

OPERATING AGREEMENT
FOR
GROUND HANDLERS

TAMPA INTERNATIONAL AIRPORT
Tampa, Florida

BY AND BETWEEN

HILLSBOROUGH COUNTY AVIATION AUTHORITY

AND

CARGO FORCE, INC.

BOARD DATE: _____

Prepared by:

Hillsborough County Aviation Authority
Real Estate Department
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P. O. Box 22287
Tampa, Florida 33622

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HILLSBOROUGH COUNTY AVIATION AUTHORITY
OPERATING AGREEMENT FOR GROUND HANDLERS
TAMPA INTERNATIONAL AIRPORT

THIS OPERATING AGREEMENT FOR GROUND HANDLERS (Agreement) is made and entered into this ___ day of _____, 2020, by and between HILLSBOROUGH COUNTY AVIATION AUTHORITY, an independent special district under the laws of the State of Florida (Authority) and Cargo Force, Inc., a corporation organized and existing under the laws of the State of Delaware and authorized to conduct business in the State of Florida (Company) (individually and collectively hereinafter referred to as Party or Parties).

WITNESSETH:

WHEREAS, Authority has the ownership, custody, control and management of Tampa International Airport (Airport), located in Hillsborough County, State of Florida; and

WHEREAS, Authority has the right to provide for the use of land, property and facilities of the Airport and has full power and authority to enter into this Agreement in respect thereof; and

WHEREAS, Company is engaged in the business of providing ground handling services for air transportation companies; and

WHEREAS, Company desires to obtain certain rights, services and privileges as a ground handler in connection with the use of the Airport, and Authority is willing to grant the same to Company upon the terms and conditions hereinafter stated; and

WHEREAS, companies performing ground handling activities at the Airport are, at a minimum, required to execute an operating agreement for the use of the Airport prior to commencing service at the Airport; and

WHEREAS, Authority and Company agree to enter into this Agreement specifying the rights and obligations of the Parties with respect to the use of the Airport by Company.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, Authority and Company do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

ARTICLE 1
RECITALS

The above recitals are true and correct and are incorporated herein.

ARTICLE 2

TERM

2.01 Effective Date

This Agreement is effective upon execution by Company and approval and execution by Authority.

2.02 Term

The term of this Agreement commences August 1, 2020 and terminates September 30, 2021, unless terminated earlier as provided herein.

2.03 Commencement of Payments

The payments, fees and other charges due hereunder commence August 1, 2020 and continue throughout the term of this Agreement unless this Agreement is terminated as provided herein.

2.04 Termination

This Agreement may be terminated by Authority, with or without cause, upon 30 days' written notice to Company. This Agreement may be terminated by Company, with or without cause, if Company is not in default of any terms of this Agreement or in the payment of any rents or other charges to Authority, upon 30 days' written notice to Authority. In the event any such notice of termination is given, the termination of this Agreement will be effective 30 calendar days from the date of the notice or such later date as set forth in the notice of termination.

ARTICLE 3

USE OF THE AIRPORT AND RELATED FACILITIES

3.01 Company's Rights and Privileges

In addition to all rights granted elsewhere in this Agreement, Company will have the right to use, in common with others so authorized by Authority, areas (other than areas leased exclusively or preferentially to others), facilities, equipment, and improvements at the Airport for the operation of Company's ground handling business and all activities reasonably necessary to such operations serving air carriers possessing a current airline-airport use and lease agreement (Signatory Air Carriers); air carriers possessing a current operating agreement for non-signatory air carriers (Non-Signatory Air Carriers); and nonscheduled, charter or itinerant aircraft, when such aircraft are lawfully located within the potential use areas as depicted in Exhibit A of this Agreement, attached hereto and by this reference made a part hereof (air carriers are hereinafter collectively referred to as Company's Customers).

A. Services

Company will have the non-exclusive right to provide the following ground handling services to Company's Customers:

(1) Cargo and Ramp Service

To load, unload, sort, and deliver air cargo, packages and mail to and from appropriate designated locations on Airport, including, but not limited to, the United States Postal Facility, Authority's air cargo facility, and baggage make-up areas of the Main Terminal; provided Company will not use terminal aircraft aprons immediately adjacent to the Main Terminal Airsides to load or unload all-cargo aircraft unless otherwise authorized in writing by Authority; to guide aircraft in their use of loading and unloading positions; to furnish and place in position and thereafter remove necessary and appropriate loading bridges, steps and power equipment for the safe and efficient loading and unloading of passengers, baggage and cargo to and from an aircraft; to clean aircraft interiors and exterior windows; and to provide a fire guard equipped with approved firefighting equipment.

(2) Equipment Rental and Maintenance

To rent ramp equipment to Company's Customers and to maintain ramp equipment owned by Company or by any Signatory or Non-Signatory Air Carriers contracting with Company.

B. Ingress and Egress

(1) Use of Public Way

Company will have the right of ingress to and egress from Airport for Company's officers, employees, agents, and invitees, including Company's customers, suppliers, and contractors. Company's right of ingress and egress will be subject to FAA regulations, applicable laws, and Authority's Rules, Regulations, Policies, Standard Procedures and Operating Directives governing the general public and access to non-public areas.

(2) Methods of Ingress or Egress

Authority may at any time temporarily or permanently close, re-route, or consent to or request the closing or re-routing of any method of ingress to or egress from Airport, so long as a reasonably equivalent means of ingress and egress is available to Company. Company hereby releases and discharges Authority from any and all claims, demands, or causes of action that Company may have arising out of such a closing or re-routing.

3.02 Exclusions and Reservations

- A. Nothing in this Article will be construed as authorizing Company to conduct any business separate and apart from the conduct of its ground handling business.
- B. Company will not knowingly interfere or permit interference with the use, operation, or maintenance of the Airport, including but not limited to, the effectiveness or accessibility of the drainage, sewerage, water, communications, fire protection, utility, electrical, or other systems installed or located from time to time at the Airport; and Company will not engage in any activity prohibited by Authority's approved FAR Part 150 Noise Compatibility Study and Preferential Runway Use Program as amended or supplemented from time to time.
- C. Company will be properly certified under appropriate federal, state and local regulations. Copies of such certificates will be furnished to Authority on demand.
- D. Company will not do or permit to be done any act that might cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that will cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If Company does or permits to be done any act not permitted under this Agreement, or fails to do any act required under this Agreement, regardless of whether such act will constitute a breach of this Agreement, which act or failure, in and of itself, causes an increase in Authority's insurance premiums, Company will immediately remedy such actions and/or pay the increase in premiums, upon notice from Authority to do so.
- E. Company will pay all applicable sales, use, intangible and ad valorem taxes, if any and of any kind, whether levied against Company or Authority. Company will also pay other taxes or assessments arising out of or assessed as a result of the uses, rights and privileges granted Company hereunder. Company reserves the right to contest such taxes or assessments and withhold payment of such taxes and assessments upon written notice to Authority of its intent to do so, so long as the nonpayment of such taxes and assessments

does not result in a lien against the Airport or a direct liability on the part of Authority. Authority agrees to immediately forward to Company any notices of taxes and assessments due upon receipt of same.

- F. The uses, rights and privileges granted to Company pursuant to this Article will be subject to any and all reasonable and nondiscriminatory Rules, Regulations and Operating Directives established by Authority, as may be amended from time to time.
- G. This Agreement will not be construed to grant or authorize the granting of an exclusive right within the meaning of 49 USC 40103(e) or 49 USC 47107(a), as may be amended from time to time, and related regulations.
- H. Any and all rights and privileges not specifically granted to Company for its use of and operations at the Airport pursuant to this Agreement are hereby reserved for and to Authority.

ARTICLE 4 OBLIGATIONS OF COMPANY

4.01 Business Operations

Company will provide all necessary equipment, personnel and other appurtenances necessary to conduct its operations. Company will conduct its business operations hereunder in a lawful, orderly and proper manner, considering the nature of such operations, so as not to unreasonably annoy, disturb, endanger or be offensive to others on the Airport. Company will provide all services under this Agreement on a fair and reasonable basis to all users of the Airport. Service will be prompt, courteous and efficient.

