Premises which theretofore may have been assigned and transferred to the Lessor and all subleases under which subtenants shall be required to attorn to the Lessor pursuant to the terms and conditions of such subleases or this Lease Agreement. Such assignment by the Lessor shall be deemed to be without recourse as against the Lessor. Within ten (10) days after a written request therefore by the leasehold mortgagee, such assignment or assignments shall be reduced to writing in recordable form and executed, acknowledged and delivered by the Lessor to the leasehold mortgagee.

(i) The leasehold mortgagee may become the legal owner and holder of this Lease Agreement by foreclosure of its mortgage or as a result of the assignment of this Lease Agreement in lieu of foreclosure, whereupon such leasehold mortgagee shall immediately become and remain liable under this Lease Agreement as provided in subparagraph (j) below, except that such leasehold mortgagee may assign this Lease Agreement without the Lessor's consent to any assignee at any time whether prior or subsequent to the construction or completion of buildings, or other structures and Improvements erected or to be erected upon the Premises, provided that prior notice is given to Lessor in accordance with this Lease.

(j) In the event that a leasehold mortgagee shall become the owner or holder of the Lessee's interest by foreclosure of its mortgage or by assignment of this Lease Agreement in lieu of foreclosure or otherwise, the term "Lessee," as used in this Lease Agreement, means only the owner or holder of the Lessee's interest for the time being so that, in the event of a sale, assignment or other disposition of the Lessee's interest in this Lease Agreement by the mortgagee, the mortgagee shall be entirely freed and relieved of all covenants and obligations of the Lessee under

this Lease Agreement and it shall be deemed and construed, without further agreement between the Lessor and the mortgagee or between the Lessor, the mortgagee and the mortgagee's purchaser or assignee at any such sale or upon assignment of Lessee's interest, that the purchaser or assignee of Lessee's interest has assumed and agreed to carry out any and all covenants and obligations of Lessee. The mortgagee's purchaser or assignee shall sign an Assignment and Assumption Agreement of this Lease Agreement.

(k) Within ten (10) days after written request by Lessee or by Lessee's leasehold mortgagee, or in the event that upon any sale, assignment or mortgaging of Lessee's interest in this Lease Agreement by Lessee or Lessee's leasehold mortgagee, an offset statement shall be required from the Lessor, the Lessor agrees to deliver in recordable form a certificate to any proposed leasehold mortgagee, purchaser, assignee or to Lessee, certifying (if such be the case) (i) the amount of rental and additional rental due under the Lease Agreement, if any, and the date to which rentals have been paid; (ii) whether this Lease Agreement is in full force and effect; (iii) whether the Lessor has any knowledge of any default under this Lease Agreement, or if any default exists, specifying the nature of the default; and (iv) whether there are no defenses or offsets which may be asserted by the Lessor against the Lessee in respect of obligations pursuant to this Lease Agreement as of the date of the estoppel. The estoppel letter shall be certified to the Lessor and the leasehold mortgagee and none other.

(l) Reference in this Lease Agreement to acquisition of the Lessee's interests in this Lease Agreement by the leasehold mortgagee shall be deemed to refer, where circumstances require, to acquisition of the Lessee's interest in this Lease Agreement by any purchaser at a sale on foreclosure of the leasehold mortgage and provisions applicable to the leasehold mortgagee in such instance or instances shall also be applicable to any such purchaser.

(m) So long as the Lessee's interest in this Lease Agreement shall be mortgaged to a leasehold mortgagee, the parties agree for the benefit of such leasehold mortgagee that the Lessor shall not sell, grant or convey to the Lessee all or any portion of the Lessor's fee simple title to the Premises without the prior written consent of such mortgagee. In the event of any such sale, grant or conveyance by the Lessor to the Lessee, the Lessor and the Lessee agree that no such sale, grant or conveyance shall create a merger of this Lease Agreement into a fee simple title to the Premises. This subparagraph (m) shall not be construed to prevent a sale, grant or conveyance of the Lessor's fee simple title by the Lessor to any person, firm or corporation other than the Lessee, its successors, legal representatives and assigns.

(n) Reference in this Lease Agreement to a leasehold mortgagee shall be deemed to refer where circumstances require, to any assignee (subject to the provisions of subparagraph (i) above) of a leasehold mortgagee; provided that such assignee shall forward to the Lessor a duplicate original of the assignment of the

leasehold mortgage in form proper for recording or a copy of such assignment, certified as a true copy by the Office of Official Records of Broward County, together with a written notice setting forth the name and address of the assignee.

(o) Any leasehold mortgage shall be specifically subject and subordinate to the Lessor's rights under this Lease Agreement. The sentence immediately preceding shall not be deemed or construed (by implication or otherwise) to impose or establish upon the Lessee's interest in this Lease Agreement or upon the lien of any leasehold mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against the Lessor or the Lessor's interest in this Lease Agreement. Despite any provision which is or may appear to be to the contrary in this Lease Agreement, under no circumstances whatsoever shall the fee simple title interest of the Lessor in the Premises, or any portion of them, be encumbered or subordinated, except for a mortgage on Lessee's leasehold interest.

42. OTHER REMEDIES. In addition to the options granted above, the Lessor or Lessee may exercise any or all other options available to it, which options may be exercised concurrently or separately with the exercise of the above options.

43. CONDEMNATION.

(a) In the event of a taking of all of the Premises or so much of them so as to render the Premises unfit for purposes intended by the Lessee for any public or quasi-public purpose, under any statute or by right of eminent domain, the Lessee's liability to pay rental and additional rental or otherwise to perform the terms and conditions of this Lease Agreement shall cease, but the Lessee shall be entitled to any claim against the condemnor that the Lessee may be entitled to because of (i) loss of buildings, other structures and Improvements erected upon the Premises by the Lessee; and (ii) the loss of the then unexpired portion of the fixed term of this Lease Agreement. Lessor shall be entitled to the balance of the condemnation award, if any.

(b) In the event of a partial taking by condemnation or eminent domain as described in subparagraph (a) above, so that the part not so taken shall be sufficient for the continued operation of the Premises for the purposes intended by the Lessee, then this Lease Agreement shall continue in full force and effect, and the rental shall be reduced in accordance with subparagraph (c) below, and the Lessee shall be entitled to any claim against the condemnor that the Lessee may be entitled to because of the loss of buildings, other structures or Improvements erected upon the Premises by the Lessee. The Lessee shall use the proceeds received by the Lessee pursuant to this subparagraph (b) for purposes of restoring those portions of any buildings, other structures and Improvements upon the remainder of the Premises to as near their former condition as circumstances will permit.

