



## AGREEMENT BETWEEN BROWARD COUNTY AND RUNWAY SAFE INC FOR ENGINEERED MATERIAL ARRESTING SYSTEM AT THE FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT

This agreement ("Agreement") is between Broward County, a political subdivision of the State of Florida ("County"), and Runway Safe Inc, a Delaware corporation ("Contractor") (each a "Party" and collectively referred to as the "Parties").

### RECITALS

- A. County is the owner and operator of the Airport (hereinafter defined).
- B. The FAA (hereinafter defined) requires the Airport to have Engineered Materials Arresting System ("EMAS"), as part of the Airport's operating certificate, as the Airport does not have the standard runway safety areas dimensions as mandated by federal aviation regulations.
- C. The Airport has two (2) EMAS located on Runway 10L-28R ("North Runway") and has two (2) EMAS located on Runway 10R-28L ("South Runway").
- D. On April 9, 2023, a small aircraft overran the east end of the South Runway and damages approximately two hundred (200) blocks of the EMAS bed.
- E. On April 12, 2023, the Airport had severe flooding, which resulted in damage to the North Runway EMAS beds.
- F. On July 19, 2023, the Aviation Department (hereinafter defined) requested authorization for an emergency procurement for the replacement of the EMAS beds, which was approved by the County Administrator.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### ARTICLE 1. DEFINITIONS

- 1.1. **Airport** means Fort Lauderdale-Hollywood International Airport, located in Broward County, Florida, and all property encompassed within the boundaries of the Airport, as described in the Master Plan Update, including such additional property that may be acquired by County to implement development as described therein.
- 1.2. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.
- 1.3. **Aviation Department** means the Broward County Aviation Department or any successor agency.

- 1.4. **Board** means the Board of County Commissioners of Broward County, Florida.
- 1.5. **Code** means the Broward County Code of Ordinances.
- 1.6. **Consultant** means the architect or engineer who has contracted with County or who is an employee of County and provides professional services for this Project.
- 1.7. **Contract Administrator** means the Director of Aviation, the Assistant Director of Aviation, or such other person designated by the Director of Aviation in writing.
- 1.8. **Contract Price** shall mean the total Lump Sum amount established in Section 5.1 for performance of the Services.
- 1.9. **Director of Aviation** means the Director or Acting Director of the Aviation Department and such person or persons as may from time to time be authorized in writing by the Board, the County Administrator, or the Director of Aviation to act for the Director of Aviation with respect to any or all matters pertaining to this Agreement.
- 1.10. **Federal Aviation Administration** or **FAA** means the agency of the United States Government established under 49 U.S.C. § 106, or its successor.
- 1.11. **Notice to Proceed** means a written authorization to proceed with a project, phase, or task, issued by the Contract Administrator.
- 1.12. **Project** shall mean the project consists of the Scope of Services described in Article 2 and Exhibit A of this Agreement.
- 1.13. **Purchasing Director** means County's Director of Purchasing.
- 1.14. **Services** means all work required of Contractor under this Agreement, including without limitation all deliverables, consulting, training, project management, materials, labor, equipment, and other services specified in the Scope of Services attached as Exhibit A.
- 1.15. **Subcontractor** means an entity or individual, including subconsultants, providing Services to County through Contractor, regardless of tier.

## ARTICLE 2. EXHIBITS

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Payment Schedule</b>
<b>Exhibit C</b>	<b>Minimum Insurance Coverages</b>
<b>Exhibit D</b>	<b>Engineered Material Arresting System Limited Warranty</b>
<b>Exhibit E</b>	<b>NOT USED</b>
<b>Exhibit F</b>	<b>Certification of Payments to Subcontractors and Suppliers</b>
<b>Exhibit G</b>	<b>Nondiscrimination Requirements</b>
<b>Exhibit H</b>	<b>Airport Security Requirements</b>

## Exhibit I      Federally Funded Contracts Requirements

### ARTICLE 3. SCOPE OF SERVICES

3.1. Scope of Services. Contractor shall perform all Services, including, without limitation, the work specified in Exhibit A (the "Scope of Services"). The Scope of Services is a description of Contractor's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion would render performance by Contractor impractical, illogical, or unconscionable.

### ARTICLE 4. TERM, TIME OF PERFORMANCE, AND CLAIMS

4.1. Term. This Agreement begins on the date it is fully executed by the Parties ("Effective Date") and continues through the completion of the Services ("Term"), unless otherwise terminated or extended as provided in this Agreement.

4.2. Contract Time. All duties, obligations, and responsibilities of Contractor required by this Agreement shall be performed in accordance with a schedule agreed to by the Parties, which shall be signed by Contractor and the Contract Administrator and become a part of this Agreement as if fully set forth herein ("Contract Time"). Contractor shall be instructed to commence the Services by written instruction in the form of a Purchase Order issued by County's Director of Purchasing and a Notice to Proceed issued by the Contract Administrator.

4.3. Claims. Any claim for a change in the Contract Time or Contract Price shall be made by written notice by Contractor to the Contract Administrator and to Consultant within five (5) days of the commencement of the event giving rise to the claim or Contractor's knowledge of the claim, and the notice shall state the general nature and cause of the claim. Thereafter, within twenty (20) days after the termination of the event giving rise to the claim or Contractor's knowledge of the claim, Contractor shall submit written notice of the extent of the claim with supporting information and documentation to the Contract Administrator and Consultant (hereinafter "Claim Notice"). The Claim Notice shall include Contractor's written notarized certification that the adjustment claimed is the entire adjustment to which Contractor has reason to believe it is entitled as a result of the occurrence the event giving rise to the claim. If the Contract Administrator and Contractor cannot resolve a claim for changes in the Contract Time or Contract Price within twenty (20) days after receipt of the Claim Notice by the Contract Administrator and Consultant, then Contractor shall submit the claim to Consultant within five (5) days after the date of impasse. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT TIME OR CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

4.4. No Damages for Delay. No claim for damages or any claim, other than for an extension of time, shall be made or asserted against County by reason of any delays except as provided herein. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from County for direct, indirect, consequential, impact or other costs, expenses or

damages, including but not limited to, costs of acceleration or inefficiency, arising from delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above; provided, however, that this provision shall not preclude recovery of damages by Contractor for actual delays due solely to fraud, bad faith, or active interference on the part of County or its Consultant.

4.5. Excusable Delay. Delay that extends the completion of the Services and that is caused by circumstances beyond the control of Contractor or its Subcontractors, suppliers, or vendors are Excusable Delay. Contractor is entitled to a time extension of the Contract Time for each day the Services are delayed due to Excusable Delay. Contractor shall document its claim for any time extension in accordance with Section 4.3. Failure of Contractor to comply with Section 4.3 hereof as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment, or relinquishment of any and all claims resulting from that particular event of delay.

4.6. Resolution of Disputes.

4.6.1. To prevent all disputes and litigation, the Parties agree that Consultant shall decide all questions, claims, difficulties, and disputes of whatever nature that may arise relative to the technical interpretation of the contract documents or fulfillment of the Agreement as to the character, quality, amount, and value of any Services done or materials furnished, or proposed to be done or furnished, under or by reason of the contract documents, and Consultant's decisions of all claims, questions, difficulties, and disputes shall be final and binding. Any claim, question, difficulty, or dispute that cannot be resolved by agreement of the Contract Administrator and Contractor shall be submitted to Consultant in writing within five (5) days after the date of impasse. Unless a different period of time is set forth in this Agreement, Consultant shall notify the Contract Administrator and Contractor in writing of Consultant's decision within fourteen (14) days after the date of the receipt of the claim, question, difficulty, or dispute, unless Consultant requires additional time to gather information or allow the Parties to provide additional information. Except for disputes directly related to the promptness of payment, all nontechnical administrative disputes shall be determined by the Contract Administrator pursuant to the time periods provided herein. During the pendency of any dispute and after a determination thereof, Contractor, Consultant, and Contract Administrator shall act in good faith to mitigate any potential damages, including utilization of construction schedule changes and alternative means of construction.