4.02 Manager

Company will have a fully qualified and experienced manager assigned to a duty station or office at the Airport who will be available at all times. Company will, at all times during the absence of such manager, assign or cause to be assigned a qualified subordinate to be in charge and to act for the manager in their absence.

4.03 Conduct of Employees and Invitees

Company will, within reason, control the conduct, demeanor and appearance of its employees, invitees, and of those doing business with Company and, upon objection from Authority concerning the conduct, demeanor or appearance of any such persons, will immediately take all reasonable steps necessary to remove the cause of objection.

4.04 Equipment and Vehicle Parking

Company will ensure that all equipment, including but not limited to, vehicles owned or operated by Company, its vendors and/or contractors, will not be parked in a manner that interferes in any way with any other operations at the Airport. Company's equipment and vehicles and those of its vendors and/or contractors will be parked in designated parking areas as provided by Authority. No vehicle shall access the Aircraft Operations Area (AOA) unless directly related to Company's business operations. All vehicles driven, escorted, or parked on the AOA must meet Authority's insurance requirements and any other applicable Airport Policies, Rules and Regulations, Operating Directives and Security requirements. All vehicles, including those of its employees, agents, vendors and/or contractors, excluding escorted vehicles, accessing the AOA must bear Company's identification on both sides of the vehicle and Authority's logo decal. Information regarding vehicle access to the AOA is available from Authority's Badging Office. All persons accessing the AOA must adhere to Authority's SIDA training, Airport Security Program, and TSA regulations.

Employee parking permits are required for the Employee Parking Lot and may be required for Company's leased or common use operational areas. Information regarding employee parking permits is available from Authority's Parking Permit Office at (813) 870-8792.

4.05 Nuisance

Company will not commit any nuisance, waste, or injury on the Airport and will not do or permit to be done anything that may result in the creation, commission or maintenance of such nuisance, waste, or injury.

4.06 Excessive Load

Company hereby agrees that it will use all paved areas on the Airport as constructed and in accordance with the permitted use of such paved areas, and Company will prohibit its employees, agents, invitees, or sublessees from placing excessive loads on paved areas on the Airport. Company will be responsible for the repair of any paved area damaged by non-conforming usage or excessive loading.

4.07 Sound Level

Company will take all reasonable measures to reduce to a minimum vibration that may cause damage to any equipment, structure, building or portion of any building located on the Airport, and to keep the sound level of its operation as low as possible.

4.08 Frequency Protection

Should Company install any type of radio transceiver or other wireless communications equipment, Company will provide frequency protection within the aviation air/ground VHF frequency band and the UHF frequency band in accordance with restrictions promulgated by the FAA for the vicinity of FAA Transmitter or Receiver facilities. Frequency protection will also be provided for all other frequency bands operating in the vicinity of Company's equipment. Should interference occur as a result of Company's installation, Authority reserves the right to shut down Company's installation until appropriate remedies to the interference are made by Company. Such remedies may include, but are not limited to, relocation to another site. The cost of all such efforts to remedy the interference will be solely at Company's expense.

4.09 Flammable Liquids

Company will not keep or store flammable liquids within any covered or enclosed portion of the Airport without the prior written approval of Authority. Any such liquids having a flash point of less than 110 degrees Fahrenheit will be kept and stored in safety containers of a type approved by Underwriters Laboratories.

4.10 Permits and Licenses

Company will obtain and maintain throughout the term of this Agreement all permits, licenses, or other authorizations required in connection with the operation of its business at the Airport.

4.11 Security Badging

Any Company employee, or any employee of its contractors or agents, that require unescorted access to the Security Identification Display Area (SIDA) to perform work under this Agreement will be badged with an Airport identification badge (Badge) provided by Authority's ID Badging Department and will be subject to an FBI fingerprint-based criminal history records check (CHRC) and an annual Security Threat Assessment (STA). A new or renewed Badge will not be issued to an individual until the results of the CHRC and the STA are completed and indicate that the applicant has not been convicted of a disqualifying criminal offense. If the CHRC or STA discloses a disqualifying criminal offense, the individual's new or renewed badge application will be rejected. The costs of the CHRC and the annual STA will be paid by Company. These costs are subject to change without notice, and Company will be responsible for paying any increase in the costs. All badged employees of Company and its contractors or agents will comply with Authority's regulations regarding the use and display of Badges.

Company will be assessed a fine for each Badge that is lost, stolen, unaccounted for or not returned to Authority at the time of Badge expiration, employee termination, termination of the Agreement, or upon written request by Authority. This fine will be paid by Company within 15 days from the date of invoice. The fine is subject to change without notice, and Company will be responsible for paying any increase in the fine.

If any Company employee is terminated or leaves Company's employment, Authority must be notified immediately, and the Badge must be returned to Authority promptly.

4.12 Signs

All standard signs will be provided by Authority at the request and cost of Company. Authority will endeavor to incorporate Company's needs on such directional and location signs and messages as agreed upon between Company and Authority, consistent with Authority's graphic standards; provided, however, that Company will submit in advance the sum of money that is required for the cost of signing and message modifications. All other signage, such as posters, banners, or displays, will not be allowed without the prior written approval of Authority. Unapproved signage will be removed by Authority at Company's expense.

4.13 Personal Property

Any personal property of Company placed on the Airport will be at the sole risk of Company, and Authority will not be liable for any loss or damage thereto, irrespective of the cause of such loss or damage. Company hereby waives all rights of subrogation against or recovery from Authority for any such loss or damage.

4.14 Surrender of Personal Property

Provided Company is not in default of this Agreement, Company will immediately remove all of its personal property from the Airport on the date of termination. Failure on the part of Company to remove all of its personal property within 10 days after the date of termination will constitute a gratuitous transfer of title thereof to Authority for whatever lawful disposition is deemed to be in the best interest of Authority. Any costs incurred by Authority in the disposition of such personal property will be borne by Company. If Company is in default of any rent terms of this Agreement, Authority will have a lien for such rent upon any personal property found upon the Airport in accordance with Florida Statutes and, in such event, Company will not remove any personal property from the Airport without written approval of Authority.

ARTICLE 5
OPERATION AND MAINTENANCE OF THE AIRPORT

Authority will be responsible for the overall maintenance, cleaning, and operation of the Airport.

5.01 Authority's Obligations

- A. Authority will, with reasonable diligence, prudently develop, improve, and at all times maintain and operate the Airport in a first class manner consistent with airports of similar size with qualified personnel and keep the Airport in an orderly, clean, neat and sanitary condition, and good repair, unless such maintenance, operation, or repair is Company's obligation pursuant to Article .02 herein.
- B. Authority will, to the extent it is legally able so to do, use reasonable efforts to keep the Airport and its aerial approaches free from ground obstruction for the safe and proper use by Company.
- C. Authority will not be liable to Company for temporary failure to furnish all or any of such services to be provided in accordance with this Section when such failure is due to mechanical breakdown not caused by Authority's negligence or any other cause beyond the reasonable control of Authority.
- D. Authority will maintain (1) loading bridges owned by Authority; (2) preconditioned air systems owned by Authority; (3) associated 400 Hertz units owned by Authority; (4) inbound and outbound baggage handling systems; baggage conveyors owned and installed by Authority when available for Company's use; (5) lightning detection systems; and (6) other systems that may be acquired by Authority in the future.
- E. Authority will, in the operation of the Airport, comply with all local, state and federal laws, rules and regulations.