(c) In the event of a partial taking by condemnation or eminent domain, as provided in subparagraph (b) above, the rental payable shall be reduced by that proportion which the square footage of the land so taken bears to the original square footage of the entire Premises.

44. ASSIGNMENT AND SUBLEASING.

(a) Except as provided herein, the Lessee shall be permitted to sublease this Lease Agreement and any of its obligations, in whole or in part, in any manner whatsoever, to subtenants (sub-sub tenants, etc.) of the Premises (a "Premises Tenant") pursuant to a (sub) lease with Lessee in the ordinary course of its business (a "Tenant Lease") without the express consent of the Lessor, if the use specified in the Tenant Lease is not prohibited by current and applicable zoning requirements, the prohibited uses described in Paragraph 17 and by the Permitted Title Exceptions including the DRC. A violation of the prohibited use restriction shall constitute an event of default under this Lease. Lessee shall also be permitted to transfer, convey or pledge its interest in this Lease to a ground lease mortgagor(s) without the express consent of the Lessor. Any such sublease, transfer, conveyance or pledge by the Lessee shall be subject to all of the terms and provisions of this Lease Agreement. If Lessee seeks to assign, transfer or sell its leasehold interest in this Lease such that more than a fifty percent (50%) interest in the Lease will be assigned to an assignee, the express consent of the Lessor, authorized by appropriate municipal action taken at a regular public meeting of the City Commission of the City of Fort Lauderdale, shall be required which consent shall not unreasonably withheld, conditioned or delayed. Any such consent to an assignment shall be subject to all of the terms and provisions of this Lease Agreement, and shall release the Lessee from its obligations under this Lease Agreement. Lessor's consent shall not be required for Premises Tenant's certificates of occupancy, building permits, tenant allowances or buildout terms and procedures except as may otherwise be required by Lessor by virtue of Lessor being the City of Fort Lauderdale overseeing these items in its regulatory capacity. Within sixty (60) days of executing a Tenant Lease with a Premises Tenant, Lessee shall notify Lessor the Tenant Lease has been executed and the identity of the Premises Tenant. If prior to completion of the Improvements, Lessee make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or master lease, or any trust or power, sale, transfer, or encumbrance other than as provided in paragraph 44(c) or a leasehold mortgage in any mode or form with respect to this Lease Agreement or the Premises, then Lessee shall pay to Lessor an assignment fee in the amount of Fifteen Thousand and No/100 Dollars (\$15,000).

(b) Should Lessee take any action to assign this Lease without the prior written consent of the City as provided in Paragraph 44(a), then any such assignment shall be null and void and of no force and effect. Lessor acknowledges that the Lessee is a related entity to a publicly traded entity, First Industrial Realty Trust, Inc., a Maryland corporation (the "Parent Entity"). Notwithstanding anything to the contrary

in this Lease, Lessor consent shall not be required, in any manner whatsoever and without recourse, if:

- (i) There is a direct or indirect change in control or transfer, conveyance, sale or other disposition of substantially all the assets of the Parent Entity, whether by merger, sale of stock, sale of assets or otherwise;
 - (ii) There is an assignment of this Lease from Lessee to an entity wholly owned by or through to the Parent Entity, such that the assignee entity has a similar level of assets to the Lessee or the assignment to the assignee entity includes a guaranty of the Lease by a related party that has a similar level of assets to the Lessee (after which Lessee shall be released from its obligations under this Lease Agreement); or
 - (iii) There is a direct or indirect change in control of the Lessee as part of a transfer, conveyance, sale or other disposition of the Lessee's interest to a third party, whether by merger, sale of stock, sale of assets or otherwise.
- (c) Any successor or assignee of rights and/or obligations pursuant to this paragraph 44(c) shall expressly assume in writing performance of such rights and/or obligations under this Lease and deliver same to Lessor within 10 days after consummation of the assignment, transfer or sale.

45. **SUCCESSORS IN INTEREST.** The covenants and agreements contained in this Lease Agreement shall be binding on and inure to the benefit of the respective successors and assigns of the parties. Wherever used, the singular shall include the plural, and the use of any gender shall be applicable to all genders.

46. **AMENDMENTS.**

- (a) No modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document signed and approved by both parties.
- (b) Should the United States government, or its agencies require changes to this Agreement, including without limitation, any nondiscrimination provisions, as a condition precedent to the granting of funds for the improvement of the Airport, or otherwise, the Lessee agrees to consent to such amendments, modifications, revisions, supplements or deletions of any terms, conditions, or requirements of this Agreement (collectively, an "amendment") as may reasonably be required. Notwithstanding the foregoing, in the event any such amendment would in Lessee's good faith judgment unreasonably interfere with the business operations of Lessee or its sublessees, then Lessee may refuse to consent to such amendment, provided that Lessee must give immediate notice to the City of any such refusal to consent and such notice must state with specificity the reasons for any such refusal. City

shall have the right to immediately terminate this Lease Agreement upon the failure of Lessee to consent to any such amendment.

47. **NOTICES.** All notices required by law and by this Lease Agreement to be given by one party to the other shall be in writing, and the same shall be served as follows:

(a) By certified mail, return receipt requested, overnight delivery by a nationally recognized carrier or hand delivery, to the following addresses:

LESSOR: City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

with a copy to: Airport Manager
Fort Lauderdale Executive Airport
6000 NW 21 Ave
Fort Lauderdale, Florida 33309

LESSEE: First Industrial Harrisburg, L.P.
Attn: Chris Willson, Senior Regional Director
347 N New River Dr. E
Suite 602
Fort Lauderdale, FL 33301
Email: cwillson@firstindustrial.com

With a copy to: Louis P. Archambault, Esq.
Saul Ewing Arnstein & Lehr LLP
200 South Biscayne Boulevard
Miami, FL 33131
Email: louis.archambault@saul.com

or to such other addresses as the parties may by writing to the other designate. All notices, demands, deliveries, or other communications hereunder shall be deemed to have been given or served for all purposes hereunder, forty-eight (48) hours after the time that such communication was deposited in the United States mails (Saturdays, Sundays and legal holidays excluded), postage prepaid, in the manner aforesaid, one (1) day after delivery to a recognized overnight courier service, or upon delivery, whichever event shall first occur.

(b) Refusal by any person to accept delivery of any notice delivered to the office at the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery.

(c) The notice to any leasehold mortgagee, and any other person, as provided in Paragraph 41, above, will only be provided if such mortgagee or person has complied with the provisions of that Paragraph.

48. **NON-EXCLUSIVE RIGHTS.** Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this Lease Agreement are non-exclusive and the Lessor reserves the right to grant similar privileges to other lessees on other parts of the Airport.