4.6.2. If the determination of a dispute under this article is unacceptable to either party, the party objecting to the determination must notify the other party in writing within ten (10) days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract Time or Contract

Price adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) days after Final Completion of the Work, the Parties shall participate in mediation to address all objections to any determinations and to attempt to prevent litigation. Neither party shall commence litigation prior to the expiration of the sixty (60) day mediation period. The mediator shall be mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under State law. **A PARTY SPECIFICALLY WAIVES ALL OF ITS RIGHTS, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR CONTRACT TIME AND CONTRACT PRICE ADJUSTMENTS PROVIDED IN THE CONTRACT, INCLUDING ITS RIGHTS AND REMEDIES UNDER STATE LAW, IF SAID PARTY FAILS TO COMPLY IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE.**

4.6.3. In any lawsuit or legal proceeding arising under this Agreement, Contractor hereby waives any claim or defense based on facts or evidentiary materials of which Contractor had knowledge but were not presented for consideration during the resolution of disputes process set forth in Sections 4.6.1 and 4.6.2 above.

4.6.4. This article shall survive any dispute or litigation between the Parties, or expiration or termination of this Agreement for any reason, and Contractor expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County.

4.7. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds pursuant to Chapter 129 and, if applicable, Chapter 212, Florida Statutes.

4.8. Time of the Essence. Time is of the essence for Contractor's performance of the duties, obligations, and responsibilities required by this Agreement.

## **ARTICLE 5. COMPENSATION**

5.1. Maximum Amounts. For all goods and Services provided under this Agreement, County will pay Contractor Eight Million Seven Hundred Eighty-Eight Thousand Thirty-Three Dollars (\$8,788,033.00), based on the rates in Exhibit B.

Payment shall be made only for Services actually performed and completed pursuant to this Agreement as set forth in Exhibit B (Payment Schedule), which amount shall be accepted by Contractor as full compensation for all such Services. Contractor acknowledges that the amounts set forth in this Agreement are the maximum amounts payable and constitute a limitation upon County's obligation to compensate Contractor for goods and Services. These maximum amounts, however, do not constitute a limitation of any sort upon Contractor's obligation to perform all Services.

5.2. Method of Billing and Payment.

5.2.1. Contractor may submit requests for payment not more often than on a monthly basis, but only after services and materials for which the payment requests are submitted have been completed. Partial payment requests may include materials manufactured, intended for incorporation in the Project, and stored off-site from the Airport, provided such materials meet the requirements of this Agreement and the technical specifications ("Stored Materials") and the following conditions are met: (a) the Stored Materials have been stored or stockpiled in segregated areas in a manner acceptable to the Contract Administrator and the Consultant, and in accordance with Contractor's requirements for such storage; (b) Contractor has furnished acceptable evidence of the quantity and quality of such Stored Materials; (c) Contractor has furnished acceptable evidence that title to the Stored Materials is free and clear of all encumbrances and shall pass to County upon payment and (d) Contractor has furnished evidence to County that the Stored Materials and County's interest therein are insured against loss and damage in accordance with the insurance requirements set forth in Article 8 and Exhibit C of this Agreement at all times prior to the County's installation contractor taking control of same for installation. Payment for Stored Materials as described above shall not relieve the Contractor from its responsibility to fully and completely perform the Scope of Services in accordance with this Agreement. The Contractor shall bear all risks associated with partial payment for Stored Materials, including but not limited to, storage, insurance, security and transportation. County's sole and exclusive remedy for damaged or defective goods is a refund of the price of the affected block(s) or replacement of the affected blocks, at County's option.

5.2.2. Unless otherwise stated in Exhibit B, Contractor must submit invoices no more often than once monthly, but only after the Services invoiced have been completed. Invoices are due within fifteen (15) days after the end of the month covered by the invoice, except that the final invoice must be received no later than sixty (60) days after expiration or earlier termination of this Agreement. Invoices shall describe the Services performed and, as applicable, the personnel, hours, tasks, or other details as requested by the Contract Administrator. Contractor shall submit a Certification of Payments to Subcontractors and Suppliers (Exhibit F) with each invoice that includes Services performed by a Subcontractor. The certification shall be accompanied by a copy of the notification sent to each unpaid Subcontractor listed on the form, explaining the good cause why payment has not been made to that Subcontractor.

5.2.3. Invoices shall be in the amounts set forth in Exhibit B for the applicable Services, minus any agreed upon retainage as stated in Exhibit B. Retainage amounts shall only be invoiced upon completion of all Services, unless otherwise stated in Exhibit B.

5.2.4. County shall pay Contractor within thirty (30) days after receipt of Contractor's proper invoice in accordance with the "Broward County Prompt Payment Ordinance," Section 1-51.6 of the Code. To be deemed proper, all invoices must: (a) comply with all

applicable requirements, whether set forth in this Agreement or the Code; and (b) be submitted on the then-current County form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of Contractor to comply with a term, condition, or requirement of this Agreement.

5.2.5. Contractor must pay Subcontractors and suppliers within fifteen (15) days after receipt of payment from County for such subcontracted work or supplies. If Contractor withholds an amount as retainage from Subcontractors or suppliers, Contractor shall release such retainage and pay same within fifteen (15) days after receipt of payment of retained amounts from County. Failure to pay a Subcontractor or supplier in accordance with this subsection shall be a material breach of this Agreement, unless Contractor demonstrates to Contract Administrator's satisfaction that such failure to pay results from a bona fide dispute with the Subcontractor or supplier and, further, Contractor promptly pays the applicable amount(s) to the Subcontractor or supplier upon resolution of the dispute. Contractor shall include requirements substantially similar to those set forth in this subsection in its contracts with Subcontractors and suppliers.

5.3. Subcontractors. Contractor shall invoice Subcontractor fees only in the actual amount paid by Contractor, without markup or other adjustment.

5.4. Withholding by County; Overcharges. Notwithstanding any provision of this Agreement to the contrary, County may withhold payment, in whole or in part, (a) in accordance with Applicable Law, or (b) to the extent necessary to protect itself from loss on account of (i) inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator, or (ii) Contractor's failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by County. In the event of an overcharge of any nature by Contractor in excess of five percent (5%) of the total amount billed in the invoice where the overcharge occurred, Contractor must refund the overbilled amount and pay liquidated damages in the amount of fifteen percent (15%) of the overbilled amount within thirty (30) days after demand by County as just compensation for damages incurred by County due to the overbilling, including, but not limited to, County's administrative costs and loss of potential investment returns (including interest).

5.5. Foreign Entity Tax Withholding. Amounts due to certain foreign persons or entities may be subject to backup withholding taxes under federal law. If Contractor is a foreign person or entity that is required to complete Internal Revenue Service ("IRS") Form W-8ECI, Contractor shall provide County a copy of Contractor's current Form W-8ECI prior to issuance of any invoice or payment under this Agreement. If Contractor fails to timely provide a completed, current Form W-8ECI, County will withhold all backup withholding taxes from the amounts due Contractor, remit such sums to the IRS, and pay Contractor only the remainder. County makes no representation regarding the tax treatment of amounts due to Contractor, and Contractor releases and holds County harmless from any claims or damages in any way relating to or arising from any tax withholding by County pursuant to this section.

## ARTICLE 6. REPRESENTATIONS AND WARRANTIES

6.1. Representation of Authority. Contractor represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Contractor, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Contractor has with any third party or violates Applicable Law. Contractor further represents and warrants that execution of this Agreement is within Contractor's legal powers, and each individual executing this Agreement on behalf of Contractor is duly authorized by all necessary and appropriate action to do so on behalf of Contractor and does so with full legal authority.

6.2. Solicitation Representations. Contractor represents and warrants that all statements and representations made in Contractor's proposal, bid, or other supporting documents submitted to County in connection with the solicitation, negotiation, or award of this Agreement, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Contractor executes this Agreement, unless otherwise expressly disclosed in writing by Contractor.

6.3. Contingency Fee. Contractor represents and warrants that it has not employed or retained any person or entity, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

6.4. Truth-In-Negotiation Representation. Contractor's compensation under this Agreement is based upon its representations to County, and Contractor certifies that the wage rates, factual unit costs, and other information supplied to substantiate Contractor's compensation, including without limitation those made by Contractor during the negotiation of this Agreement, are accurate, complete, and current as of the date Contractor executes this Agreement. Contractor's compensation may be reduced by County, in its sole discretion, to correct any inaccurate, incomplete, or noncurrent information provided to County as the basis for Contractor's compensation in this Agreement.