5.02 Company's Obligations

- A. Company will, at all times, preserve and keep the Airport in an orderly, clean, neat, and sanitary condition, free from trash and debris resulting from Company's operations.
- B. Company will keep, at its own expense, the terminal aircraft aprons and/or cargo aircraft aprons free of fuel, oil, debris, and other foreign objects.
- C. Should Company fail to perform its material obligations hereunder, Authority will have the right to perform such activities; provided, however, other than in a case of emergency,

Authority will give Company reasonable advance written notice of non-compliance, not to exceed ten days, prior to the exercise of this right; provided, however, that if the nature of the cure is such that it cannot be reasonably effectuated within ten (10) days, Company will have an additional period with Authority approval (or, in the alternative, with an Authority approved schedule) reasonably necessary to effectuate such cure. If Authority's right to perform such activities is exercised, Company will pay Authority, upon receipt of invoice, the cost of such services plus 10 percent. Nonpayment of such invoice will be deemed a condition of default of this Agreement.

ARTICLE 6 REPORTS AND AUDITS

6.01 Monthly Statements

Within ten days after the close of each calendar month of the term of this Agreement, Company will submit to Authority, by electronic portal or other method satisfactory to Authority, a detailed statement signed by a responsible officer of Company of its Gross Receipts for the preceding month upon which the fees payable to Authority set forth in this Agreement are computed.

6.02 Books and Records

Company will keep full and accurate books and records showing all of its Gross Receipts. Company agrees that records and instruments will be available to Airport for at least three years after each annual period. If Company utilizes a computerized accounting system, Authority will be allowed to download information from the system for the purpose of verifying Gross Receipts. In the event Company does not maintain exclusive sequential numbering for invoices commencing at the Airport, Company agrees to provide copies of invoices from other sales locations included in the non-exclusive sequence to Authority or its auditors for the purposes of testing reporting completeness.

6.03 Annual Statement

Within 60 days after the end of each 12-month period during the term of this Agreement, Company will furnish a certified statement to Authority, signed by a responsible officer of Company, containing a list of the Gross Receipts by month used to compute the Privilege Fees and other payments made to Authority as shown on the books and records of Company during the period covered by the statement.

6.04 Authority's Right to Perform Audits, Inspections, or Attestation Engagements

- A. Notwithstanding Company's requirement to submit an annual statement, Authority or its representative may at any time during the term of the Agreement or within three years after the end of the Agreement, initiate and perform audits, inspections, or attestation engagements over all or selected operations performed by Company under this Agreement. Free and unrestricted access will be granted to all of Company's books and records, including the State of Florida sales tax return records and records of a parent, affiliate, and/or subsidiary companies and any subconsultants or subcontractors directly pertinent to this Agreement. If the records are kept at locations other than the Airport, Company will arrange for said records to be brought to a location convenient to Authority's auditors to conduct the engagement as set forth in this Article. Or, Company may transport Authority's team to Company's location of records for the purpose of undertaking said engagement. In such event, Company will pay reasonable costs of transportation, food and lodging for Authority's team. In the event Company maintains the requested records in electronic format, upon request by Authority's auditors, Company will provide a download or extract of data files in a computer readable format acceptable to Authority at no additional cost. Authority has the right during the engagement to interview Company's employees, subconsultants, and subcontractors and to make photocopies of records as needed.
- B. Company agrees to deliver or to provide access to all records requested by Authority's auditors within 14 calendar days of the request at the initiation of the engagement and to deliver or to provide access to all other records requested during the engagement within seven calendar days of each request. The Parties recognize that Authority will incur additional costs if records requested by Authority's auditors are not provided in a timely manner and that the amount of those costs is difficult to determine with certainty. Consequently, the Parties agree that Company may be charged liquidated damages of \$100.00, in addition to all other contractual financial requirements, for each item in a records request, per calendar day, for each time Company is late in submitting requested records to perform the engagement. Accrual of the fee will continue until specific performance is accomplished.
- C. If, as a result of any engagement, it is determined that Company owes additional rent, fees, or other charges to Authority, Company will pay such amounts, and Authority may assess interest up to 12% on the amount due from the date the amount was initially due. If it is determined that Company has underreported Gross Receipts or underpaid fees related to

Gross Receipts by three percent (3%) or more for the period under review, Company will also pay for the entire cost of the engagement.

ARTICLE 7
PAYMENTS

For the rights and privileges granted herein, Company agrees to pay the following fees and charges to Authority, in lawful money of the United States of America, without set off, by check or approved electronic transfer made payable to Authority. Payment for fees and charges hereunder will be due within 15 days after the date of the invoice, except as provided herein. Said fees and charges will be deemed delinquent if payment is not received within 15 days of the stated date of such invoice.

7.01 Privilege Fees

A. Minimum Annual Privilege Fee (MAPF)

The MAPF is \$12,000.00. One-twelfth (1/12th) of the MAPF for the applicable year of the term will be paid to Authority, on or before the first day of each and every calendar month, in advance and without demand, commencing on the first month of the term of this Agreement. For any period of less than one calendar month that this Agreement is in effect, the monthly payment due will be calculated on a pro rata basis.

B. Percentage Privilege Fee (PPF)

The PPF is five (5%) percent of Company's monthly Gross Receipts, as defined below, for the previous month as presented in Company's Monthly Statement of Gross Receipts. For any month that the PPF is greater than the MAPF, Company is responsible for paying the PPF amount in excess of the MAPF to Authority within 15 days from the date of Authority's invoice, commencing on the month following the first month of the Agreement. In the event the PPF does not exceed one-twelfth (1/12th) of the MAPF during any month in the term hereof, no PPF will be due and payable for that month.

C. Company will not modify its accounting treatment or rename or redefine services or products that, under the terms of this Agreement, would be subject to the PPF. Company understands that Authority does not support the practice of directly transferring Company's obligation for payment of the PPF due herein to its customers. Except as already referenced herein, Company agrees that if such additional charges or fees are collected from the customer for the purpose of collecting the PPF, such fees will be disclosed to the

customer as “Company’s cost of doing business at the Airport” and will not be represented as an Airport tax.

7.02 Annual Reconciliation

Following receipt of Company's annual certified statement, Authority will prepare and submit to Company a statement showing the MAPF or PPF due, whichever is greater, compared to the MAPF and PPF previously invoiced by Authority for the applicable period. If the MAPF and PPF previously invoiced by Authority for the applicable period exceed the greater of the MAPF or the PPF calculated on the certified Gross Receipts, Authority will issue a credit memo indicating that the overpayment will be credited to the fees next thereafter due from Company. If the MAPF and PPF previously invoiced by Authority are less than the MAPF and the PPF calculated on the certified Gross Receipts, Authority will invoice Company for the sums due. Said invoice will be due and payable within 15 days after the date of the invoice.

7.03 Definition of Gross Receipts

A. Amounts Included

As used herein the term “Gross Receipts” will include the gross revenues from all sales made and services performed for cash, credit or otherwise, pursuant to Company’s operations and solicitations at the Airport, regardless of when or whether paid.

B. Amounts Excluded and Restrictions on Exclusions

Gross Receipts will not include:

- (1) The retail value of fuel and oil and the related fuel service fee;
- (2) Gross revenues that Company receives for all the non-exclusive rights, privileges and concessions described in the Uses of the Airport and Related Facilities Article of this Agreement that Company provides to Signatory Air Carriers;
- (3) Sales and services performed by Company to entities located off Airport;
- (4) Catering sales charged by Company that were previously assessed Authority's concession fee on the caterer's invoice (any markup by Company will be included in Gross Receipts); or
- (5) Ferrying and diverted landings.

7.04 Diversion of Gross Receipts

Any intentional diversion of Gross Receipts will constitute a breach of contract, and Authority will have the right to immediately terminate this Agreement upon determination by Authority or its auditors that an intentional diversion exists or has occurred.

7.05 Collection of Authority Fees

No later than 15 days from the date of invoice during the term hereof, Company will remit to Authority all fees collected during the preceding month on behalf of Authority in accordance with this Agreement. During the term hereof, upon request and on behalf of Authority, Company will collect all landing fees, gate use fees, federal inspection service use fees, common use fees, and other fees and charges applicable to Company's Customers, and report such fees monthly, it being agreed that Authority will pay Company as a collection fee five percent (5%) of all such fees. Common use fees are not to be collected on behalf of Authority for air carriers or aircraft that do not use the Main Terminal complex and are handled as a ramp operation.