49. **SUBROGATION.** The Lessor shall have the option, after fifteen (15) days prior written notice to Lessee and without waiving or impairing any of Lessor's rights, to pay any sum or perform any act required of the Lessee after expiration of any cure period, and the amount of any such payment and the value of any such performance, together with interest on them, shall be secured by this Lease, and shall be promptly due and payable by Lessee to the Lessor.

50. **NON-DISCRIMINATION.**

(a) The Lessee for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, as it may be amended from time to time.

(b) The Lessee for himself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person on the grounds of race, color, or national origin shall 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 the Premises and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) that the Lessee shall use the Premises in compliance with all other requirements of Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

(c) In the event of a breach of any of the above nondiscrimination covenants, Lessor shall have the right to terminate the lease and re-enter and as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed, including exercise or expiration of appeal rights.

(d) The Lessor is granted the right to take such action, anything to the contrary in this Lease Agreement notwithstanding, as the United States may direct to enforce this nondiscrimination covenant.

51. NON-LIABILITY OF INDIVIDUALS. No commissioner, officer, agent or employee of the City shall be charged personally or held contractually liable under any term or provision of this Agreement or of any supplement, amendment, or modification to this Agreement or because of any breach thereof, or because of its or their execution or attempted execution.

52. ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreement whether oral or written.

53. FINAL REPOSITORY. ^{"C" + "D"} The parties mutually represent and warrant to each other that this Lease Agreement, consisting of Paragraphs 1 through 67, inclusive, and Exhibit ^{"A and B"} constitute the final Lease Agreement of the parties on its subject matter and may not be changed, modified, discharged or extended except by written instrument duly executed by the parties. The parties agree that no previous representations or warranties shall be binding upon either party nor has the execution of this Lease been induced on the part of any party except as expressed in writing in this Agreement.

54. SEVERABILITY. If any section, subsection, sentence, clause, provision, or part of this Agreement shall be held invalid for any reason, the remainder of this Agreement and the provisions thereof shall continue to be effective.

55. THIRD PARTY BENEFICIARIES. Neither Lessee nor Lessor intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

56. JOINT PREPARATION. This Agreement shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The parties hereto acknowledge that they have thoroughly read this Agreement, including all exhibits thereto, and have sought and received whatever competent advice and counsel that was necessary for them to form a full and complete understanding of all rights and obligations herein.

57. RADON GAS. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines

have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

58. **AUTHORITY OF INDIVIDUALS.** The individuals executing this agreement on behalf of Lessee personally warrant that they have the full authority to execute this Agreement on behalf of Lessee for whom they are acting herein.

59. **INTERPRETATION.** The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.

60. **INCORPORATION OF RECITALS.** The parties acknowledge and agree the recitals first set forth in this Agreement are true and correct and the same are incorporated herein as if fully set forth at length and form the basis for the terms and conditions as stated above.

61. **RECORD RETENTION.** Lessee and all contractors or subcontractors (the "Contractor") engaging in services in connection with construction and/or maintenance of the Premises shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by Lessee in order to perform the services rendered.

(b) Upon request from Lessor's custodian of public records, provide Lessor with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2016), as may be amended or revised, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law and as to Lessee for the duration of the Lease and as to Contractor for the duration of the contract term and following completion of said contract if Contractor does not transfer the records to Lessee.

(d) Upon completion of said construction or maintenance at the Premises, transfer, at no cost, to Lessor all public records in possession of Lessee or Contractor or keep and maintain public records required by Lessee to perform the service. If Contractor transfers all public records to Lessee upon completion of construction or maintenance, Contractor shall destroy any duplicate public records

that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Premises, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Lessee, upon request from Lessee's custodian of public records, in a format that is compatible with the information technology systems of CITY.

(e) If Lessee or any Contractor has questions regarding the application of Chapter 119, Florida Statutes, to Lessee's or Contractor's duty to provide public records relating to this Lease or its contract, contact the CITY of Fort Lauderdale custodian of public records by telephone at 954-828-5002 or by e-mail at PRRCONTRACT@FORTLAUDERDALE.GOV or by mail at 100 North Andrews Avenue, Fort Lauderdale, FL 33301 Attention: Custodian of Public Records.

(f) Pursuant to Subsection 119.071(3)(a), Florida Statutes (2018), all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security or fire safety of the Premises or revealing security or fire safety systems, threat assessments conducted by the Lessee, threat response plans, emergency evacuation plans, sheltering arrangements, or manuals for security or fire safety personnel, emergency equipment, or security or fire safety training, (collectively, "Security or Fire safety System Plan"), held by the Lessee are confidential and exempt from public inspection and copying. In the event the Lessor receives from the Lessee or the Lessee's agent any Security or Fire Safety System Plan related to the Premises or is otherwise in possession of any Security or Fire Safety System Plan related to the Premises, the Lessor shall maintain the confidential and exempt status of the Security or Fire Safety System Plan, and shall not disclose the Security or Fire Safety System Plan to any person or entity without first obtaining the Lessee's contract manager's prior written approval.

(g) Pursuant to Subsection 119.071(3)(b), Florida Statutes (2018), building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of the Premises, (collectively, "Plans"), are exempt from public inspection and copying except to a licensed architect, engineer, or contractor who is performing work on or related to the Premises. In the event the Lessor receives from the Lessee or the Lessee's agent any Plans related to the Premises or is otherwise in possession of any Plans related to the Premises, the Lessor shall maintain the exempt status of the Plans, and shall not disclose the Plans to any person or entity without first obtaining the Lessee's contract manager's prior written approval.

(h) The Lessor shall return any and all Security or Fire safety System Plan, any and all Plans, any and all copies of any Security or Fire safety System Plan, and any and all copies of any Plans, received from the Lessee or the Lessee's agent, related to the Premises, to the Lessee within fourteen days following the expiration or early termination of this Lease Agreement. The failure by the Lessor to return any of the Plans or any Security or any Fire safety System Plan and any copies thereof to the Lessee within fourteen days following the expiration or early termination of this Lease Agreement shall constitute a material breach of this Lease Agreement and grounds for the Lessee immediately to pursue any remedy at law or in equity, in which case the Lessor agrees to pay the Lessee's attorney fees and costs. Any disclosure of the Plans by the Lessor to any person or entity other than the Lessee shall constitute a material breach of this Lease Agreement and grounds for the Lessee immediately to terminate this Lease Agreement and pursue any remedy at law or in equity, in which case the Lessor agrees to pay the Lessee's attorney fees and costs. Paragraph 49 of this Lease Agreement shall survive the expiration or early termination of this Lease Agreement.