6.5. Public Entity Crime Act. Contractor represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. Contractor further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

6.6. Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Contractor represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Contractor represents and certifies that it is not,



and for the duration of the Term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Contractor represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

6.7. Claims Against Contractor. Contractor represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental or other board or official, pending or, to the knowledge of Contractor, threatened against or affecting Contractor, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Contractor to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Contractor or on the ability of Contractor to conduct its business as presently conducted or as proposed or contemplated to be conducted.

6.8. Verification of Employment Eligibility. Contractor represents that Contractor and each Subcontractor have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Contractor violates this section, County may immediately terminate this Agreement for cause and Contractor shall be liable for all costs incurred by County due to the termination.

6.9. Warranty of Performance. Contractor represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all Services and that each person and entity that will provide Services is duly qualified to perform such Services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render Services. Contractor represents and warrants that the Services shall be performed in a skillful and respectful manner, and that the quality of all Services shall equal or exceed prevailing industry standards for the provision of such services.

6.10. Prohibited Telecommunications Equipment. Contractor represents and certifies that Contractor and all Subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Contractor represents and certifies that Contractor and all Subcontractors shall not provide or use such covered telecommunications equipment, system, or services during the Term.

6.11. Criminal History Screening Practices. If this Agreement is subject to the requirements of Section 26-125(d) of the Code, Contractor represents and certifies that Contractor will comply with Section 26-125(d) of the Code for the duration of the Term.

6.12. Entities of Foreign Concern. The provisions of this section apply only if Contractor or any Subcontractor will have access to an individual's personal identifying information under this Agreement. Contractor represents and certifies: (i) Contractor is not owned by the government

of a foreign country of concern; (ii) the government of a foreign country of concern does not have a controlling interest in Contractor; and (iii) Contractor is not organized under the laws of and does not have its principal place of business in, a foreign country of concern. On or before the Effective Date, Contractor and any Subcontractor that will have access to personal identifying information shall submit to County executed affidavit(s) under penalty of perjury, in a form approved by County attesting that the entity does not meet any of the criteria in Section 287.138(2), Florida Statutes. Compliance with the requirements of this section is included in the requirements of a proper invoice for purposes of Section 5.2. Terms used in this section that are not otherwise defined in this Agreement shall have the meanings ascribed to such terms in Section 287.138, Florida Statutes.

6.13. Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of the “Broward County Domestic Partnership Act,” Section 16½-157 of the Code (“Act”), Contractor certifies and represents that it shall at all times comply with the provisions of the Act. The contract language referenced in the Act is deemed incorporated in this Agreement as though fully set forth in this section.

6.14. Breach of Representations. Contractor acknowledges that County is materially relying on the representations, warranties, and certifications of Contractor stated in this article, and County shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Agreement without any further liability to Contractor; (c) set off from any amounts due Contractor the full amount of any damage incurred; and (d) debarment of Contractor.

#### **ARTICLE 7. INDEMNIFICATION**

Contractor shall indemnify and hold harmless County and its current, past, and future officers and employees (collectively, “Indemnified Party”), from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys’ fees (collectively, a “Claim”), to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or persons employed or utilized by Contractor in the performance of this Agreement, including but not limited to Contractor’s Subcontractors, sub-subcontractors, materialmen, or agents of any tier, or any of their respective employees. These indemnifications shall survive the term of this Agreement.

#### **ARTICLE 8. INSURANCE**

8.1. Throughout the Term, Contractor shall, at its sole expense, maintain the minimum insurance coverages stated in Exhibit C in accordance with the terms and conditions of this article. Contractor shall maintain insurance coverage against claims relating to any act or omission by Contractor, its agents, representatives, employees, or Subcontractors in connection with this Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required under this article.

8.2. Contractor shall ensure that "Broward County" is listed and endorsed as an additional insured as stated in Exhibit C on all policies required under this article.

8.3. On or before the Effective Date or at least fifteen (15) days prior to commencement of Services, as may be requested by County, Contractor shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by County, Contractor shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.

8.4. Contractor shall ensure that all insurance coverages required by this article remain in full force and effect without any lapse in coverage throughout the Term and until all performance required by Contractor has been completed, as determined by Contract Administrator. Contractor or its insurer shall provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

8.5. All required insurance policies must be placed with insurers or surplus line carriers authorized to conduct business in the State of Florida with an A.M. Best rating of A- or better and a financial size category class VII or greater, unless otherwise approved by County's Risk Management Division in writing.

8.6. If Contractor maintains broader coverage or higher limits than the insurance requirements stated in Exhibit C, County shall be entitled to all such broader coverages and higher limits. All required insurance coverages shall provide primary coverage and not require contribution from any County insurance, self-insurance, or otherwise, which shall be in excess of and shall not contribute to the required insurance provided by Contractor.

8.7. Contractor shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit C and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of Services. Contractor shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against County. County may, at any time, require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Contractor agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Contractor agrees to obtain same in endorsements to the required policies.

8.8. Unless prohibited by the applicable policy, Contractor waives any right to subrogation that any of Contractor's insurers may acquire against County, and agrees to obtain same in an endorsement of Contractor's insurance policies.

8.9. Contractor shall require that each Subcontractor maintains insurance coverage that adequately covers the Services provided by that Subcontractor on substantially the same insurance terms and conditions required of Contractor under this article. Contractor shall ensure that all such Subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the Subcontractors' applicable insurance policies. Contractor shall not permit any Subcontractor to provide Services unless and until all applicable requirements of this article are satisfied.

8.10. If Contractor or any Subcontractor fails to maintain the insurance required by this Agreement, County may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Contractor. If requested by County, Contractor shall provide, within one (1) business day, evidence of each Subcontractor's compliance with this article.

8.11. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit C; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, Contractor must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit C.

#### **ARTICLE 9. TERMINATION**

9.1. Termination for Cause. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

9.1.1. Contractor's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices; or

9.1.2. Unless otherwise stated in this Agreement, if this Agreement was approved by Board action, termination for cause by County must be by action of the Board or the County Administrator; in any other instance, termination for cause may be by the County Administrator, the County representative expressly authorized under this Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. If County erroneously, improperly, or unjustifiably terminates this Agreement for cause, such termination shall be deemed a termination for convenience pursuant to Section 9.2 effective thirty (30) days after such notice was provided and Contractor shall be eligible for the compensation provided in Section 9.2 as its sole remedy.

9.2. Termination for Convenience; Other Termination. This Agreement may also be terminated for convenience by the Board with at least thirty (30) days advance written notice to Contractor. Contractor acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience including in the form of County's obligation to provide advance notice to Contractor of such termination in accordance with this section. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If this Agreement is terminated by County pursuant to this section, Contractor shall be paid for any Services properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable, and County shall have no further obligation to pay Contractor for Services under this Agreement.

9.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

9.4. In addition to any termination rights stated in this Agreement, County shall be entitled to seek any and all available contractual or other remedies available at law or in equity including recovery of costs incurred by County due to Contractor's failure to comply with any term(s) of this Agreement.

#### **ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY**

10.1. Contractor and Subcontractors shall not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Contractor shall include the foregoing or similar language in its contracts with all Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

#### **ARTICLE 11. MISCELLANEOUS**

11.1. Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Contractor to manage and supervise the performance of this Agreement. Contractor acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise materially modify the Scope of Services except as expressly set forth in this Agreement or, to the extent applicable, in the Broward County Procurement Code. Unless expressly stated otherwise in this Agreement or otherwise set forth in the Code or the Broward County Administrative Code, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement. The Contract Administrator may also approve in writing minor modifications to the Scope of Services that do not increase the total cost to County or waive any rights of County.