7.06 Employee Parking Fees

Authority reserves the right to charge Company or its employees a reasonable and non-discriminatory fee based on Authority's cost of providing services and facilities for the employee parking areas provided at the Airport. If Company is invoiced by Authority for parking fees, payment is due to Authority within 15 days from the date of the invoice, or parking privileges may be terminated.

7.07 Interest on Delinquent Payments

Without waiving any other right or action available to Authority in the event of default of Company's payment of fees or other charges hereunder, and in the event Company is delinquent in such payments to Authority, for a period of five business days after the payment is due, Authority reserves the right to charge Company interest thereon, from the date such fees or other charges became due to the date of payment, at the Federal Reserve Bank of New York prime rate in effect on the date the fees or other charges became due plus four percent (FRBNY prime + 4%) or 12 percent per annum, whichever is greater, to the maximum extent permitted by law.

7.08 Fees and Other Charges a Separate Covenant

Company will not for any reason withhold or reduce its required payments of fees and other charges provided in this Agreement, it being expressly understood and agreed by the Parties that the

payment of fees and other charges is a covenant by Company that is independent of the other covenants of the Parties hereunder.

7.09 Place of Payments

Company will submit all payments required by this Agreement as follows:

(ELECTRONICALLY – PREFERRED METHOD)
Via ACH with Remittance Advice to Receivables@TampaAirport.com

or

(MAIL DELIVERY)
Hillsborough County Aviation Authority
Attn: Finance Department
Tampa International Airport
P. O. Box 919730
Lock Box ID:REV X6306
Orlando, Florida 32891-9730

or

(HAND DELIVERY)
Hillsborough County Aviation Authority
Attn: Finance Department
Tampa International Airport
4160 George J. Bean Parkway
Suite 2400, Administration Building
Tampa, Florida 33607

ARTICLE 8

INDEMNIFICATION

A. To the maximum extent permitted by Florida law, in addition to Company's obligation to provide, pay for and maintain insurance as set forth elsewhere in this Agreement, Company will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, suits, claims, procedures, liens, expenses, losses, costs, royalties, fines and damages (including but not limited to claims for attorney's fees and court costs) caused in whole or in part by the:

- (1) Presence on, use or occupancy of Authority property;
- (2) Acts, omissions, negligence (including professional negligence and malpractice), errors, recklessness, intentional wrongful conduct, activities, or operations;
- (3) Any breach of the terms of this Agreement;
- (4) Performance, non-performance or purported performance of this Agreement;

- (5) Violation of any law, regulation, rule, Advisory Circular, or ordinance;
- (6) Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or
- (7) Contamination of the soil, groundwater, surface water, storm water, air or the environment by fuel, gas, chemicals or any other substance deemed by the Environmental Protection Agency or other regulatory agency to be an environmental contaminant

by Company or Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by Company whether the liability, suit, claim, lien, expense, loss, cost, fine or damages is caused in part by an indemnified party. This indemnity obligation expressly applies, and shall be construed to include, any and all claims caused in part by negligence, acts or omissions of Authority, its members, officers, agents, employers and volunteers.

B. In addition to the duty to indemnify and hold harmless, Company will have the separate and independent duty to defend Authority, its members, officers, agents, employees, and volunteers from all suits, claims, proceedings, or actions of any nature seeking damages, equitable or injunctive relief expenses, losses, costs, royalties, fines or attorney's fees or any other relief in the event the suit, claim, or action of any nature arises in whole or in part from the:

- (1) Presence on, use or occupancy of Authority property;
- (2) Acts, omissions, negligence (including professional negligence and malpractice), recklessness, intentional wrongful conduct, activities, or operations;
- (3) Any breach of the terms of this Agreement;
- (4) Performance, non-performance or purported performance of this Agreement;
- (5) Violation of any law, regulation, rule, Advisory Circular, or ordinance;
- (6) Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or
- (7) Contamination of the soil, groundwater, surface water, stormwater, air or the environment by fuel, gas, chemicals or any other substance deemed by the

Environmental Protection agency or other regulatory agency to be an environmental contaminant

by Company or Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by Company whether it is caused in part by Authority, its members, officers, agents, employees, or volunteers. This duty to defend exists immediately upon presentation of written notice of a suit, claim or action of any nature to Company by a party entitled to a defense hereunder. This indemnity obligation expressly applies, and shall be construed to include any, and all claims caused in part by negligence, acts or omissions of Authority, its members, officers, agents, employers and volunteers.

- C. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Fla. Stat. § 725.06(2)-(3) or Fla. Stat. § 725.08, then with respect to the part so limited, Company agrees to the following: To the maximum extent permitted by Florida law, Company will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fee, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of Company and persons employed or utilized by Company in the performance of this Agreement.
- D. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Florida Statute § 725.06 (1) or any other applicable law, then with respect to the part so limited the monetary limitation on the extent of the indemnification shall be the greater of the (i) monetary value of this Agreement, (ii) coverage amount of Commercial General Liability Insurance required under this Agreement or (iii) \$1,000,000.00. Otherwise, the obligations of this Article will not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.
- E. In addition to the requirements stated above, to the extent required by Florida Department of Transportation (FDOT) Public Transportation Grant Agreement and to the fullest extent permitted by law, the Company shall indemnify and hold harmless the State of Florida, FDOT, including the FDOT's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Company and persons employed or utilized by the Company in the performance of this Agreement. This indemnification in this paragraph shall survive the termination of this Agreement. Nothing contained in this paragraph is intended nor shall it constitute a waiver of the State of Florida's and FDOT's sovereign immunity.

- F. Company's obligations to defend and indemnify as described in this Article will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that any suit, claim or other action against Authority, its members, officers, agents, employees, and volunteers its fully and finally barred by the applicable statute of limitations or repose.
- G. Nothing in this Article will be construed as a waiver of any immunity from or limitation of liability Authority, or its members, officers, agents, employees, and volunteers may have under the doctrine of sovereign immunity under common law or statute.
- H. Authority and its members, officers, agents, employees, and volunteers reserve the right, at their option, to participate in the defense of any suit, without relieving Company of any of its obligations under this Article.
- I. If the above subarticles A – H or any part of subarticles A – H are deemed to conflict in any way with any law, the subarticle or part of the subarticle will be considered modified by such law to remedy the conflict.

ARTICLE 9
INSURANCE

9.01 Insurance Terms and Conditions

Company must maintain the following limits and coverages uninterrupted or amended through the term of this Agreement. In the event the Company becomes in default of the following requirements the Authority reserves the right to take whatever actions deemed necessary to protect its interests. Required liability policies other than Workers' Compensation/Employer's Liability, will provide that the Authority, members of the Authority's governing body, and the Authority's officers, volunteers, and employees are included as additional insureds.

9.02 Limits and Requirements

A. Workers' Compensation / Employer's Liability

The minimum limits of insurance (inclusive of any amount provided by an umbrella or excess policy) are:

Part One:	"Statutory"
Part Two:	
Each Accident	\$1,000,000
Disease – Policy Limit	\$1,000,000

Disease – Each Employee \$1,000,000

B. Commercial General Liability

The minimum limits of insurance (inclusive of any amounts provided by an umbrella or excess policy) covering the work performed pursuant to this Agreement will be the amounts specified herein. Coverage will be provided for liability resulting out of, or in connection with, ongoing operations performed by, or on behalf of, the Company under this Agreement or the use or occupancy of Authority premises by, or on behalf of, the Company in connection with this Agreement. Coverage will be provided on a form no more restrictive than ISO Form CG 00 01. Additional insurance coverage will be provided on a form no more restrictive than ISO Form CG 20 10 10 01 and CG 20 37 10 01.