(i) As a condition precedent to the effectiveness of this Agreement and as a condition precedent to any renewal of this Agreement, the Lessee certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2018), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Lessor may terminate this Agreement at the Lessor's option if the Lessee is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2018), as may be amended or revised, or been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2018), as may be amended or revised, or is engaged in a boycott of Israel as defined in Sections 287.135 and 215.4725, Florida Statutes (2018), as may be amended or revised.

62. PUBLIC ENTITY CRIME ACT. Lessee represents that the execution of this Lease will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, as may be amended from time to time, which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to Lessor, may not submit a bid on a contract with Lessor for the construction or repair of a public building or public work, may not submit bids on leases of real property to Lessor, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with Lessor, and may not transact any business with Lessor in excess of the threshold amount provided in Section 287.017, Florida Statutes, as may be amended from time to time, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Lease and recovery of all monies paid by Lessor pursuant to this Lease, and may result in debarment from Lessor's competitive procurement activities.

63. WAIVER OF JURY TRIAL. LESSOR AND LESSEE WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THEM AGAINST THE OTHER ON ALL MATTERS ARISING OUT OF THIS LEASE, OR CONSTRUCTION OF THE IMPROVEMENTS OR THE USE AND OCCUPANCY OF THE DEMISED PREMISES OR THE MAINTENANCE THEREOF.

64. On or before the first day of the fifth (5th) Lease Year and before the first day of each fifth Lease Year thereafter, the Lessee, at its expense, shall have an engineer licensed in the State of Florida perform a physical inspection of the Improvements, including but not limited to all structural components, plumbing, life safety, electrical, heating and air conditioning systems and mechanical equipment as well as any and all structural trade fixtures, in order and to identify relevant useful life and whether replacement and/or capital improvements are needed in order for such improvements to be maintained in accordance with the requirements of this Lease ("Capital Improvement Requirements"). Lessee shall furnish Lessor with a copy of the report within ninety (90) days of completion. In the event that such engineering report determines that Capital Improvement Requirements are required to be performed, then the Lessee agrees that it shall perform such Capital Improvement Requirements, within the time parameters recommended in such Capital Improvement Report. If after written notice, the Lessee fails to perform such Capital Improvement Requirements, Lessor shall have the right to make the repairs called for in the report and seek reimbursement from the Lessee as additional rent for the cost and expense of the Capital Improvement Requirements.

65. HOLDING OVER. If Lessee retains possession of the Premises after termination or expiration of this Lease, Lessee agrees to pay an annual Base Rent in an amount equal to two times the Base Rent in effect at the time this Lease expired or terminated. Lessor's acceptance of rent shall not be considered a renewal of this Lease, and Lessee's tenancy shall be on a month-to-month basis, terminable by either party giving the other one month written notice thereof, or as required by applicable law.

66. BROKERS. Each party hereby represents and warrants to the other, that it has neither contacted nor entered into an agreement with any real estate broker, agent, finder, or any other party in connection with this transaction, or taken any action that would result in any real estate broker's, finder's, or other fees or commissions being due or payable to any other party with respect to the transaction contemplated by this Lease except that Lessee shall pay Collier's International South Florida LLC., on or before the thirtieth (30th) day after this Lease is executed by both parties a commission in an amount equal to four (4%) of the appraised value of the unimproved Leased Premises. Each party hereby indemnifies and agrees to hold the other party harmless from any loss, liability, damage, cost, or expense (including reasonable attorney's fees) resulting to the other party from a breach of the representation made by the indemnifying party in this paragraph.

67. FAA LETTER OF NO OBJECTION. The Lease shall become effective and enforceable upon issuance of a letter of no objection by the FAA to this Lease.

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

LESSOR

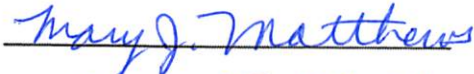
WITNESSES:

CITY OF FORT LAUDERDALE, a Florida municipal corporation



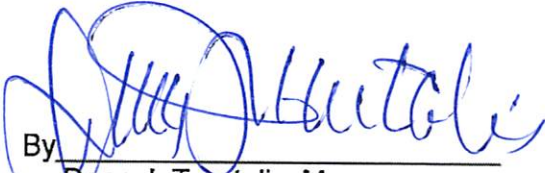
Andrew Felisberto

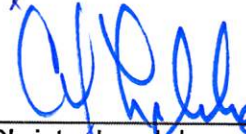
Print Name



Mary J. Matthews


Print Name


By _____
Dean J. Trantalis, Mayor


By _____
**Christopher J. Lagerbloom
City Manager**

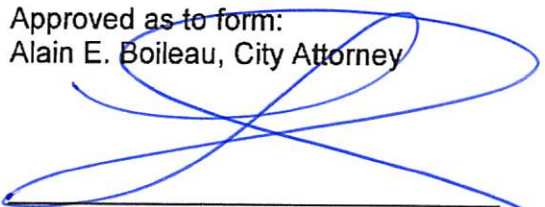
(CORPORATE SEAL)

ATTEST:



Jeffrey A. Modarelli, City Clerk

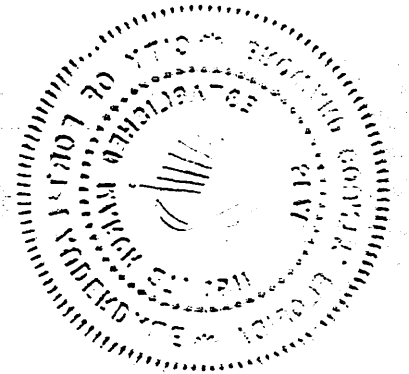
Approved as to form:
Alain E. Boileau, City Attorney



Lynn Solomon, Assistant City Attorney



Andrew Feldman



LESSEE

WITNESSES:

FIRST INDUSTRIAL HARRISBURG, L.P.
a Delaware limited partnership

Maria Covaci
MARIA COVACI
[Witness print name]

By Peter E. Baccile
Peter E. Baccile
[Print Name]

President and Chief Executive Officer
[Title]

Jessica Buchman
Jessica Buchman
[Witness print name]

ATTEST:

D. Hemmer
D. HEMMER, Secretary
[Print Name]

(CORPORATE SEAL)

STATE OF Illinois :
COUNTY OF COOK :

The foregoing instrument was acknowledged before me this 22 day of May, 2019 by Peter Baccile, as President and Chief Executive Officer of FIRST INDUSTRIAL HARRISBURG, L.P., a Delaware limited partnership, on behalf of the entity. He/She is personally known to me or has produced _____ as identification and did not (did) take an oath.