11.2. Public Records. Notwithstanding any other provision in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Agreement. If Contractor is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Contractor shall:

11.2.1. Keep and maintain public records required by County to perform the Services;

11.2.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

11.2.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to County; and

11.2.4. Upon expiration of the Term or termination of this Agreement, transfer to County, at no cost, all public records in possession of Contractor or keep and maintain public records required by County to perform the services. If Contractor transfers the records to County, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt. If Contractor keeps and maintains the public records, Contractor shall meet all requirements of Applicable Law for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

If Contractor receives a request for public records regarding this Agreement or the Services, Contractor must immediately notify the Contract Administrator in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

Contractor must separately submit and conspicuously label as “RESTRICTED MATERIAL – DO NOT PRODUCE” any material (a) that Contractor contends constitutes or contains its trade secrets under Chapter 688, Florida Statutes, or (b) for which Contractor asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively, “Restricted Material”). In addition, Contractor must, simultaneous with the submission of any Restricted Material, provide a sworn declaration or affidavit in a form acceptable to County from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, Contractor must promptly identify the specific applicable statutory section that protects any particular document. If a third party submits a request to County for records designated by Contractor as Restricted Material, County shall refrain from disclosing such material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by Contractor, or the claimed exemption is

waived. Any failure by Contractor to strictly comply with the requirements of this section shall constitute Contractor's waiver of County's obligation to treat the records as Restricted Material. Contractor must indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to nondisclosure of Restricted Material in response to a third-party request.

The foregoing shall not be construed to apply to any intellectual property of the Contractor.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954)359-6100, JCHAMBERS@BROWARD.ORG, 320 TERMINAL DRIVE, SUITE 200, FORT LAUDERDALE, FLORIDA 33315.**

11.3. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Contractor and all Subcontractors that are related to this Agreement. Contractor and all Subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Contractor and all Subcontractors shall make same available in written form at no cost to County. Contractor shall provide County with reasonable access to Contractor's facilities, and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

Contractor and all Subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. This article shall survive any dispute or litigation between the Parties, and Contractor expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). Contractor hereby grants County the right to conduct such audit or review at Contractor's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. Contractor shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection reveals overpricing or overcharges to County of any nature by Contractor in excess of five percent (5%) of the total contract billings reviewed by County, Contractor shall make adjustments for the overcharges and pay liquidated damages pursuant to Section 5.5. Any adjustments or payments

due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to Contractor.

Contractor shall ensure that the requirements of this section are included in all agreements with all Subcontractor(s).

11.4. Independent Contractor. Contractor is an independent contractor of County, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services, neither Contractor nor its agents shall act as officers, employees, or agents of County. Contractor shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

11.5. Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Agreement is as a Party to this Agreement and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to County as a Party to this Agreement.

11.6. Sovereign Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement.

11.7. Third-Party Beneficiaries. Neither Contractor nor County intends to primarily or directly benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.8. Notice and Payment Address. Unless otherwise stated herein, for notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Payments shall be made to the noticed address for Contractor. Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

FOR COUNTY:

Broward County Administrator  
Governmental Center East  
115 South Andrews Avenue, Room 409  
Fort Lauderdale, Florida 33301  
Email address: mcepero@broward.org



With a copy to:

Broward County Director of Aviation  
320 Terminal Drive, Suite 200  
Fort Lauderdale, Florida 33315  
Email address: mgale@broward.org

FOR CONTRACTOR:  
RUNWAY SAFE INC  
2239 High Hill Road  
Logan Township, New Jersey 08085  
Email address: trip.thomas@runwaysafe.com

11.9. Assignment. All Subcontractors must be expressly identified in this Agreement or otherwise approved in advance and in writing by County's Contract Administrator. Except for approved subcontracting, neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Contractor without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity. County reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

11.10. Conflicts. Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the Term, none of Contractor's officers or employees shall serve as an expert witness against County in any legal or administrative proceeding in which they or Contractor is not a party, unless compelled by legal process. Further, such persons shall not give sworn testimony or issue a report or writing as an expression of such person's expert opinion that is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by legal process. The limitations of this section shall not preclude Contractor or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If Contractor is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, Contractor shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as Contractor.

11.11. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. County's failure to enforce any provision

of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.12. Compliance with Laws. Contractor and the Services must comply with all Applicable Law, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

11.13. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.14. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

11.15. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated. Any reference to approval by County shall require approval in writing, unless otherwise expressly stated.

11.16. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

11.17. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for such litigation shall be exclusively in such state courts, forsaking any other jurisdiction that either party may claim by virtue of its residency or other jurisdictional device. **EACH PARTY HEREBY EACH EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL SHALL BE LIABLE FOR REASONABLE ATTORNEYS’ FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE**

**COURT IN ADJUDICATING THE MOTION. CONTRACTOR, PURSUANT TO ARTICLE 28 OF THE GENERAL CONDITIONS, SHALL SPECIFICALLY BIND ALL SUBCONTRACTORS TO THE PROVISIONS OF THIS SECTION.**

11.18. Amendments. Unless expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of County and Contractor.

11.19. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

11.20. Payable Interest

11.20.1. Payment of Interest. Unless prohibited by Applicable Law, County shall not be liable for interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and Contractor waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

11.20.2. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.21. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.22. Use of County Name or Logo. Contractor shall not use County's name or logo in marketing or publicity materials without prior written consent from the Contract Administrator.

11.23. Drug-Free Workplace. If required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Contractor certifies that it has and will maintain a drug-free workplace program throughout the Term.

11.24. Civil Rights – General. Contractor and its Subcontractors shall comply with pertinent statutes, executive orders, and such rules identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex, (including sexual orientation and gender identity), age, or disability, be excluded from participating in any activity conducted with or benefiting from federal assistance.

11.25. Civil Rights - Title VII Assurances. Contractor shall abide by and comply with the nondiscrimination requirements set forth in Exhibit G, to the extent same are applicable by law, rule, or regulation, or federal grant requirements.

11.26. Nondiscrimination. Neither Party to this Agreement shall discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Contractor shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26

11.27. Federal Fair Labor Standards Act (Federal Minimum Wage). This Agreement incorporates by reference the provisions of 29 C.F.R. Part 201, et seq., the Federal Fair Labor Standards Act ("FLSA"), with the same force and effect as if fully restated herein. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Contractor must comply with FLSA and has full responsibility to monitor compliance with the referenced statute and regulations. Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor-Wage and Hour Division.

11.28. Occupational Safety and Health Act of 1970. This Agreement incorporates by reference the requirements of 29 C.F.R. Part 1910 with the same force and effect as if fully restated herein. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Contractor retains full responsibility to monitor its compliance and its Subcontractors' compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 C.F.R. Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor-Occupational Safety and Health Administration.

11.29. Airport Security Regulations. Contractor must comply with the Airport Security Requirements as set forth in Exhibit H.

11.30. Airport Issued Identification Media, Public Area Business Purpose Media, and Emergency Response Training. All employees, agents, representatives, contractors, and Subcontractors of Contractor shall obtain Airport Issued Identification Media or Public Area Business Purpose Media, and complete emergency response training, as required by Section 2-43 of the Broward County Code of Ordinances. Contractor shall comply with the requirements of Section 2-43 of the Broward County Code of Ordinances, including the requirement that Contractor compensate its employees, agents, representatives, contractors, and Subcontractors for time spent completing the emergency response training.

11.31. Retention of Records. If this Project is funded in whole or in part by a Federal Department of Transportation grant, in addition to all other retention requirements of this Agreement, Contractor shall preserve all Agreement records for a period of five (5) years after the latter of final payment or the completion of all Services to be performed pursuant to this Agreement.

11.32. Trade Restriction Clauses to be Included in All Solicitations, Contracts, and Subcontracts.

By submission of an offer to the solicitation, Contractor certifies that with respect to the solicitation and this Agreement, Contractor:

- (a) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- (b) has not knowingly entered into any contract or subcontract for this Project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- (c) has not entered into any subcontract for any product to be used on the Project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 U.S.C. Section 1001.

Contractor must provide immediate written notice to County if Contractor learns that its certification or that of a Subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Contractor must require Subcontractors to provide immediate written notice to Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 C.F.R. 30.17, this Agreement shall not be awarded, or subcontracted to, any person or entity:

- (a) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR;
- (b) whose Subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
- (c) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information Contractor or a Subcontractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Contractor shall incorporate this provision for certification without modification in all lower tier subcontracts with Subcontractors. Contractor may rely on the certification of a prospective Subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless Contractor has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that Contractor or a Subcontractor knowingly rendered an erroneous certification, the FAA may direct, through County, cancellation of this Agreement or the subcontract, as applicable, for default at no cost to County or the FAA.

