

**CLEAN GULF ASSOCIATES, INC. – AIRBORNE SUPPORT, INC.**  
**Subscriber Agreement For Clean Gulf Associates, Inc. Members**  
**Exhibit B**

WHEREAS, CLEAN GULF ASSOCIATES, Inc. (hereinafter "CGA") and AIRBORNE SUPPORT, INC. (hereinafter "CONTRACTOR") have entered into a Dispersant Spraying Services Subscriber Agreement dated as of September 26, 2008 (hereinafter the "Subscriber Agreement") under which CONTRACTOR shall provide Dispersant spraying services, equipment and personnel to the members of CGA who are in good standing.

This Agreement is entered between AIRBORNE SUPPORT, INC and

Member Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_

Telefax #: \_\_\_\_\_

24-hour access#: \_\_\_\_\_

Hereinafter "SUBSCRIBER") is a member in good standing of CGA; WHEREAS, SUBSCRIBER acknowledges receipt of the Subscriber Agreement, a copy of which is attached to, incorporated in and made a part of this Subscriber Endorsement executed by SUBSCRIBER (this "Subscriber Endorsement"); NOW, THEREFORE, SUBSCRIBER hereby covenants and agrees to all of the terms and conditions of the Subscriber Agreement and assumes all of the obligations contained therein that are required of SUBSCRIBER as a member of CGA. Capitalized terms used but not otherwise defined in this Subscriber Endorsement are used herein as defined in the Subscriber Agreement.

**Authority to act on behalf of Member.** The person(s) signing below hereby warrants that he or she is authorized to execute this Subscriber Agreement on behalf of Member. In order to facilitate the provision of services to Member by ASI under urgent or emergency circumstances, ASI is authorized to provide Aerial Dispersant Services to the Member pursuant to the terms hereof upon the oral or written request of any Qualified Individual listed in the Oil Spill Response Plan of Member, any officer of Member and the following persons or classes of persons. If none, so state:

Name: \_\_\_\_\_

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

Name: \_\_\_\_\_

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

Name: \_\_\_\_\_

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

A Member may alert ASI of the possibility of a call-out under this Agreement. Upon receipt of an alert, ASI will respond or be placed on standby as requested by the Member.

Signed as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by:

Member: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

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

**No CGA or ASI countersignature is required.**

**DISPERSANT SPRAYING SERVICES  
SUBSCRIBER AGREEMENT  
(CLEAN GULF ASSOCIATES, INC. – AIRBORNE SUPPORT, INC.)**

This Dispersant Spraying Services Subscriber Agreement is made as of the 26th day of September 2008 by and between CLEAN GULF ASSOCIATES (“CGA”), for and on behalf of the individual corporate members of CGA; and AIRBORNE SUPPORT INC., a Florida corporation (“ASI”) for and on behalf of itself and its two affiliates, Support Systems, Inc. and Environmental Aviation Services, Inc. (ASI and its two affiliates are collectively referred to as “CONTRACTOR”) (CGA and CONTRACTOR are individually a “Party” and collectively the “Parties.”).

WHEREAS, CGA is an unincorporated association whose members have a common interest in prompt and efficient response to oil spills that may occur and affect the waters of the Gulf of Mexico;

WHEREAS, CONTRACTOR is in the business of providing dispersant spraying services, equipment and personnel;

WHEREAS, CGA and its Members may have need of such services, equipment and personnel and CGA desires to enter into a contract with CONTRACTOR pursuant to which CONTRACTOR will provide those services, equipment and personnel to CGA’s Members;

WHEREAS, CGA and CONTRACTOR desire to set out in detail the terms and conditions of their agreement for those services, equipment and personnel to be provided by CONTRACTOR;

NOW, THEREFORE, in consideration of the foregoing premises, CONTRACTOR and CGA agree as follows:

**I. OPERATIONAL TERMS AND CONDITIONS**

**A. DEFINITIONS**

In this Dispersant Spraying Services Subscriber the following definitions shall apply:

1. “Agreement” shall mean this Dispersant Spraying Services Subscriber Agreement including Exhibits, CGA Endorsement, and all Subscriber Endorsements.
2. “Backup Aircraft” shall mean a DC-3 (C-47) aircraft comparable to the Secondary Aircraft capable of providing the same (or better) performance and equipment capabilities and which is acceptable to the CGA Member in the event of a Dispatch.
3. “CGA Member” shall mean a member of CGA in good standing as identified in Exhibit A, who is authorized to request and contract for the services of CONTRACTOR by agreeing to the terms of this Agreement by execution of a Subscriber Endorsement.
4. “Contract Aircraft” shall mean collectively the Primary Contract Aircraft, the Secondary Contract Aircraft and any required Backup Aircraft engaged to perform the Services.
5. “Designated Response Area” shall mean U.S. waters of the Gulf of Mexico.
6. “Dispatch” shall mean the use of the Contract Aircraft, in actual flight, as part of an oil spill response operation conducted by a CGA Member.
7. “Dispersant” shall mean those chemical agents that emulsify, disperse, or solubilize oil into the water column or promote the surface spreading of oil slicks to facilitate dispersal of oil into the water column.
8. “FAA” shall mean the Federal Aviation Administration.
9. “FAR” shall mean the Federal Aviation Regulations promulgated by the United States Government.
10. “Home Base” shall mean the Houma Terrebonne Airport in Houma, Louisiana.
11. “Primary Contract Aircraft” shall mean that certain DC-3 Basler Turbo Prop Model TBD, FAA certified aircraft, Number \_\_\_\_\_, together with a full FAA rated and qualified air

crew, with dispersant spraying equipment, all legally required overwater survival equipment for operation in the Designated Response Area, and all necessary radio communication equipment for each aircraft.

12. “Secondary Contract Aircraft” shall mean that certain DC-3, FAA certified aircraft, Number 64766, together with a full FAA rated and qualified air crew, with dispersant spraying equipment, all legally required overwater survival equipment for operation in the Designated Response Area, and all necessary radio communication equipment for each aircraft.

13. “Services” shall mean providing the Contract Aircraft and all other services, work, supervision, requirements, maintenance, and equipment, all in full accordance and compliance with the terms of this Agreement.

14. “Spotter Aircraft” shall mean that the certain Aero Commander 690A, FAA certified aircraft, Number 38WA, together with a full FAA rated and qualified aircrew, all legally required overwater survival equipment for operation in the Designated Response Area and all necessary radio communication equipment.

15. “Staging Area” shall mean the location from which flights for actual Dispersant spraying shall be based as part of an oil spill response operation conducted by a Subscriber.

**II. SUBJECT OF AGREEMENT**

Upon the request of any CGA Member identified in Exhibit A, CONTRACTOR shall provide the Primary Contract Aircraft, or (if acceptable to such CGA Member) the Secondary Contract Aircraft, on an as-needed basis for Dispersant spraying as part of a CGA Member’s oil spill response operation and/or for drill, training and other activities of the CGA Members. The aircraft, equipment and crew provided under this Agreement shall be based at the Home Base and whose use may be requested by a CGA Member listed in Exhibit A when such member has executed Exhibit B to be operated within the Designated Response Area.

**A. CGA MEMBERS**

The Members of CGA who are authorized to request and contract for the Services are those identified in Exhibit A and which have executed a Subscriber Endorsement in substantially the same form as that attached hereto as **Exhibit B**. CGA shall notify CONTRACTOR promptly of any changes to Exhibit A and shall provide CONTRACTOR with a current list of all CGA Members authorized to request and contract for the Services.

**B. CONTRACTOR’S WARRANTIES AND GENERAL OBLIGATIONS**

1. CONTRACTOR warrants that it has the capability, experience, and means required to safely and effectively perform the services and that at all times it shall have readily available Contract Aircraft capable of meeting all of the obligations set forth in this Paragraph II.B.
2. CONTRACTOR shall provide a Contract Aircraft that when fully loaded with dispersant is capable of reaching a spill site in a 200 nautical mile radius of the Home Base within 1.5 hours of being airborne and capable of sufficient flight time to spray its entire dispersant load, including repositioning time plus an additional 45 minutes loitering time, prior to returning to its Home Base.
3. The Contract Aircraft shall be capable of making continuous sorties of at least one plane during daylight with ground time limited to refueling, dispersant reloading, weather constraints, or required briefings to regulatory personnel.