(SEAL)

Notary Public, State of
Signature of Notary taking
Acknowledgment



Heather Schonberg
Name of Notary Typed,
Printed or Stamped
My Commission Expires:
1/23/22
Commission Number



First American

Exhibit A

ISSUED BY
**First American Title Insurance
Company**

File No: NCS-931877-CHI2

File No.: NCS-931877-CHI2

The Land referred to herein below is situated in the County of Broward, State of Florida, and is described as follows:

LOTS 12, 13, 14 & 15, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 63, PAGE 8, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

LESS AND EXCLUDING THE FOLLOWING PROPERTY (the "Conservation Easement"):

PORTIONS OF LOTS 12 AND 13, "FORT LAUDERDALE INDUSTRIAL AIRPARK - SECTION2", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 63, PAGE 8, OF THE PUBLIC RECORDS, BROWARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 12; THENCE SOUTH 88°09'08" WEST ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 13, FOR 101.66 FEET; THENCE NORTH 1°49'53" WEST, OR 285.75 FEET; THENCE NORTH 87°18'01" EAST, FOR 5.99 FEET TO THE POINT OF CURVATURE WITH A CURVE CONCAVE TO THE NORTH, SAID CURVE HAVING A RADIUS OF 297.00 FEET AND A CENTRAL ANGLE OF 13°09'58"; THENCE EASTERLY ALONG SAID CURVE FOR 68.25 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A RADIUS OF 578.00 FEET AND A CENTRAL ANGLE OF 13°09'58"; THENCE EASTERLY ALONG SAID CURVE FOR 132.82 FEET TO A POINT OF TANGENCY; THENCE NORTH 87°18'01" EAST, FOR 200.94 FEET; THENCE SOUTH 1°48'01" EAST ALONG A LINE 15 FEET WESTERLY OF AND PARALLEL WITH, AS MEASURED AT RIGHT ANGLES TO THE EASTERLY BOUNDARY OF SAID LOT 12, FOR 306.04 FEET TO A POINT AT THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE NORTHWEST, THE RADIUS POINT OF SAID CURVE BEARS NORTH 40°28'57" WEST FROM SAID POINT; THENCE WESTERLY ALONG A SOUTHERLY BOUNDARY OF SAID LOT 12, AND AN ARC OF SAID CURVE, HAVING A RADIUS OF 40.00 FEET, AND A CENTRAL ANGLE OF 38°38'05", FOR 26.97 FEET TO A POINT OF TANGENCY; THENCE SOUTH 88°09'08" WEST ALONG THE SOUTHERLY BOUNDARY OF SAID LOT 12, FOR 279.03 FEET TO THE POINT OF BEGINNING.

AND

PORTIONS OF LOTS 6 AND 7, "FORT LAUDERDALE INDUSTRIAL AIRPARK - SECTION2", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 63, PAGE 8, OF THE PUBLIC RECORDS, BROWARD COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SAID LOT 7; THENCE N 87°17'34" E ALONG THE NORTHERLY BOUNDARY OF SAID LOT 6, FOR 249.44 FEET; THENCE S 2°42'26" E, FOR 93.00 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A RADIUS OF 780.78 FEET AND A CENTRAL ANGLE OF 08°04'39"; THENCE SOUTHERLY ALONG SAID CURVE FOR 110.07 FEET TO A POINT OF COMPOUND CURVATURE WITH A CURVE CONCAVE TO THE WEST, SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 02°29'31"; THENCE SOUTHERLY ALONG SAID CURVE FOR 8.90 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE TO THE EAST, SAID CURVE HAVING A RADIUS OF 522.00 FEET AND A CENTRAL ANGLE OF 09°18'07"; THENCE SOUTHERLY ALONG SAID CURVE FOR 84.75 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 5.00 FEET AND A CENTRAL ANGLE OF 87°04'02"; THENCE SOUTHWESTERLY ALONG SAID CURVE FOR 7.60 FEET TO A POINT OF TANGENCY; THENCE SOUTH 88°14'05" WEST FOR 551.45 FEET; THENCE NORTH 1°46'00" WEST FOR 241.46 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE SOUTHEASTERLY, SAID CURVE HAVING A

RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF $89^{\circ}03'34''$; THENCE NORTHEASTERLY ALONG SAID CURVE FOR 77.72 FEET; THENCE N $87^{\circ}17'34''$ E ALONG THE NORTHERLY BOUNDARY OF SAID LOT 7, FOR 274.97 FEET TO THE POINT OF BEGINNING.

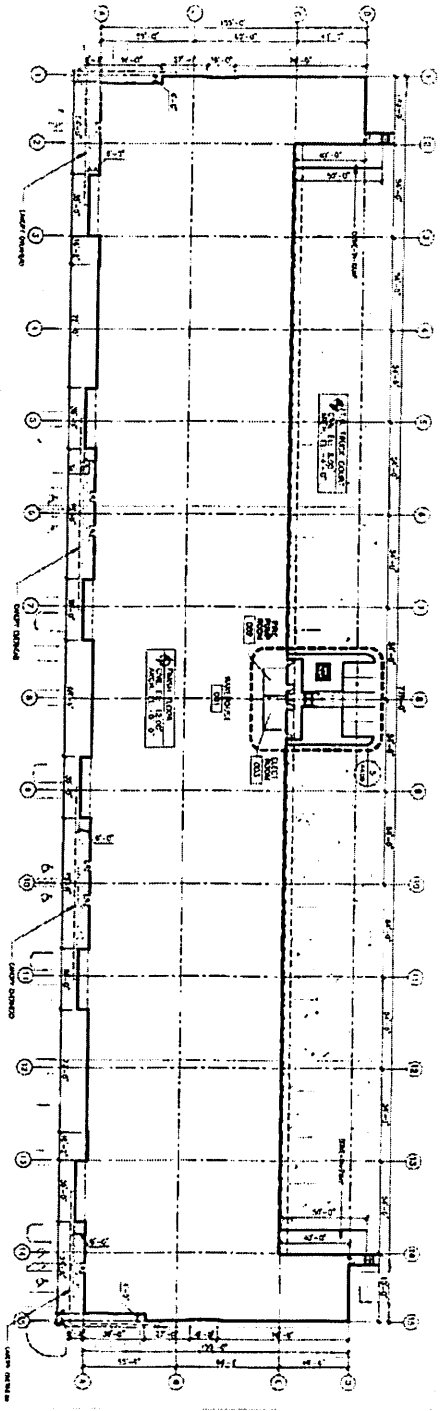
EXHIBIT B

**IMPROVEMENTS TO BE CONSTRUCTED AND MAINTAINED
AT THE PREMISES**

FLOOR PLAN

DATE: 03/09/2019

2 3 4 5 6 7 8 9 10 11 12 13 14 15 16



NAT. RAL



DRC
SUBMITTAL
03/09/2019

A1.00

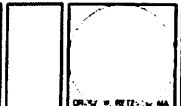
Working Title
FLOOR PLAN

DATE: 03/09/2019
PROJECT NO.: 19002.01
PROJECT NAME: CYPRESS CREEK
DRAWN BY: [Name]
CHECKED BY: [Name]