**11.33. Termination of Agreement (All Agreements in Excess of \$10,000).**

(a) County may, by written notice, terminate this Agreement, in whole or in part, at any time, either for County's convenience or because of failure to fulfill the Agreement obligations. Upon receipt of such notice, Services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Agreement, whether completed or in process, must be delivered to County.

(b) If the termination is for the convenience of County, an equitable adjustment in the Agreement price shall be made, but no amount shall be allowed for anticipated profit on unperformed Services.

(c) If the termination is due to failure to fulfill Contractor's obligations, County may take over the work and prosecute the same to completion by contract or otherwise. In such case, Contractor shall be liable to County for any additional cost occasioned to County thereby.

(d) If, after notice of termination due to Contractor's failure to fulfill Agreement obligations, and it is then determined that Contractor had not so failed, the termination shall be deemed to have been affected for the convenience of County. In such event, adjustment in the Contract Price shall be made as provided in paragraph (b) of this section.

(e) The rights and remedies of County provided in this section are in addition to any other rights and remedies provided by law or under this Agreement.

**11.34. Suspension and Debarment Requirements for All Contracts Over \$25,000 (and for all Contracts for Auditing Services Regardless of the Amount).** Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Contractor will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts with Subcontractors. Where Contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this Agreement.

11.35. Restrictions on Lobbying. Contractor agrees that no federal appropriated funds have been paid or will be paid by or on behalf of Contractor to any person for influencing or attempting to influence any officer or employees of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid by Contractor to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Contractor shall insert the foregoing provisions in any agreements between Contractor and its Subcontractors engaged to provide Services pursuant to this Agreement and all Subcontractors shall certify and disclose accordingly.

11.36. Federally Funded Contracts. Contractor shall comply with the Federally Funded Contracts Requirements attached hereto as Exhibit I.

11.37. Construction Apprenticeship Program. If this Agreement is a construction contract as defined in Section 26-9 of the Code and is not funded with any state funding, Contractor represents and certifies that it shall at all times comply with the requirements of the Construction Apprenticeship Program as set forth in Sections 26-8 through 26-11 of the Code.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Director of Purchasing, authorized to execute same pursuant to the Broward County Procurement Code, and Contractor, signing by and through its President, duly authorized to execute same.

**BROWARD COUNTY**

BROWARD COUNTY, by and through  
its Director of Purchasing

By: Constance Mangan,  
Asst. Director, on  
behalf of  
Date: 2023.12.13 16:44:25  
-05'00'

Director of Purchasing

\_\_\_\_ day of \_\_\_\_\_, 2023

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
320 Terminal Drive, Suite 200  
Fort Lauderdale, Florida 33315  
Telephone: (954) 359-6100

**Alexander J. Williams, Jr.**  
Digitally signed by  
Alexander J.  
Williams, Jr.  
Date: 2023.12.04  
09:18:15 -05'00'

Alexander J. Williams, Jr.  
Senior Assistant County Attorney

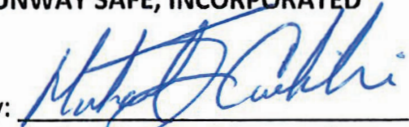
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AGREEMENT BETWEEN BROWARD COUNTY AND RUNWAY SAFE INC  
FOR ENGINEERED MATERIAL ARRESTING SYSTEM AT THE FORT  
LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT

CONTRACTOR

RUNWAY SAFE, INCORPORATED

By:   
Michael S. Ciesielski, President  
27 day of NOVEMBER, 2023

By:   
Johan Lansberg  
CEO Runway Safe Group  
27 day of NOVEMBER, 2023

## Exhibit A Scope of Services

Contractor will provide the EMAS blocks for runway 10L-28R and runway 10R-28L (total of one (1) EMAS bed on Runway 10L and repairs on runways 28R and 10R) at the Airport, including, but not limited to, storing, transporting, and furnishing the EMAS beds, and monitor and certify the installation of the EMAS beds, as follows:

1. EMAS. Contractor will provide a total of 4,444 4-foot by 4-foot (4x4) EMAS blocks for the Replacement of the 10L Departure End Bed, two (2) (4x4) EMAS blocks for the 28R Departure End Bed and 112 (4x4) EMAS blocks for the 10R Departure end Bed, in accordance with the FAA-approved EMAS design as described in the Final EMAS Design Report. The EMAS blocks will be invoiced monthly in accordance with Article 5.2.1 of this Agreement.
2. Storage by Contractor (prior to shipping to Airport). By no later than February 28, 2024, the Parties will establish an installation start date ("Installation Date") and memorialize same in writing executed by the Contractor and Contract Administrator. Contractor will determine its production and delivery schedules based on the Installation Date and the Contractor's production availability. Contractor will store the EMAS blocks at no additional cost to County at Contractor's premises, which may include a third party's warehouse, until the blocks are shipped to the Airport for installation. However, if the EMAS blocks require storage at a third party's warehouse for more than two months beyond the agreed Installation Date due to no fault of Contractor, then subject to Contract Administrator's prior written approval, Contractor will be entitled to charge County \$36,340.00 per month for the necessary extended storage, with such charges to commence beginning as of the third month of storage. Extended storage charges will cease once shipping of the blocks has commenced.
3. Shipping. Contractor will ship the EMAS blocks to the Airport in accordance with the schedule agreed to by the Parties.
4. Installation. Contractor shall provide County with all required debris deflectors and associated hardware, including but not limited to, caulk, backer rods, vents and other required installation materials. Contractor shall also provide, at no additional cost to County, sufficient spare blocks, and installation materials to replace losses during shipping, off-loading, and installation. Contractor shall provide a minimum of one percent (1%) additional blocks in anticipation of possible losses during shipping, off-loading, and the installation process. Upon successful installation of the EMAS

blocks, any spare EMAS blocks not used (along with other unused installation materials and shipping pallets) shall belong to Contractor.

5. Storage at Airport (prior to installation). Upon delivery of the EMAS blocks and installation materials by Contractor to the Airport, storage of the EMAS blocks shall be provided at no additional cost to County in trailers provided by Contractor, at site(s) designated by County until installation. County shall not have control or custody of the EMAS blocks or installation materials, nor become responsible for the condition of EMAS blocks, or installation materials, until after installation and written acceptance by County. Notwithstanding any payment for any delivered EMAS blocks or installation materials, Contractor will continue to bear the risk of all loss of or damage to same until the EMAS blocks are actually installed and accepted by County in accordance with the Contract. If storage of the EMAS blocks in the on-site trailers provided by Contractor is required for more than two weeks beyond the Installation Date due to no fault of Contractor, then subject to Contract Administrator's prior written approval, Contractor will be entitled to charge County \$5,250 per trailer per month for the necessary extended storage, with such charges to commence beginning as of the third week of storage. Contractor shall provide County with invoices from the third-party trailer providers.
6. Installation Support. Contractor shall provide on-site technical support for the complete installation of the EMAS blocks to assist the installer in the performance of its work to the satisfaction of, and in compliance with the directions of, Contractor, County, and the Consultant and to control the quality and progress of the installation. The Prime Installation Contractor (hired by the airport to perform the actual installation of the EMASMAX bed) shall be responsible for providing all labor, equipment, and materials, including fuel to maintain cooling of refrigerated material trailers, required to complete this project.
7. Inspection. Within fourteen (14) calendar days after installer's substantial completion of the EMAS installation, Contractor will inspect the installation. If the installation is acceptable to Contractor, within five (5) calendar days of completing the installation inspection, Contractor shall provide written certification to the FAA and County that the EMAS complies with FAA standards and specifications. Contractor shall perform two (2) semi-annual inspections of the 10L Departure End EMAS bed during the first year following final completion and written acceptance of the Project, at no additional cost to County. Within fourteen (14) calendar days after each inspection, Contractor shall provide a written report to County setting forth a general description of the condition

of the EMAS and identifying any conditions requiring correction or maintenance.