	<u>Agreement Specific</u>
General Aggregate	\$10,000,000
Each Occurrence	\$10,000,000
Personal and Advertising Injury--Each Occurrence	\$10,000,000
Products and Completed Operations--Aggregate	\$10,000,000

C. Business Auto Liability

Coverage will be provided for all owned, hired and non-owned vehicles. Coverage will be no more restrictive than Form CA 00 01. The minimum limits of insurance (inclusive of any amounts provided by an umbrella or excess policy) covering the work performed pursuant to this Agreement will be:

Each Occurrence – Bodily Injury and Property Damage Combined	\$10,000,000
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D. Environmental Insurance (Pollution)

Such insurance will be maintained by Company on a form acceptable to Authority for liability resulting from pollution or other environmental impairment, which arises out of, or in connection with, work under this Agreement. Company will provide and maintain environmental coverage from the inception of the Agreement. If on an occurrence basis, the insurance must be maintained throughout the duration of the Agreement. If on a claims-made basis, insurance must respond to claims reported within three years of the end of the Agreement. Limits of Coverage will be:

Each Occurrence	\$1,000,000
Annual Aggregate	\$2,000,000

9.03 Waiver of Subrogation

Company, for itself and on behalf of its insurers, to the fullest extent permitted by law without voiding the insurance required by the Agreement, waives all rights against the Authority, members of Authority's governing body and the Authority's officers, volunteers and employees, for damages or loss to the extent covered and paid for by any insurance maintained by the Company.

9.04 Conditions of Acceptance

The insurance maintained by Company must conform at all times with Exhibit B, Standard Procedure S250.06, Contractual Insurance Terms and Conditions, attached hereto and by this reference made a part hereof, as may be amended from time to time.

ARTICLE 10
SECURITY FOR PAYMENT

10.01 Payment Security Requirements

- A. Unless Company has maintained an agreement similar to this Agreement with Authority during the 18 months prior to the effective date of this Agreement without the occurrence of any act or omission that would have been a default under this Agreement, Company will provide Authority on or before the commencement date of this Agreement with an acceptable bond, irrevocable letter of credit or other similar security acceptable to Authority in an amount equal to the estimate of three months' rents, fees and charges (excluding PFCs), payable by Company under this Agreement, to guarantee the faithful performance by Company of its obligations under this Agreement and the payment of all rents, fees, tax assessments, and charges due hereunder (Payment Security). Company will be obligated to maintain such Payment Security in effect until the expiration of 18 consecutive months during which Company commits no default under this Agreement. Such Payment Security will be in a form and with a company acceptable to Authority and licensed to do business in the State of Florida. In the event that any such Payment Security is for a period less than the full period required under this Agreement or if such Payment Security is canceled, Company will provide a renewal or replacement Payment Security for the remaining required period at least 60 days prior to the date of such expiration or cancellation. Such Payment Security will require notice by the surety to Authority at least 60 days prior to any cancellation.
- B. In the event Authority is required to draw down or collect against Company's Payment Security for any reason, Company will, within 15 days after such draw down or collection, take such action as is necessary to replenish the existing Payment Security to an amount equal to three months' estimated rents, fees and charges or provide additional or

supplemental Payment Security from another source so that the aggregate of all Payment Security is equal to three months' estimated rents, fees and charges payable by Company pursuant to this Agreement.

- C. In addition to the foregoing, upon the occurrence of any act or omission by Company that would constitute a default under this Agreement, or upon Company's election to assume this Agreement under Federal Bankruptcy Rules and Regulations, as such may be amended, supplemented, or replaced, Authority, by written notice to Company given at any time within 90 days of the date such event becomes known to Authority, may impose or re-impose the requirements of this Article upon Company. In such event, Company will provide Authority with the required Payment Security within 15 days from its receipt of such written notice and will thereafter maintain such Payment Security in effect until the expiration of a period of 18 consecutive months during which Company commits no additional act or omission that would constitute a default under in this Agreement or the termination of bankruptcy proceedings, whichever is later.
- D. If Company fails to obtain and keep in force the Payment Security required hereunder, such failure will be grounds for immediate termination of this Agreement. Authority's rights under this Article will be in addition to all other rights and remedies provided to Authority under this Agreement.

10.02 Satisfactory Performance

Subject to the provisions of the Payment Security Requirements Section above, the Payment Security will be returned within 90 days following the expiration of the term (including any renewals) of this Agreement, subject to the satisfactory performance by Company of all terms, conditions, and covenants contained herein.

ARTICLE 11 DEFAULT AND TERMINATION

11.01 Events of Default by Company

The following events will be deemed events of default by Company:

- A. The failure or omission by Company to perform its obligations under this Agreement or the breach of any term, condition or covenant required herein.
- B. The conduct of any business or performance of any acts at the Airport not specifically authorized in this Agreement or by any other agreement between Authority and Company,

and Company's failure to discontinue that business or those acts within 30 days of receipt by Company of Authority's written notice to cease said business or acts.

- C. The appointment of a Trustee, custodian, or receiver of all or a substantial portion of Company's assets.
- D. The divestiture of Company's estate herein by operation of law, by dissolution, or by liquidation (not including a merger or sale of assets).
- E. The insolvency of Company; or if Company will take the benefit of any present or future insolvency statute, will make a general assignment for the benefit of creditors, or will seek a reorganization or the readjustment of its indebtedness under any law or statute of the United States or of any state thereof including the filing by Company of a voluntary petition of bankruptcy or the institution of proceedings against Company for the adjudication of Company as bankrupt pursuant thereto.
- F. Company's violation of Florida Statute Section 287.133 concerning criminal activity on contracts with public entities.

11.02 Authority's Remedies

In the event of any of the foregoing events of default enumerated in this Article, and following 30 days' notice by Authority and Company's failure to cure, Authority, at its election, may exercise any one or more of the following options or remedies, the exercise of any of which will not be deemed to preclude the exercise of any other remedy herein listed or otherwise provided by statute or general law:

- A. Terminate Company's rights under this Agreement. Company will remain liable for all payments or other sums due under this Agreement and for all damages suffered by Authority because of Company's breach of any of the covenants of this Agreement; or
- B. Treat the Agreement as remaining in existence, curing Company's default by performing or paying the obligation that Company has breached. In such event all sums paid or expenses incurred by Authority directly or indirectly in curing Company's default will become immediately due and payable, as well as interest thereon, from the date such fees or charges became due to the date of payment, at the Federal Reserve Bank of New York prime rate in effect on the date the fees or charges became due plus 4 percent (FRBNY prime + 4%) or 12 percent per annum, whichever is greater, to the maximum extent permitted by law; or
- C. Declare this Agreement to be terminated, ended, null and void.

No waiver by Authority at any time of any of the terms, conditions, covenants, or agreements of this Agreement, or noncompliance therewith, will be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant, or agreement herein contained, nor of the strict and prompt performance thereof by Company. No delay, failure, or omission of Authority to exercise any right, power, privilege, or option arising from any default, nor subsequent acceptance of fees or charges then or thereafter accrued, will impair any such right, power, privilege, or option, or be construed to be a waiver of any such default. No notice by Authority will be required to restore or revive time is of the essence hereof after waiver by Authority or default in one or more instances. No option, right, power, remedy, or privilege of Authority will be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options, privileges, or remedies given to Authority by this Agreement are cumulative and that the exercise of one right, power, option, privilege, or remedy by Authority will not impair its rights to any other right, power, option, privilege, or remedy available under this Agreement or as provided by law.

11.03 Continuing Responsibilities of Company

Notwithstanding the occurrence of any event of default, Company will remain liable to Authority for all payments payable hereunder and for all preceding breaches of any covenant of this Agreement. Furthermore, unless Authority elects to terminate this Agreement, Company will remain liable for and promptly pay any and all payments accruing hereunder until termination of this Agreement.