NO.	REVISION

**CYPRESS CREEK COMMERCE CENTER I
PARCEL 1**

1501 NW 64TH STREET
FORT LAUDERDALE, FLORIDA 33309



RLC ARCHITECTS

1501 NW 64TH STREET
FORT LAUDERDALE, FLORIDA 33309
TEL: 954.344.1111
WWW.RLCARCHITECTS.COM

RLC Architects
 10000 NW 15th Street, Suite 100
 Fort Lauderdale, Florida 33309
 Phone: (954) 571-1111
 Fax: (954) 571-1112
 Website: www.rlcarchitects.com



CYPRESS CREEK COMMERCE CENTER III
PARCEL 3
 6320 NW 15TH STREET
 FORT LAUDERDALE, FLORIDA 33309

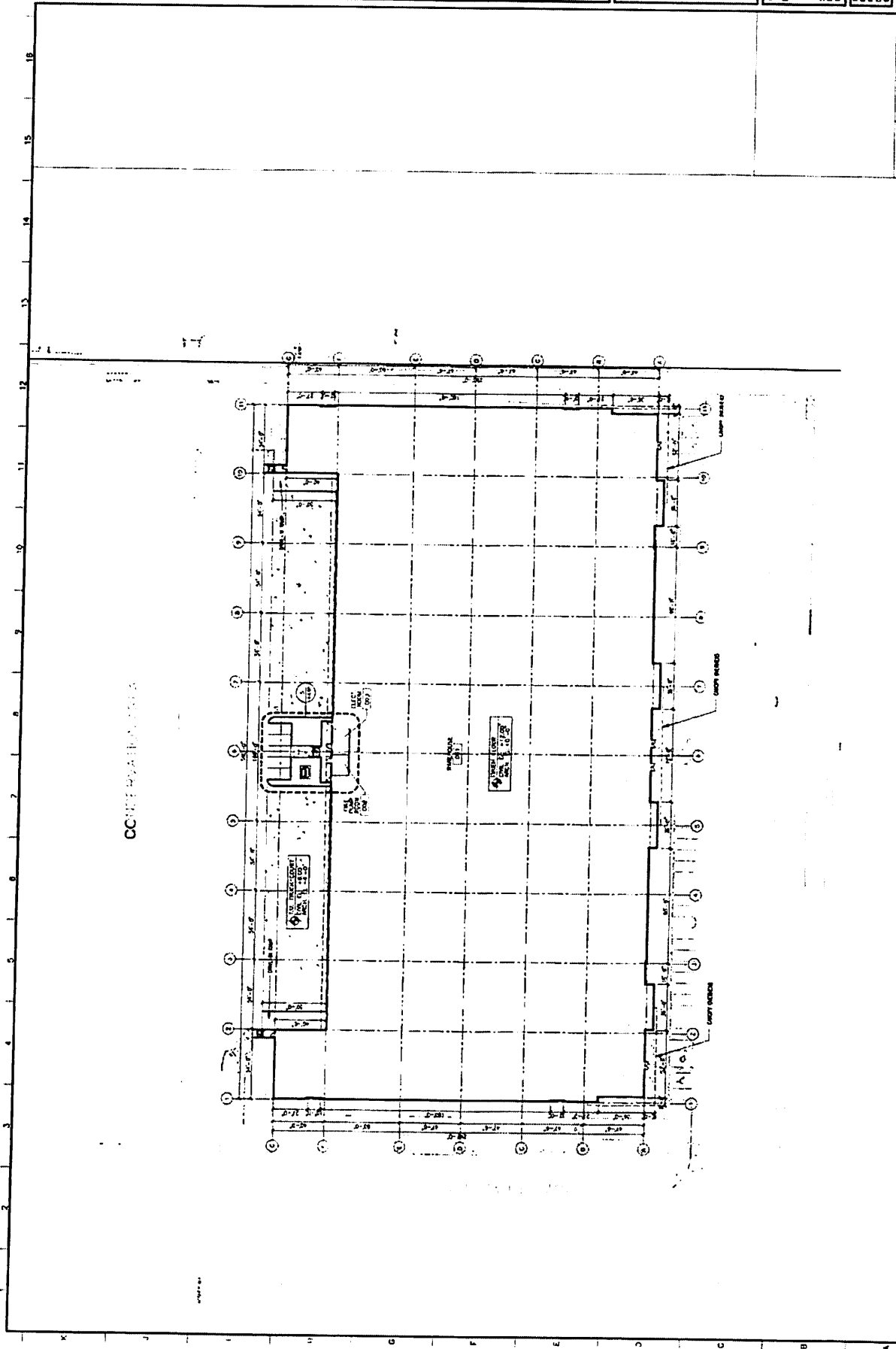
PROJECT NO.:
 SHEET NO.:
 DATE:

DRAWN BY:
 CHECKED BY:
 PROJECT MANAGER:

SHEET NO.:
 TOTAL SHEETS:

A100

DRC
 SUBMITTAL
 09/09/2019



1 FLOOR PLAN
 SCALE: AS SHOWN

EXHIBIT C

PERMITTED TITLE EXCEPTIONS

9. Provisions of the Plat of Fort Lauderdale Industrial Airpark – Section 2, recorded in Plat book 63, Page 8, as affected by Ordinance No. C-85-44, for vacating and closing of roads located within said plat as recorded in Official Records Book 12602, Page 614, of the Public Records of Broward County, Florida.
10. Right-of-Way Easement recorded in Official Records Book 354, Page 379.
11. The terms, provisions and conditions contained in those Resolutions as recorded in Official Records Book 795, Page 599, and Official Records Book 925, Page 295 and Deed Book 803, Page 182.
12. Easement granted to Broward County, Florida by instrument recorded in Official Records Book 2232, Page 873.
13. Declaration of Deed Restrictions and Protective Covenants recorded in Official Records Book 3324, Page 79, as affected by: Official Records Book 3325, Page 755; Official Records Book 12321, Page 258, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USA 3604(c).
14. Easement granted to Florida Power & Light Company by instrument recorded in Official Records Book 3423, Page 309.
15. The terms, provisions and conditions contained in that Ordinance No. C-74-33 as recorded in Official Records Book 5743, Page 373.
16. Right-of-Way Easement granted to Broward County, Florida by instrument recorded in Official Records Book 8122, Page 282.
17. Easement granted to Florida Power & Light Company by instrument recorded in Official Records Book 12633, Page 115.
19. The terms, provisions and conditions contained in that certain Resolution 1998-850 recorded in Official Records Book 28837, Page 1194.
22. Drainage Easement by and between City of Fort Lauderdale and Cypress Concourse E, L.L.C. by instrument recorded in Official Records Book 33921, Page 1758.
24. Deed of Conservation Easement and Agreement by and between City of Fort Lauderdale and Broward County, Florida as recorded in Official Records Book 51269, Page 1388 and Official Records Book 51269, Page 1397.