8. Warranty. Within fourteen (14) calendar days after substantial completion of the Project, or the issuance of Contractor's certification of the installation to the FAA and County (whichever occurs later), Contractor shall provide County with an executed written warranty in substantially the form attached to this Agreement as Exhibit D.

Installation shall be done in accordance with the EMAS drawings that will be prepared by Runway Safe Inc., and provided to the Consultant, in coordination with BCAD, the FAA, and the installer.

(The remainder of this page is intentionally left blank.)

**Exhibit B  
Payment Schedule**

The rates specified below shall be in effect for the entire Term, unless otherwise expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

<b>10L Departure End Bed Replacement</b>	<b>Cost</b>
Purchase of 4,444 EMAS Blocks at \$1,493.00 each	\$6,634,892.00
Shipping	\$677,274.00
Installation Materials	\$464,790.00
Installation on-site Technical Support	\$527,071.00
<b>TOTAL AMOUNT</b>	<b>\$8,304,027.00</b>

<b>28R Departure End Repair</b>	<b>Cost</b>
Purchase of 2 EMAS Blocks at \$1,493.00 each	\$2,986.00
Shipping	\$12,000.00
Installation Materials and Onsite support	\$99,083.00
Resealing of EMAS bed	\$56,022.00
<b>TOTAL AMOUNT</b>	<b>\$170,091.00</b>

<b>10R Departure End Repair</b>	<b>Cost</b>
Purchase of 112 EMAS Blocks at \$1,493.00 each	\$167,216.00
Installation Materials and Onsite Support	\$111,518.00
Shipping	\$35,181.00
<b>TOTAL AMOUNT</b>	<b>\$313,915.00</b>

The installation support services shall be invoiced monthly based upon percentage of completion for the 10L departure end full be replacement. For the two repairs the support services shall be invoiced at completion of each end. . The value is based upon assumed work hours of at least eight (8) hours per day, five (5) days per week. The value of this item includes all costs and expenses related to the services, including, but not limited to, travel, subsistence, local travel, communication costs, and all miscellaneous expenses.


County shall withhold ten percent (10%) retainage from each progress payment to Contractor until fifty percent (50%) of the Services have been completed. Thereafter, County shall reduce the amount of retainage to five percent (5%) withheld from each subsequent progress payment made to Contractor. Any reduction in retainage below five percent (5%) shall be at the sole discretion of the Contract Administrator after written request by Contractor. After the Services are substantially completed, Contractor may submit a payment request for all remaining retainage. County may withhold retainage up to one and one-half times the total cost of unfinished items, as determined by County in its sole discretion. Any interest earned on retainage shall accrue to the benefit of County.

(The remainder of this page is intentionally left blank.)

### Exhibit C Minimum Insurance Requirements

TYPE OF INSURANCE	ADD'L INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
<b>GENERAL LIABILITY - Broad form</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input checked="" type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> mobile equipment <b>Per Occurrence or Claims-Made:</b> <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <b>Gen'l Aggregate Limit Applies per:</b> <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$5 mil	\$5 mil
			Personal Injury		
			Products & Completed Operations		
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, if applicable <i>Note: May be waived if no driving will be done in performance of services/project, or delivered by common carrier</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$5 mil airside \$1 mil landside	
<input type="checkbox"/> <b>EXCESS LIABILITY / UMBRELLA</b> <b>Per Occurrence or Claims-Made:</b> <input type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION</b> <i>Note: U.S. Longshoremen &amp; Harbor Workers' Act &amp; Jones Act is required for any activities on or about navigable water.</i>	N/A	<input checked="" type="checkbox"/>	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	\$1mil	
<input checked="" type="checkbox"/> <b>FOB of EMAS: loss or damage to the EMAS while in transit and while stored on FLL property until acceptance by BCAD.</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	If claims-made form:		\$7 mil
			Extended Reporting Period of:	2 years	
			*Maximum Deductible:	\$25k	
<input checked="" type="checkbox"/> <b>PROFESSIONAL LIABILITY (ERRORS &amp; OMISSIONS)</b> ***required if any professional engineering, architects, or design plans are prepared for this project.	N/A	<input checked="" type="checkbox"/>	If claims-made form:		\$7 mil
			Extended Reporting Period of:		
			*Maximum Deductible:	\$25k	
			*Maximum Deductible:	\$10 k	
<b>Description of Operations:</b> "Broward County" shall be listed as Certificate Holder and endorsed as an additional insured for liability, except as to Professional Liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. Vendor insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) must be declared to and approved by County and may require proof of financial ability to meet losses. Vendor is responsible for all coverage deductibles unless otherwise specified in the agreement.					

**CERTIFICATE HOLDER:**  
 Broward County Aviation Department  
 Ft. Lauderdale-Hollywood International Airport  
 320 Terminal Drive  
 Suite 200  
 Fort Lauderdale, FL 33315 CIP

 Digitally signed  
 by Tracy Meyer  
 Date:  
 2023.09.05  
 10:03:27 -04'00'  
Risk Management Division

**Exhibit D**  
**Engineered Material Arresting System Limited Warranty**

RUNWAY SAFE INC.'s Standard Limited Warranty

**RUNWAY SAFE, Inc.** ("Runway Safe") warrants to the original purchaser (the "Client") of the Runway Safe Engineered Material Arresting System that, for a period of one (1) year from the earlier of the date of acceptance, as evidenced by a final acceptance document signed by the Client or thirty (30) days from date Client is advised by Runway Safe that the EMAS is ready for acceptance, and subject to the limitations stated herein, the EMAS arrestor bed (excludes base surface preparation) conforms to the product specifications listed under Applicable Documents. This Warranty is non-transferable and is expressly conditioned on the Client satisfying all of the following requirements:

**MAINTENANCE:** Runway Safe requires that the Client ensures that a preventative maintenance program in accordance with the Runway Safe Inspection, Maintenance and Repair Manual listed under the clause "Applicable Documents" is initiated and followed.

**RIGHT OF INSPECTION:** The Client shall ensure Runway Safe is provided with reasonable access to the EMAS Replacement Materials after their installation for the purpose of conducting inspections if necessary. Reasonable access shall include, without limitation, access during daylight hours to permit careful visual assessment of the condition of the EMAS Replacement Materials and access to all records of maintenance carried out by the Client or other party.

**NOTIFICATION:** If the Client believes that it has a claim arising from the failure of the EMAS Replacement Materials to conform with this Warranty, the Client must notify Runway Safe of the claim, within ten (10) days after discovering the conditions giving rise to the claim, and in any case before the Warranty period has expired. All such notices shall be given by certified mail addressed to **Quality Assurance Manager, Attention: Warranty Claim**; Runway Safe, Inc., 2239 High Hill Road, Logan Township, NJ 08085, USA.

Failure to adhere to any of the conditions stated above shall void this Warranty.

**WARRANTY REMEDY** If the Warranty set forth above is breached, Runway Safe will, at its sole option, either (1) correct the non-conformity at its own cost within a reasonable time after receiving notice of the breach, or (2) a refund of the price of the non-conforming EMAS Replacement Material(s) at its own cost within a reasonable time after receiving notice of the breach. The Client shall ensure Runway Safe reasonable access to the EMAS that allows Runway Safe to perform its warranty obligations on its most cost-effective basis possible.