4. The Contract Aircraft shall have a minimum of a 1,000-gallon load capacity and the capability of applying dispersant at a minimum rate of 5 gallons per acre (“GPA”). The Contract Aircraft shall be capable of spraying 6,000 gallons of dispersants per twelve (12) hour day on a spill that is up to 200 nautical miles from the Home Base.

5. CONTRACTOR shall provide Contract Aircraft equipped, certified, and capable of flying in accordance with all applicable instrument flight rules (“IFR”) in full instrument meteorological conditions. The Contract Aircraft shall be equipped with a recording global positioning systems (“GPS”) capable of documenting flight path and spray operations.

6. CONTRACTOR shall have pumps and other necessary equipment available at the Home Base and/or a remote location sufficient to load dispersant from a bulk tank or 55-gallon drums.

7. CONTRACTOR warrants that all aircraft operations shall be conducted in accordance with all applicable regulations of government agencies having jurisdiction over the Contract Aircraft during the course of operations conducted under this Agreement, in particular (but not limited to) the FAA.

8. Without limiting the foregoing, CONTRACTOR warrants that it shall perform the Services safely, diligently, carefully, and in a good and workmanlike manner consistent with accepted professional practices, all applicable and existing federal, state, and local laws, regulations, and ordinances, in particular, but not limited to all applicable FARs as the same may be enforced by the FAA.

9. CONTRACTOR shall provide all necessary aircraft, supervision, labor, machinery, tools, equipment, materials and supplies for the performance of the Services. CONTRACTOR shall be responsible for all work performed by its officers, directors, employees, agents, servants and subcontractors.

10. CONTRACTOR warrants that all Contract Aircraft and equipment are adequate and in good working order for the purposes intended under the Agreement, and its personnel (including its subcontractors) are fully trained and licensed and certified by the FAA to perform the obligations of CONTRACTOR under this Agreement.

11. CONTRACTOR shall be solely responsible for informing its personnel and any subcontractors of all information contained in material safety data sheets (“MSDS”) or other information acquired by CONTRACTOR or provided by a Subscriber concerning Dispersants and the implementation of all protective measures as are outlined therein.

12. CONTRACTOR shall provide a requesting CGA member with copies of all documents, notes, memoranda, diagrams, computer printouts, GPS computer files or any similar materials generated in connection with that member’s Dispatch.

13. CONTRACTOR shall notify CGA within five (5) days if (a) CONTRACTOR is served with notice of violation of any law, regulation, permit, or license which relates in any way to the Services; (b) proceedings are commenced which could lead to revocation of permits or licenses which relate to the Services; (c) permits, licenses, or other governmental authorizations relating to the Services are revoked or suspended; (d) litigation is commenced against CONTRACTOR concerning said violation; or (e) CONTRACTOR becomes aware that its personnel, equipment, or facilities in any way related to the Services are not in compliance with applicable laws, regulations, permits or licenses.

14. CONTRACTOR shall report to CGA once per week. The information on the report shall include the following:

- a. Aircraft hours flown, both training and mission oriented-monthly;
- b. Number of hours aircraft is not in service and why it is out of service – immediately, but in no case greater than 24 hours;
- c. Report any incidents or accidents– immediately, but in no case greater than 24 hours;
- d. Report any pilot changes to the crew roster - monthly and
- e. Report anytime a pilot is not available immediately, but in no case greater than 24 hours.

### **C. EQUIPMENT AVAILABILITY**

1. CONTRACTOR shall be prepared to respond to a Dispatch request by a CGA Member with the Primary Contract Aircraft loaded with Dispersant and ready for flight within four (4) hours of receipt of the Dispatch request for operations to commence from its Home Base. At the sole option of the requesting CGA Member, CONTRACTOR may be requested to utilize the Secondary Contract Aircraft in lieu of the Primary Contract Aircraft to respond to a Dispatch.