25. Deed. On March 11, 1947, there was executed and delivered to the Lessor by the United States of America a Deed conveying to the Lessor certain land situated near the territorial limits of the City of Fort Lauderdale, known as Prospect Field, which deed of conveyance was recorded in Deed Book 579, Page 130, of the Public Records of Broward County, Florida ("Deed").

EXHIBIT D
SUMMARY OF PHASE II ENVIRONMENTAL ASSESSMENT



January 23, 2019

First Industrial Realty Trust, Inc.
One North Wacker Drive
Suite 4200
Chicago, Illinois 60606

Attn: Mr. Michael Reese
P: (303)344-4387
E: mreese@firstindustrial.com

Re: Limited Site Investigation
Three Vacant Parcels - Parcel B (1501 NW 64th Street)
Parcel C (6499 NW 12th Avenue), and Parcel D (6320 NW 12th Avenue)
Fort Lauderdale, Broward County, Florida 33309
Terracon Project No. 34187228

Dear Mr. Reese:

At your request, Terracon Consultants, Inc. (Terracon) has completed a Limited Site Investigation (LSI) at the site, designated the Three Vacant Parcels, located at 1501 NW 64th Street (Parcel B), 6499 NW 12th Avenue (Parcel C), and 6320 NW 12th Avenue (Parcel D). The site is identified by the Broward County Property Appraiser's office with folio numbers: 4942 09 01 0180 (Parcel B), 4942 09 01 0170 (Parcel C), and 4942 09 01 0160 (Parcel D), respectively.

The LSI was performed in accordance with the Task Order received from First Industrial Realty Trust, Inc. (client), dated December 21, 2018. The location of the site is illustrated on Exhibit 1 in Attachment A. The general layout of the site showing the soil boring and temporary monitoring well locations is reflected on Exhibit 2 included in Attachment A.

The LSI was conducted to assess for the presence of potential impacts to soil and groundwater quality at the site from potential concerns identified in the Phase I Environmental Site Assessment (Terracon Project Number 34187228, November date 2018). The potential concerns included the following:

- historical use of portions of Parcel D within the site for row crops and debris piles
- historical and current use of the adjacent properties for commercial/ industrial purposes (Parcel B and Parcel C).

Further, the LSI was intended to establish a baseline of the soil and groundwater quality in soil and groundwater samples collected within the parcels prior to the client's redevelopment and operation of the site.

Scope of Services

Limited Site Investigation

Three Vacant Parcels ■ Fort Lauderdale, Florida
January 23, 2019 ■ Terracon Project No. 34187228



Terracon completed a health and safety plan inclusive of Pre-Task Planning as an integral component of our safety culture, Incident and Injury Free (IIF), in preparation for work at the site. Prior to the subsurface investigation, Terracon contacted Sunshine 811 to mark locations of public underground utilities in the work areas and requested clarification of onsite subsurface improvements that may be present. The scope of services included:

- Advancement of 13 soil borings using Geoprobe™ direct push drilling equipment (four soil borings within each Parcel B and Parcel C and five soil borings within Parcel D)
- Collection of soil samples from each soil boring, screening soil samples in the field for the presence of organic vapors, and observations of lithologic characteristics and indications of petroleum impacts as indicated by staining, odors, etc., collection of select soil samples for laboratory analysis
- Installation of temporary monitoring wells at each soil boring location, and collecting groundwater samples for laboratory analysis
- Transporting the soil and groundwater samples in ice filled coolers and transport the samples under chain of custody protocol to a Florida Department of Health (FDOH) certified and National Laboratory Accreditation Program (NELAP) compliant laboratory for analysis.
 - Analysis of 10 soil and 10 groundwater samples for the following parameters:
 - Volatile organic compounds (VOC) by EPA Method 8260,
 - Polynuclear aromatic hydrocarbons (PAH) by EPA Method 8270,
 - Organochlorine pesticides (OCPs) by EPA Method 8081,
 - Total recoverable petroleum hydrocarbons (TRPH) using the FLPRO Method,
 - Eight Resource Conservation and Recovery Act (RCRA) metals (arsenic, barium, cadmium, chromium, lead, mercury, selenium, and silver) using EPA Method 6010/7470.
 - Analysis of three soil samples (B-SB-3, C-SB-3, and D-SB-2) and three groundwater samples (B-TMW-3, C-TMW-3, and D-TMW-1) for the following parameters:
 - VOCs,
 - OCPs,
 - TRPH,
 - Semi-volatile organic compounds (SVOCs) by EPA Method 8270,
 - 13 Priority pollutant metals using EPA Method 6010/7470,
 - Polychlorinated biphenyls by EPA Method 8082
 - Chlorinated herbicides by EPA Method 8151.

Methodology

Terracon advanced, 13 soil borings across the site on January 8-9, 2019, using Geoprobe™ direct push drilling equipment to complete four soil borings within each Parcel B and Parcel C, and five soil borings within Parcel D. Terracon collected soil samples from each soil boring at two-foot

Limited Site Investigation

Three Vacant Parcels ■ Fort Lauderdale, Florida
January 23, 2019 ■ Terracon Project No. 34187228



intervals until the water table was reached. Soil samples were screened in the field for the presence of organic vapors, and observations of lithologic characteristics and indications of petroleum impacts as indicated by staining, odors, etc. Based on field observations, Terracon selected soil samples for laboratory analysis

Temporary monitoring wells, consisting of one-inch diameter PVC with a 10-foot section of machine slotted 0.010 inch well screen and sufficient solid PVC riser to reach the surface were installed in each borehole. The temporary monitoring wells were constructed to a depth of approximately 14 feet below ground surface (bgs), the annular space was filled with sand and the temporary monitoring wells were completed above-grade with stick up risers. The temporary monitoring wells were developed by over purging until the development water ran clear of visible sediments. The monitoring wells were then allowed to equilibrate, and samples were collected the following day.