**EXCLUSIONS**

Runway Safe shall not be liable for any damage to the EMAS or other property attributable to any of the following (or any combination thereof):

1. Standing water in and around the EMAS bed;
2. Vehicular traffic;
3. Aircraft traffic in contact with the EMAS bed;
4. Damage caused by snow removal equipment that does not meet Runway Safe specifications detailed under the clause "Applicable Documents" which were provided with the original EMAS installation;
5. Acts of nature, including, but not limited to, lightning, flood, winds in excess of 100 mph, earthquake, hurricane, tornado, hail storm, wildfire, or impact of objects or other violent storm or casualty;



6. Damage caused by wild life indigenous to the installation location;
7. Repairs or alterations of the EMAS, unless performed by personnel trained and qualified by Runway Safe and in a manner meeting the Runway Safe specifications and procedures listed under the clause "Applicable Documents", which were provided with the initial EMAS installation;
8. Excessive buildup of debris in and around the EMAS bed;
9. Impact or contact with other objects, spilled liquids or immersion in liquids (including fuel dropped from over-flying aircraft);
10. Use of the EMAS for purposes other than those for which it is customarily used;
11. Improper maintenance, abuse or other neglect;
12. Exposure to chemicals other than de-icers and aircraft engine exhaust;
13. Jet blast in excess of 100 mph;
14. Damage or defect due to faulty or improper workmanship, including installation of the product that is not in accordance with Runway Safe's published specifications and installation recommendations in effect at the time of installation;
15. Damage to the EMAS Replacement Materials related to or caused by the base surface not being constructed per the drawings and specifications. Runway Safe must check and accept the base surface prior to the start of EMAS arrestor bed installation; and
16. Any subsequent failure of the base surface whether or not originally constructed per the drawings and specifications.

#### **APPLICABLE DOCUMENTS**

Project Installation Drawings No QS101, EMASMAX LAYOUT PLAN RW10L DEPARTURE END (RW 10L DEPARTURE END [28R numbered end])

FLL P-555 RW 10L Dep End EMAS; Bed Installation Statement of Work

RWS EMASMAX Inspection, Maintenance and Repair Manual, Current Version

#### **WARRANTY EXCLUSIVE/LIMITATION OF LIABILITY**

**THE EXPRESS WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND NO OTHER WARRANTIES OF ANY KIND, WHETHER STATUTORY, ORAL, WRITTEN, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY. THE CLIENT'S EXCLUSIVE REMEDIES AND RUNWAY SAFE'S ONLY OBLIGATIONS ARISING OUT OF OR IN CONNECTION WITH DEFECTS OR NON-CONFORMITIES IN THE EMAS REPLACEMENT MATERIALS, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL BE THOSE STATED HEREIN. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY IN ANY CONTRACT DOCUMENT, RUNWAY SAFE'S TOTAL LIABILITY TO THE CLIENT ARISING FROM OR RELATING TO DEFECTS OR NON-CONFORMITIES IN THE EMAS REPLACEMENT MATERIALS SHALL BE LIMITED TO THE ORIGINAL PURCHASE PRICE OF THE EMAS REPLACEMENT MATERIALS PAID TO RUNWAY SAFE. RUNWAY SAFE SHALL HAVE NO LIABILITY TO THE CLIENT FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES.**

**REGARDLESS OF ANY STATUTORY LIMITATION PERIODS, RUNWAY SAFE SHALL NOT BE LIABLE FOR ANY BREACH OF WARRANTY OF WHICH IT IS NOT NOTIFIED AS REQUIRED BEFORE THE WARRANTY PERIOD HAS EXPIRED.**

This Warranty may not be assigned or transferred without the approval of Runway Safe in writing and does not confer any rights to any other part than party to which it has been addressed by Runway Safe.

1.1. NO WARRANTY MODIFICATIONS

This Warranty shall not be modified except in a writing signed by Runway Safe's Group CEO. No representative, employee, or agent of Runway Safe, or any person, other than the Group CEO of Runway Safe, has the authority to assume for Runway Safe any additional liability or responsibility in connection with the EMAS or this Warranty.

To ensure registration of this Warranty, please return a signed copy to:

**Quality Assurance Manager**  
**Runway Safe Inc**  
2239 High Hill Road  
Logan Township, NJ 08085  
Phone (856) 975-5854 Ext. 4427

Name (Please Print) of Client's Authorized Representative: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit F**  
**Certification of Payments to Subcontractors and Suppliers**

RLI/Bid/Contract No. \_\_\_\_\_  
Project Title \_\_\_\_\_

The undersigned Contractor hereby swears under penalty of perjury that:

1. Contractor has paid all Subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with the "Compensation" article of this Agreement, except as provided in Paragraph 2 below.
  
2. The following Subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

3. The undersigned is authorized to execute this Certification on behalf of Contractor.

Dated \_\_\_\_\_, 20\_\_

\_\_\_\_\_ Contractor Name

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Name and Title)

STATE OF                    )  
COUNTY OF                )

The foregoing instrument was acknowledged before me, by means of \_ physical presence or \_ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

NOTARY PUBLIC:  
Signature: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
State of Florida at Large (Seal)  
My commission expires:

## Exhibit G Nondiscrimination Requirements

A. Title VI List of Pertinent Nondiscrimination Acts and Authorities. During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest, agrees as follows:

1. *Compliance with Regulations*: Contractor (hereinafter includes Subcontractors) will comply with the **Title VI List of Pertinent Nondiscrimination Acts and Authorities** (“Nondiscrimination Acts and Authorities”), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement, and which include, but are not limited to, the following:

- a. 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);
- b. 49 C.F.R. Part 21 (Nondiscrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- c. 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);
- d. 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 C.F.R. Part 27;
- e. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- f. Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- g. The Civil Rights Restoration Act of 1987 (P.L. 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, subrecipients, and contractors, whether such programs or activities are federally funded or not);
- h. 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 U.S. Department of Transportation regulations at 49 C.F.R. Parts 37 and 38;

i. The Federal Aviation Administration’s nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, providing that national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and

l. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681, et seq).

2. *Nondiscrimination:* Contractor, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Subcontractors, including procurements of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices, when the Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. Part 21.

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

4. *Information and Reports:* Contractor will provide all information and reports required by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts

and Authorities and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish the information, Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

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

- a. Withholding payments under the Agreement until Contractor complies; and/or
- b. Cancelling, terminating, or suspending the Agreement, in whole or in part.

6. *Incorporation of Provisions:* Contractor will include the provisions of Sections A.1 through A.6 above in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with litigation by a Subcontractor or supplier because of such direction, Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

B. Nondiscrimination - 14 C.F.R. Part 152 Requirements. During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest, agrees as follows:

1. Contractor agrees to undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, to ensure that no person shall on the grounds of race, color, religion, gender, national origin, age, marital status, political affiliation, familial status, physical or mental disability, or sexual orientation be excluded from participation in any employment, contracting, or leasing activities covered in 14 C.F.R. Part 152, Subpart E. Contractor agrees that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Contractor agrees that it will require its covered suborganizations to provide assurances to Contractor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations as required by 14 C.F.R. Part 152, Subpart E, to the same effect.

2. Contractor agrees to comply with any affirmative action plan or steps for equal employment opportunity required by 14 C.F.R. Part 152, Subpart E, as part of the affirmative action program, and by any federal, state, county, or local agency or court,

including those resulting from a conciliation agreement, a consent decree, court order, or similar mechanism. Contractor agrees that state or county affirmative action plans will be used in lieu of any affirmative action plan or steps required by 14 C.F.R. Part 152, Subpart E, only when they fully meet the standards set forth in 14 C.F.R. 152.409. Contractor agrees to obtain a similar assurance from its covered organizations, and to cause them to require a similar assurance of their covered suborganizations, as required by 14 C.F.R. Part 152, Subpart E.

3. If required by 14 C.F.R. Part 152, Contractor shall prepare and keep on file for review by the FAA Office of Civil Rights an affirmative action plan developed in accordance with the standards in Part 152. Contractor shall similarly require each of its covered suborganizations (if required under Part 152) to prepare and to keep on file for review by the FAA Office of Civil Rights, an affirmative action plan developed in accordance with the standards in Part 152.

4. If Contractor is not subject to an affirmative action plan, regulatory goals and timetables, or other mechanism providing for short- and long-range goals for equal employment opportunity under Part 152, then Contractor shall nevertheless make good faith efforts to recruit and hire minorities and women for its aviation workforce as vacancies occur, by taking any affirmative action steps required by Part 152. Contractor shall similarly require such affirmative action steps of any of its covered suborganizations, as required under Part 152.

5. Contractor shall keep on file, for the period set forth in Part 152, reports (other than those submitted to the FAA), records, and affirmative action plans, if applicable, that will enable the FAA Office of Civil Rights to ascertain if there has been and is compliance with this subpart, and Contractor shall require its covered suborganizations to keep similar records as applicable.