ARTICLE 12
ASSIGNMENT

No assignment or transfer of this Agreement or rights granted hereunder is permitted.

ARTICLE 13
SUBORDINATION OF AGREEMENT

It is mutually understood and agreed that this Agreement will be subordinate to the provisions of any existing or future agreement between Authority and the United States of America, its Boards, Agencies, Commissions, and others, relative to the operation or maintenance of Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of Airport, and this Agreement will be subordinate to the license or permit of entry that may be granted by the Secretary of Defense.

ARTICLE 14
AMERICANS WITH DISABILITIES ACT

Company will comply with the applicable requirements of the Americans with Disabilities Act; the Florida Americans with Disabilities Accessibility Implementation Act; Florida Building Code, Florida Accessibility Code for Building Construction; and any similar or successor laws, ordinances, rules, standards, codes, guidelines, and regulations and will cooperate with Authority concerning the same subject matter.

ARTICLE 15
NON-DISCRIMINATION

These provisions apply to all work performed under this Agreement. Failure to comply with the terms of these provisions may be sufficient grounds to:

- A. Terminate this Agreement;
- B. Seek suspension/debarment of Company; or
- C. Take any other action determined to be appropriate by Authority or the FAA.

15.01 Civil Rights – General – 49 USC § 47123

A. Compliance:

Company agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefitting from Federal assistance. If Company transfers its obligation to another, the transferee is obligated in the same manner as Company.

B. Duration:

This provision obligates Company for the period during which the property is owned, used or possessed by the Company and the Airport remains obligated to the FAA. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

15.02 Civil Rights – Title VI Assurances

A. Compliance with Non-Discrimination Requirements:

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

1. Compliance with Regulations: Company will comply with the Title VI List of Pertinent Non-Discrimination Statutes and Authorities, as they may be amended

from time to time, which are herein incorporated by reference and made a part of this Agreement.

2. Non-Discrimination: Company, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Company will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including but not limited to those listed at Section 23.02(B) below, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Company for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier will be notified by Company of Company's obligations under this Agreement and the Acts and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: Company will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Authority or the FAA to be pertinent to ascertain compliance with such Acts, Regulations, and directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, Company will so certify to Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Non-compliance: In the event of Company's non-compliance with the non-discrimination provisions of this Agreement, Authority will impose such Agreement sanctions as it or the FAA may determine to be appropriate, including, but not limited to, cancelling, terminating, or suspending this Agreement, in whole or in part.
6. Incorporation of Provisions: Company will include the provisions of paragraphs one through five of this Article in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Company will take action with respect to

any subcontract or procurement as Authority or the FAA may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, that if Company becomes involved in, or is threatened with litigation by a subcontractor or supplier because of such direction, Company may request Authority to enter into any litigation to protect the interests of Authority. In addition, Company may request the United States to enter into the litigation to protect the interests of the United States.

B. Title VI List of Pertinent Non-Discrimination Authorities:

During the performance of this Agreement, Company, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
2. 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
5. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987 (PL 100-209) (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the

programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
9. The FAA's Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (LEP), and resulting agency guidance, national origin discrimination includes discrimination because of LEP. To ensure compliance with Title VI, Company must take reasonable steps to ensure that LEP persons have meaningful access to Company's programs (70 Fed. Reg. at 74087 to 74100); and
12. Title IX of the Education Amendments of 1972, as amended, which prohibits Company from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

The Company agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If the Company transfers its obligation to another, the transferee is obligated in the same manner as the Company.

This provision obligates the Company for the period during which the property is owned, used or possessed by the Company and the Airport remains obligated to the FAA. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

ARTICLE 16
ENVIRONMENTAL

16.01 General Conditions

Notwithstanding any other provisions of this Agreement, and in addition to any and all other requirements of this Agreement or any other covenants, representations, or warranties of Company, Company hereby expressly covenants, warrants, and represents to Authority, in connection with Company's operations on the Premises, the following:

- A. Company is knowledgeable of and agrees to comply with all applicable federal, state, and local environmental laws, ordinances, rules, regulations, and orders that apply to Company's facilities or operations at the Premises and acknowledges that such environmental laws, ordinances, rules, regulations, and orders change from time to time, and Company agrees to keep informed of any such future changes.
- B. In addition to any and all other requirements of Company to indemnify and hold Authority harmless contained in this Agreement, Company agrees to hold harmless and indemnify Authority for any violation by Company of such applicable federal, state, and local environmental laws, ordinances, rules, regulations, and orders and for any non-compliance by Company with any permits issued to Company pursuant to such environmental laws, which hold harmless and indemnity will include, but not be limited to, enforcement actions to assess, abate, remediate, undertake corrective measures, and monitor environmental conditions and for any monetary penalties, costs, expenses, or damages, including natural resource damages, imposed against Company, its employees, invitees, suppliers, or service providers or against Authority by reason of Company's violation or non-compliance.
- C. Company agrees to cooperate with any investigation, audit, or inquiry by Authority or any governmental agency regarding possible violation of any environmental law or regulation upon the Premises.
- D. Company agrees that all remedies of Authority as provided herein with regard to violation of any federal, state, or local environmental laws, ordinances, rules, regulations, or orders will be deemed cumulative in nature and will survive termination of this Agreement.
- E. Company agrees that any notice of violation, notice of non-compliance, or other enforcement action of the nature described herein will be provided to Authority within 24 hours of receipt by Company or Company's agent. Any violation or notice of violation or non-compliance with federal, state, or local environmental law or ordinance that Company fails to rectify within the cure period established in the "Default and Termination" Article of

this Agreement will be deemed a default under this Agreement. Any such default that is not cured will be grounds for termination of this Agreement.

- F. In entering this Agreement, Authority expressly relies on the covenants, representations, and warranties of Company as stated herein.

16.02 Environmental Considerations

- A. Company, its officers, agents, servants, employees, invitees, independent contractors, successors, and assigns will not discharge or spill any Hazardous Substance, as defined herein, into any component of the storm drainage system or onto any paved or unpaved area within the boundaries of the Premises. In addition, Company will not discharge or spill any Hazardous Substance into any component of the sanitary sewer system without first neutralizing or treating same as required by applicable anti-pollution laws or ordinances, in a manner satisfactory to Authority and other public bodies, federal, state, or local, having jurisdiction over or responsibility for the prevention of pollution of canals, streams, rivers, and other bodies of water. Company's discharge, spill or introduction of any Hazardous Substance onto the Premises or into any component of Authority's sanitary or storm drainage systems will, if not remedied by Company with all due dispatch, at the sole discretion of Authority, be deemed a default and cause for termination of this Agreement by Authority, subject to notice and cure. Such termination will not relieve Company of or from liability for such discharge or spill.
- B. If Company is deemed to be a generator of hazardous waste, as defined by federal, state, or local law, Company will obtain a generator identification number from the U. S. Environmental Protection Agency (EPA) and the appropriate generator permit and will comply with all federal, state, and local laws, and any rules and regulations promulgated thereunder, including but not limited to, ensuring that the transportation, storage, handling, and disposal of such hazardous wastes are conducted in full compliance with applicable law.
- C. Company agrees to provide Authority, within 10 days after Authority's request, copies of all hazardous waste permit application documentation, permits, monitoring reports, transportation, responses, storage and disposal plans, material safety data sheets and waste disposal manifests prepared or issued in connection with Company's use of the Premises.

- D. At the end of the Agreement, Company will dispose of all solid and hazardous wastes and containers in compliance with all applicable regulations. Copies of all waste manifests will be provided to Authority at least 30 days prior to the end of the Agreement.