Groundwater samples were collected from January 9 through January 10, 2019 from the temporary monitoring wells. Groundwater samples were collected using the quiescent sampling method in accordance with Florida Department of Environmental Protection (DEP) / Standard Operating Procedures (SOP) DEP-SOP- 001/01, FS2200, as provided in Chapter 62-160, Florida Administrative Code (FAC), where a peristaltic pump is utilized to draw groundwater to the surface for introduction into pre-cleaned parameter specific sample bottles provided by the laboratory.

Stability data including pH, temperature, conductivity, dissolved oxygen, and turbidity were measured and groundwater sampling logs were prepared during the sampling effort to document the readings obtained during the sampling/stabilization efforts. Copies of the groundwater sampling logs are included in Attachment C.

Results

The lithology generally consisted of silty sands well sorted, medium to fine grained sand, with gravel fragments. No odors or staining was observed. The water table was encountered at approximately 5 to 6 feet bgs. The soil sample screening with an organic vapor analyzer equipped with photoionization detector (OVA-PID) did not identify the presence of organic vapors above 10 parts per million (ppm) isobutylene equivalents, the screening action level established by the Florida Department of Environmental Protection (FDEP). A summary of the OVA-PID readings is provided in Table 1. Indications of soil impact from staining or odors were not observed. Since no impact was identified, the surface sample from soil borings (B-SB-3, B-SB-4, C-SB-2, C-SB-3, D-SB-1, D-SB-4 and D-SB-5) were submitted for laboratory analysis, and the samples collected from immediately above the groundwater interface from soil borings (B-SB-1, B-SB-2, C-SB-1, C-SB-4, D-SB-2 and D-SB-3) were submitted for laboratory analysis.

Limited Site Investigation

Three Vacant Parcels ■ Fort Lauderdale, Florida
January 23, 2019 ■ Terracon Project No. 34187228



The analytical results from the soil samples were compared to the soil cleanup target levels (SCTLs) as specified in Chapter 62-777, Florida Administrative Code (FAC). A summary of the analytical results and a comparison to the SCTLs is presented in Table 2A and Table 2B. A copy of the laboratory analytical report is provided in Attachment C. Soil analytical results were reported either below their applicable laboratory method detection limit (MDL) or at concentrations below the SCTLs, except for 2,6-dinitotoluene reported in a soil sample collected from the 0 to 2 foot interval bgs of soil boring C-SB-3. The concentration of 2,6-dinitrotoluene was reported at a concentration of 0.11 milligrams per kilogram (mg/kg), which exceeds the leachability based on groundwater SCTL (0.0004 mg/kg) but is less than the residential and commercial direct exposure SCTLs of 1.2 mg/kg and 3.8 mg/kg, respectively. The 2,6-dinitrotoluene concentration was flagged "I", meaning the reported concentration is estimated as it is between the MDL and the practical quantitation limit (PQL). As the remainder of the analytical results for the semi-volatile parameters analyzed were reported to be less than their respective MDLs in the soil samples analyzed, and the analytical results of the groundwater sample collected from the same location did not report the presence of a detectable concentration of 2,6-dinitotoluene, the exceedance of the leachability SCTL reported for 2,6-dinitotoluene in the soil sample is considered de minimis.

The analytical results from the groundwater samples were compared to the groundwater cleanup target level (GCTLs) as specified in Chapter 62-777, FAC. A summary of the analytical results and a comparison to the GCTLs is presented in Table 3A and Table 3B. A copy of the laboratory analytical report is provided in Attachment C. Groundwater analytical results were reported either below their applicable laboratory MDL or below the GCTLs, except for chloromethane and dieldrin reported in the groundwater sample collected from temporary monitoring well B-TMW-3. Chloromethane was reported in the groundwater sample collected from temporary monitoring well B-TMW-3 at a concentration of 3.2 micrograms per liter ($\mu\text{g/L}$), which slightly exceeds the GCTL of 2.7 $\mu\text{g/L}$, but is less than the Natural Attenuation Default Source Concentration 270 $\mu\text{g/L}$. Dieldrin was reported in the groundwater sample collected from B-TMW-3 at a concentration of 0.0029 $\mu\text{g/L}$ and B-TMW-4 at a concentration of 0.0043 $\mu\text{g/L}$, which slightly exceeded the GCTL of 0.002 $\mu\text{g/L}$, but are less than the Natural Attenuation Default Source Concentration 0.2 $\mu\text{g/L}$. The dieldrin concentrations were flagged "I", meaning the reported concentration is estimated as it is between the MDL and the PQL. As the remainder of the analytical results for the pesticides and VOCs tested were reported at less than the MDLs in the groundwater samples analyzed, and the results of the soil samples collected from the same locations reported chloromethane and dieldrin, respectively, at concentrations below the detection limits, the detections of chloromethane and dieldrin reported in the groundwater samples are considered de minimis. Chloromethane is also documented to occur naturally in the environment from the decay of organic material through fungal and bacteriological processes.

Based on the results of the LSI, no evidence of spills or releases was identified, and no further assessment is recommended.



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

4 (L) (6)
6/21/19

Today's Date: June 19, 2019

DOCUMENT TITLE: Lease Agreement – First Industrial Harrisburg, L.P. (FXE)

COMM. MTG. DATE: 2/19/19 CAM #: 19-0087 ITEM #: R-7 CAM attached: YES NO

Routing Origin: CAO Router Name/Ext: Shaniece Louis / Ext. 5036

CIP FUNDED: YES NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

2) City Attorney's Office # of originals attached: 4 Approved as to Form: YES NO

Date to CCO: 6/20/19 LS
Initials

3) City Clerk's Office: # of originals: 4 Routed to: Donna Varisco/CMO/X5013 Date: 6/20/19

4) City Manager's Office: CMO LOG #: June 79 Date received from CCO: 6/20/19

Assigned to: CHRIS LAGERBLOOM LINDA LOGAN-SHORT RHODA MAE KERR
CHRIS LAGERBLOOM as CRA Executive Director

APPROVED FOR C. LAGERBLOOM'S SIGNATURE N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: L.L-SHORT _____ (Initial/Date) R. KERR _____ (Initial/Date)

PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward 4 originals to Mayor CCO Date: 6/20/19

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

INSTRUCTIONS TO CLERK'S OFFICE

City Clerk: Retains 1 original and forwards 3 original(s) to: Angelia Basto / FXE / Ext. 5334
(Name/Dept/Ext)

Attach _____ certified Reso # _____ YES NO Original Route form to CAO

****PLEASE EMAIL AN EXECUTED COPY TO SHANIECE LOUIS *****