6. Contractor shall, if required by Part 152, annually submit to County the reports required by Section 152.415, and Contractor shall cause each of its covered suborganizations that are covered by Part 152 to annually submit the reports required by Section 152.415 to Contractor who shall, in turn, submit same to County for transmittal to the FAA.

## **Exhibit H**

### **Airport Security Requirements**

Airport Security Program and Aviation Regulations. Contractor shall observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Contractor, including, but not limited to, all regulations of the United States Department of Transportation, the Federal Aviation Administration, and the Transportation Security Administration. Contractor shall comply with County's Airport Security Program and the Air Operations Area ("AOA") Vehicle Access Program, and any amendments thereto, and with such other rules and regulations as may be reasonably prescribed by County, including any regulations pertaining to emergency response training, and shall take such steps as may be necessary or directed by County to ensure that Subcontractor, employees, invitees, and guests of Contractor observe these requirements. If required by the Aviation Department, Contractor shall conduct background checks of its employees in accordance with applicable federal regulations. If as a result of any act or omission of Contractor, its Subcontractors, employees, invitees, or guests, County incurs any fine and/or penalty imposed by any governmental agency, including, but not limited to, the United States Department of Transportation, the Federal Aviation Administration, or the Transportation Security Administration, or any expense in enforcing any federal regulations, including, but not limited to, airport security regulations and the rules and regulations of County, and/or any expense in enforcing County's Airport Security Program, then Contractor shall pay and/or reimburse to County all such fines, penalties, costs, and expenses, including all costs of administrative proceedings, court costs, and attorneys' fees and all costs incurred by County in enforcing this provision. Contractor shall rectify any security deficiency or other deficiency as may be determined as such by County or the United States Department of Transportation, Federal Aviation Administration, the Transportation Security Administration, or any other federal agency with jurisdiction. If Contractor fails to remedy any such deficiency, County may do so at the sole cost and expense of Contractor. County reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.

(a) Access to Security Identification Display Areas and Identification Media. Contractor shall be responsible for requesting the Aviation Department to issue Airport Issued Identification Media to all employees including those who are authorized access to Security Identification Display Areas ("SIDA") on the Airport, as designated in the Airport Security Program. In addition, Contractor shall be responsible for the immediate reporting of all lost or stolen Airport Issued Identification Media, the immediate return of the media of Contractor's personnel transferred from the Airport or terminated from the employ of Contractor, and the immediate return of all media of all Contractor's personnel upon expiration or termination of this Agreement. Before an Airport Issued Identification Media is issued to an employee, Contractor must comply with the requirements of applicable federal regulations with regard to fingerprinting for criminal history record checks and security threat assessments, and must require that each employee complete security training programs conducted by the Aviation Department. Contractor shall pay or cause to be paid to the Aviation Department such charges as may be established from time to time for lost or stolen Airport Issued Identification Media and those not returned to the Aviation Department in accordance with these provisions. The Aviation Department has the right to



require Contractor to conduct background investigations and to furnish certain data on such employees before the issuance of Airport Issued Identification Media, which data may include the fingerprinting of employee applicants for such media.

(b) Operation of Vehicles on the AOA. Before Contractor shall permit any employee of Contractor or of any Subcontractor to operate a motor vehicle of any kind or type on the AOA (and unless escorted by an Aviation Department approved escort), Contractor shall ensure that all such vehicle operators possess current, valid, and appropriate Florida driver's licenses. In addition, any motor vehicles and equipment of Contractor or of any Subcontractor operating on the AOA must have an appropriate vehicle identification permit issued by the Aviation Department, which identification must be displayed as required by the Aviation Department.

(c) Consent to Search/Inspection. Contractor's vehicles, cargo, goods, and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. Contractor and its Subcontractor shall not authorize any employee or other person to enter the AOA unless and until such employee or other person has executed a written consent-to-search/inspection form acceptable to the Aviation Department. The foregoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason, persons not executing such consent-to-search/inspection form shall not be employed by Contractor or by any Subcontractor at the Airport in any position requiring access to the AOA or allowed entry to the AOA by Contractor or by any Subcontractor.

(d) Nondisclosure Agreement. If any of Contractor's employees, or the employees of any of its Subcontractors, are required in the course of the work to be performed under this Agreement to access or otherwise be in contact with Sensitive Security Information ("SSI") as defined and construed under federal law, that individual will be required to execute a Sensitive Security Information Nondisclosure Agreement provided by the Aviation Department.

The provisions of this exhibit shall survive the expiration or any other termination of this Agreement.

**Exhibit I**  
**Federally Funded Contract Requirements**  
**REQUIRED TERMS AND CONDITIONS FOR CONTRACTS ELIGIBLE FOR FUNDING FROM THE**  
**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

Broward County, as a non-federal entity, is required to include the following terms and conditions into contracts that may be subject to reimbursement from the Federal Emergency Management Agency ("FEMA").

Contractor agrees to be bound by all applicable federal law, including without limitation, 2 C.F.R. Part 200, including 2 C.F.R. § 200.327 and Appendix II. In addition, Contractor agrees that, during the performance of this Agreement, the Contractor, its assignees, and successors in interest (collectively referred to interchangeably as either "Contractor" or "contractor") shall comply with the following:

**A. EQUAL EMPLOYMENT OPPORTUNITY**

Contractor agrees to comply with the terms and conditions of this Section A for the duration of the resulting contract.

During the performance of this Agreement, Contractor agrees as follows:

(1) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing,

or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

(4) Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work.

Contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Contractor agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this Agreement; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

**B. DAVIS-BACON ACT**

NOT APPLICABLE

(1)

**C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

**D. NOT APPLICABLE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT**

If Contractor applies for or submits a bid for an award of \$150,000 or more, Contractor agrees to comply with the terms and conditions of this Section D for the duration of the resulting contract.

(1) Clean Air Act. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. Contractor agrees to report each violation to Broward County and understands and agrees that the Broward County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA

(2) Federal Water Pollution Control Act. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq. Contractor agrees to report each violation to Broward County and understands and agrees that Broward County will, in turn, report each violation as required to assure notification to Broward County, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

#### **E. DEBARMENT AND SUSPENSION**

If Contractor applies for or submits a bid for an award of \$25,000 or more, Contractor agrees to comply with the terms and conditions of this Section E for the duration of the resulting contract.

(1) This Agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, Contractor is required to verify that none of Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by Broward County. If it is later determined that Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to Broward County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) Contractor agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **F. BYRD ANTI-LOBBYING AMENDMENT**

If Contractor applies for or submits a bid for an award of \$100,000 or more, Contractor must sign and submit to Broward County as part of its response to the solicitation the certification attached as Appendix A. Contractor must also require each of its subcontractors or vendors performing work related to this solicitation sign and submit the certification attached as Appendix A, which must be provided to Broward County before Contractor enters into an agreement with said subcontractor or vendor.

#### **G. PROCUREMENT OF RECOVERED MATERIALS**

NOT APPLICABLE

**H. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES**

**NOT APPLICABLE. DOMESTIC PREFERENCE FOR PROCUREMENTS**

As appropriate, and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this Section H, the following definitions shall apply:

*“Produced in the United States”* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

*“Manufactured products”* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**J. ADDITIONAL PROVISIONS**

Contractor agrees to provide Broward County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, Broward County and Contractor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. Contractor shall include this provision in any subcontracts.

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

The federal government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor's actions pertaining to this Agreement.

If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Contractor grants to the Broward County a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this Agreement to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this Agreement, Contractor will identify such data and grant to the Broward County or acquires on its behalf a license of the same scope as for data first produced in the performance of this Agreement. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this Agreement, Contractor will deliver to the Broward County data first produced in the performance of this Agreement and data required by the contract but not first produced in the performance of this Agreement in formats acceptable by the Broward County.

If the contract relates to a vehicle funded by FEMA's Assistance to Firefighters Grant (AFG) Program, nondelivery of the vehicle by the contract's specified delivery date or other vendor nonperformance will result in liquidated damages of \$100 per day until such time as the vehicle, fully compliant with the contract terms, has been accepted by the recipient. Contractor acknowledges and agrees that the liquidated damages provided in this section are proportionate to an amount that might reasonably be expected to flow from the noncompliance or nonperformance and are not a penalty.

**APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date