16.03 Hazardous Substance and Solid Waste

- A. The term “Hazardous Substance”, as used in this Agreement, will mean:
- (1) any substance the presence of which requires or may later require notification, investigation or remediation under any environmental law; or
 - (2) any substance that is or becomes defined as a “hazardous waste”, “hazardous material”, “hazardous substance”, “pollutant”, or “contaminant” under any environmental law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Resources Conservation and Recovery Act (42 U.S.C. §6901 et seq.) and the associated regulations; or
 - (3) any substance that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency, or instrumentality of the United States, any state of the United States, or any political subdivision within any state; or
 - (4) any substance that contains gasoline, diesel fuel, oil, or other petroleum hydrocarbons or volatile organic compounds; or
 - (5) any substance that contains polychlorinated biphenyls (PCBs), asbestos or urea Formaldehyde foam insulation; or
 - (6) any substance that contains or emits radioactive particles, waves, or materials, including, without limitation, radon gas.
- B. The term “Solid Waste”, as used in this Agreement, will mean:
- (1) any waste that is or becomes defined as a “solid waste”, “waste”, “special waste”, “garbage”, or “commercial solid waste” under any environmental law, including but not limited to, the rules of the Florida Department of Environmental Protection (FDEP), specifically Chapter 62-702, Florida Administrative Code (FAC); or

- (2) any waste that can require special handling and management, including but not limited to, white goods, waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, yard trash, biological wastes, and mercury-containing devices and lamps; or
- (3) any waste that is not hazardous waste and that is not prohibited from disposal in a lined landfill under Rule 62-701.300, FAC; or
- (4) yard trash, construction and demolition debris, processed tires, asbestos, carpet, cardboard, paper, glass, plastic, or furniture other than appliances.

16.04 Prior Environmental Impacts

Nothing in this Article will be construed to make Company liable in any way for any environmental impacts or release of Hazardous Substances, as defined herein, affecting the Premises that occurred prior to Company's entry upon the Premises or that occurred as a result of the actions of Authority or any of its employees, agents, or contractors.

16.05 Off-Site Environmental Impacts

Nothing in this Article will be construed to make Company liable in any way for any environmental impacts or release of Hazardous Substances affecting the Premises that occurs by reason of the migration or flow to the Premises from verifiable or documented off-site environmental impacts that is not attributable to Company's activities at the Premises.

16.06 Petroleum Storage Systems

- A. At Company's expense, Company will at all times comply with all federal, state, and local requirements, including but not limited to, the regulations of the FDEP as stated in Chapters 62-761 and 62-762, FAC, the requirements of the Federal Oil Pollution Prevention regulation found in Title 40 of the Code of Federal Regulations Part 112 (40 CFR part 112), as well as the requirements of the Environmental Protection Commission of Hillsborough County (EPC), as may be amended or replaced, pertaining to petroleum storage tank and piping system construction, operation, inspection, and compliance monitoring programs; release detection methods and procedures; maintenance; and preventative maintenance programs. Company will be responsible for all spillage, overflow, or escape of gases, petroleum or petroleum products, and for all fines and penalties in connection therewith. All petroleum storage systems will be registered by Company, and Company will display the registration placard as required by law.

- B. Company will train its employees and employees of fuel suppliers on proper fuel delivery and dispensing procedures with an emphasis on safety as well as on spill prevention and response. All fuel delivered to or dispensed from fuel farm facilities will be attended by a Company employee. Company will comply with all requirements of 40 CFR part 112, as may be revised or amended. As a result, Company will prepare and implement a Spill Prevention Control and Countermeasure plan as applicable. Notification and response related to the spill or release of petroleum products will be in compliance with FDEP regulations as well as EPC's requirements.
- C. Company will strictly comply with safety and fire prevention ordinances of the City of Tampa and Hillsborough County and all applicable safety regulations at the Premises that may be adopted by Authority. Company will provide adequate fire extinguishers and will establish a fuel dispensing operations manual for its employees and submit a copy to Authority.
- D. Company is responsible for all costs and expenses that may be incurred as a result of compliance with this Article.

16.07 Stormwater

Notwithstanding any other provisions or terms of this Agreement, Company acknowledges that certain properties within the Premises or on Authority-owned land are subject to stormwater rules and regulations. Company agrees to observe and abide by such stormwater rules and regulations as may be applicable to the Premises, and, if applicable, Company hereby expressly covenants, warrants, and represents to Authority, in connection with Company's operations on the Premises, the following:

- A. Company is required to submit a Notice of Intent to use the State of Florida Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity. Authority and Company both acknowledge that close cooperation is necessary to ensure compliance with any stormwater discharge permit terms and conditions, as well as to ensure safety and to minimize the cost of compliance. Company acknowledges further that it may be necessary to undertake actions to minimize the exposure of stormwater to "significant materials" (as such term may be defined by applicable stormwater rules and regulations) generated, stored, handled, or otherwise used by Company by implementing and maintaining "best management practices" (BMPs) (as such term may be defined in applicable stormwater rules and regulations). Company will establish a BMP plan for the Premises and submit a copy to Authority.

- B. Company will be knowledgeable of any stormwater discharge permit requirements applicable to Company and with which Company will be obligated to comply. The submittal of a Notice of Intent will be made by Company to the FDEP, and a copy will be submitted to Authority. Company is required to comply with the following requirements including, but not limited to, certification of non-stormwater discharges; collection of stormwater samples; preparation of a Stormwater Pollution Prevention Plan or similar plans; implementation of BMPs; and maintenance and submittal of necessary records. In complying with such requirements, Company will observe applicable deadlines set by the regulatory agency that has jurisdiction over the permit. Company agrees to undertake, at its sole expense, those stormwater permit requirements for which it has received written notice from the regulatory agency and that apply to the Premises, and Company agrees that it will hold harmless and indemnify Authority for any violations or non-compliance with any such permit requirements.

16.08 Environmental Inspection at End of Agreement Term

- A. At Authority's discretion, at least 120 days before the expiration or early termination of the initial term or any renewal term, as provided herein, Company will conduct an environmental inspection and examination of the Premises. At its discretion Authority may complete environmental reviews to determine if recognized environmental conditions exist that could warrant soil and groundwater sampling. If warranted by the findings of Company or Authority's inspection or if requested by Authority, a compliance audit or site assessment will be performed within the aforementioned time period by a qualified professional acceptable to Authority who will report the findings to Authority. The cost for professional consulting or engineering services required for such audit will be at the expense of Company. If a site assessment is conducted, Company agrees to pay all associated laboratory and testing fees incurred to test and analyze samples collected during the site assessment process. Authority may also choose to conduct the compliance audit or site assessment. If the results of the assessment indicate that the Premises have been impacted by the release of Hazardous Substances or if hazardous waste is detected, Company will immediately take such action as is necessary and will provide a substantial guaranty in a form and content acceptable to Authority that Company will clean up the contamination at its own expense, at no expense to Authority, and in accordance with applicable federal, state, and local laws to the extent that it is obligated to do so by virtue of the foregoing provisions of this Article.
- B. During the period of a cleanup due to the environmental condition of the Premises or Common Use Areas, Company's obligations, including the payment of Rents, fees and

charges, under the existing terms of the Agreement will continue in full force and effect, in addition to any other damages for which Company may be liable.

- C. The firm conducting cleanup work must be approved by Authority, and the methodology used by such firm must be consistent with engineering practices and methods required by the State of Florida or the United States government and must be reasonably acceptable to Authority.

ARTICLE 17

SUBORDINATION TO TRUST AGREEMENT

This Agreement and all rights of Company hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made at any time by Authority to secure financing. This Agreement is subject and subordinate to the terms, covenants, and conditions of the Trust Agreement, made by Authority, authorizing the issuance of bonds by Authority. Conflicts between this Agreement and the documents mentioned above will be resolved in favor of such documents.

ARTICLE 18

TIME IS OF THE ESSENCE

Time is of the essence of this Agreement.

ARTICLE 19

RIGHT TO DEVELOP AIRPORT

It is covenanted and agreed that Authority reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Company or its subcontractors and without interference or hindrance.

ARTICLE 20

COMPLIANCE WITH LAWS, REGULATIONS, ORDINANCES, RULES

Company, its officers, employees, agents, invitees, subcontractors, or those under its control, will at all times comply with applicable federal, state, and local laws and regulations, Airport Rules, Regulations, Policies, Standard Procedures and Operating Directives as are now or may hereinafter be prescribed by Authority, all applicable health rules and regulations and other mandates whether existing or as promulgated from time to time by the federal, state, or local government, or Authority including, but not limited to, permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters related to the operation of the Airport. Company, its officers, employees, agents, invitees, subcontractors, and those under its control, will comply

with security measures required of Company or Authority by the FAA or Transportation Security Administration (TSA). If Company, its officers, employees, agents, subcontractors or those under its control fails or refuses to comply with said measures and such non-compliance results in a monetary penalty being assessed against Authority, then, in addition to any other remedies available to Authority, Company will be responsible and will reimburse Authority in the full amount of any such monetary penalty or other damages. This amount must be paid by Company within ten days of written notice.

ARTICLE 21
RELATIONSHIP OF THE PARTIES

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

ARTICLE 22
COMPANY TENANCY

The undersigned representative of Company hereby warrants and certifies to Authority that Company is an organization in good standing in its state of registration, that it is authorized to do business in the State of Florida, and that the undersigned officer is authorized and empowered to bind the organization to the terms of this Agreement by his or her signature thereto.

ARTICLE 23
HEADINGS

The headings contained herein, including the Table of Contents, are for convenience in reference and are not intended to define or limit the scope of any provisions of this Agreement. If for any reason there is a conflict between content and headings, the content will control.

ARTICLE 24
INVALIDITY OF CLAUSES

The invalidity of any part, portion, article, paragraph, provision, or clause of this Agreement will not have the effect of invalidating any other part, portion, article, paragraph, provision, or clause thereof, and the remainder of this Agreement will be valid and enforced to the fullest extent permitted by law.

ARTICLE 25
RIGHT TO AMEND

In the event that the FAA, or its successors, requires modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of the Airport, Company agrees to consent

to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Agreement as may be reasonably required to obtain such funds; provided, however, that in no event will Company be required, pursuant to this paragraph, to agree to an increase in the charges provided for hereunder.

ARTICLE 26
AUTHORITY APPROVALS

Except as otherwise indicated elsewhere in this Agreement, wherever in this Agreement approvals are required to be given or received by Authority, it is understood that the Chief Executive Officer or his designee is hereby empowered to act on behalf of Authority.

ARTICLE 27
NOTICES AND COMMUNICATIONS

All notices or communications whether to Authority or to Company pursuant hereto will be deemed validly given, served, or delivered, upon receipt by the Party by hand delivery, or three days after depositing such notice or communication in a postal receptacle, or one day after depositing such notice or communication with a reputable overnight courier service, and addressed as follows:

TO Authority:
(MAIL DELIVERY)
Hillsborough County Aviation Authority
Tampa International Airport
P. O. Box 22287
Tampa, Florida 33622-2287
Attn: Chief Executive Officer

TO Company:
(MAIL DELIVERY)
Cargo Force, Inc.
9130 S. Dadeland Blvd, Suite 1801
Miami, FL 33156

or

or

(HAND DELIVERY)
Hillsborough County Aviation Authority
Tampa International Airport
4160 George J. Bean Parkway
Administration Building, Suite 2400
Tampa, Florida 33607
Attn: Chief Executive Officer

(HAND DELIVERY)
Same as above

or to such other address as either Party may designate in writing by notice to the other Party delivered in accordance with the provisions of this Article.

If the notice is sent through a mail system, a verifiable tracking documentation, such as a certified return receipt or overnight mail tracking receipt, is required.

ARTICLE 28

COMPLIANCE WITH CHAPTER 119, FLORIDA STATUTES PUBLIC RECORDS LAW

IF COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (813) 870-8721, ADMCENTRALRECORDS@TAMPAAIRPORT.COM, HILLSBOROUGH COUNTY AVIATION AUTHORITY, P.O. BOX 22287, TAMPA FL 33622.

Company agrees in accordance with Florida Statute Section 119.0701 to comply with public records laws including the following:

- A. Keep and maintain public records required by Authority in order to perform the services contemplated by this Agreement.
- B. Upon request from Authority custodian of public records, provide Authority 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, Fla. Stat. 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 for the duration of this Agreement Term and following completion of this Agreement.
- D. Upon completion of this Agreement, keep and maintain public records required by Authority to perform the services. Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Authority, upon request from Authority custodian of public records, in a format that is compatible with the information technology systems of Authority.

ARTICLE 29

AGENT FOR SERVICE OF PROCESS

It is expressly agreed and understood that if Company is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, then in any such event Company does designate the Secretary of State, State of Florida, its agent for the purpose of service of process in any court action between it and Authority arising out of or based upon this Agreement and the service will be made as provided by the laws of the State of Florida, for service upon a non-resident. It is further expressly agreed, covenanted, and stipulated that if for any reason service of such process is not possible, and Company does not have a duly noted resident agent for service of process, as an alternative method of service of process, Company may be personally served with such

process out of this State, by the registered mailing of such complaint and process to Company at the address set out hereinafter in this Agreement and that such service will constitute valid service upon Company as of the date of mailing and Company will have 30 days from date of mailing to respond thereto. It is further expressly understood that Company hereby agrees to the process so served, submits to the jurisdiction of the court and waives any and all obligation and protest thereto, any laws to the contrary notwithstanding.

ARTICLE 30
APPLICABLE LAW AND VENUE

This Agreement will be construed in accordance with the laws of the State of Florida. Venue for any action brought pursuant to this Agreement will be in Hillsborough County, Florida, or in the Tampa Division of the U. S. District Court for the Middle District of Florida.

Company hereby waives any claim against Authority, and its officers, Board Members, agents, or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part hereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void, or voidable, or delaying the same, or any part hereof, from being carried out.

ARTICLE 31
COMPLETE AGREEMENT

This Agreement represents the complete understanding between the Parties, and any prior agreements, or representations, whether written or verbal, are hereby superseded. This Agreement may subsequently be amended only by written instrument signed by the Parties hereto, unless provided otherwise within the terms and conditions of this Agreement.

(Remainder of Page is Intentionally Left Blank)

IN WITNESS WHEREOF, the Parties hereto have set their hands and corporate seals on this _____ day of _____, 2020.

ATTEST:

HILLSBOROUGH COUNTY AVIATION AUTHORITY

Jane Castor, Secretary
Address: P. O. Box 22287
Tampa, FL 33622

By: _____
Gary W. Harrod, Chairman
Address: P. O. Box 22287
Tampa, FL 33622

Signed, sealed, and delivered
in the presence of:

Witness Signature

LEGAL FORM APPROVED:

Print Name

By: _____
David Scott Knight
Assistant General Counsel

Witness Signature

Print Name

HILLSBOROUGH COUNTY AVIATION AUTHORITY

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Gary W. Harrod in the capacity of Chairman, and by Jane Castor in the capacity of Secretary, of the Board of Directors, Hillsborough County Aviation Authority, a public body corporate under the laws of the State of Florida, on its behalf. They are personally known to me and they did not take an oath.

(Stamp or seal of Notary)

Signature of Notary

Type or print name of Notary

Date of Commission Expiration (if not on stamp or seal)

CARGO FORCE, INC.

Signed in the presence of:

By: _____

Title: _____

Witness Signature

Print Name

Print Name

Print Address

Witness Signature

Print Name

CARGO FORCE, INC.
STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledge before me this _____ day of _____,
202_, by _____ in the capacity of _____,
(Individual's Name) (Individual's Title)
at _____ a _____
(Name of organization or company, if any) (Corporation/ LLC / Partnership / Sole Proprietor / Other)
on its behalf. _____ and has produced
(He is/She is) (Personally known to me / not personally known to me)
the following document of identification _____.

(Stamp or seal of Notary)

Signature of Notary

Type or Print name of Notary

Date of Commission Expiration (if not on stamp or seal)