2. In the event that CONTRACTOR is requested to move its operations to a Staging Area other than its Home Base, CONTRACTOR shall have four (4) hours from receipt of the Dispatch request to depart from its Home Base with the Contract Aircraft; and within eight (8) hours from receipt of the Dispatch request with all necessary equipment and personnel for operations at the selected Staging Area.

3. If requested by a CGA Member, a second Contract Aircraft shall be ready for Dispatch within eight (8) hours of receipt of the request, subject to the requirements of Paragraph II.C.2.

4. CONTRACTOR shall not be responsible for any delay in the response times stated in this Paragraph caused by circumstances outside of CONTRACTOR’s control in the loading of Dispersant, subject to its obligation to exercise diligence and use its best efforts to avoid any such delay.

5. (a) If a CGA Member using two Contract Aircraft for any purpose receives a request for the release of an aircraft for Dispatch on behalf of another CGA Member, the CGA Member shall release one aircraft immediately. The CGA Member releasing the Contract Aircraft shall be responsible for all fees, charges, expenses and other obligations of this Agreement until such release and shall provide written notice confirming the release within 24 hours.

(b) CONTRACTOR shall be relieved of its obligation under Paragraph II.B.2 if it is actively providing Dispersant spraying services in the Designated Response Area at the time a request for Dispatch is made by a CGA Member.

6. A CGA Member requesting release of any Contract Aircraft from another CGA Member shall be responsible for all fees, charges, expenses and other obligations of this Agreement from the time of the release of the aircraft until the Services are otherwise completed, suspended, terminated, or until such aircraft is otherwise released pursuant to this Paragraph.

7. At the option of the CGA Member, the actual loading of the Dispersant aboard the aircraft shall be performed by the CGA Member, its designee, or CONTRACTOR. The amount of Dispersant to be loaded aboard any Contract Aircraft shall be the lesser of:

- a. A full load,
- b. The amount requested by CGA Member, or
- c. The maximum amount the pilot in command (“PIC”) determines

8. CONTRACTOR, its employees and/or contractors and subcontractors of any tier, and specifically the PIC of any Contract Aircraft at the time of a Dispatch, shall have the complete power and authority to make any and all decisions concerning the suitability of weather and landing areas, the condition of the Contract Aircraft and/or any Backup Contract Aircraft for flight, the loading of the aircraft, the manner of flight and all other factors affecting flight safety. CONTRACTOR shall not be responsible for any dispatch delay resulting from conditions beyond CONTRACTOR’s control that result from the flight safety concerns of the PIC for flight.

#### **D. MAINTENANCE OF THE CONTRACT AIRCRAFT**

Throughout the term of this Agreement, the Contract Aircraft shall be continuously maintained in an airworthy condition by CONTRACTOR, in compliance with all applicable regulations (including FARs) and manufacturer's recommendations. In the event the Contract Aircraft require maintenance or painting, a Backup aircraft, with all equipment required of the Contract Aircraft, shall be available at no additional cost.

Fifteen days prior to the beginning of each quarter, if requested by CGA, CONTRACTOR shall furnish its planned maintenance and operations schedule for the Contract Aircraft for the upcoming quarter. Within fifteen (15) days after the end of each quarter, CONTRACTOR shall furnish to CGA, a copy of the aircraft logs for the prior quarter for the Contract Aircraft.

CONTRACTOR shall notify CGA of any extraordinary and/or routine maintenance or work performed, or contemplated to be performed by CONTRACTOR on or to the Contract Aircraft that is reasonably expected to ground, disable or otherwise remove from service one or more of the Contract Aircraft for a period of time in excess of eight (8) hours (i.e., a normal business day).

CONTRACTOR shall maintain and make available to CGA, upon request, the following records:

- 1) Tool calibration program;
- 2) Training program including flight hour records;
- 3) Spare parts organization;
- 4) Aircraft logbooks; and
- 5) Preventive maintenance program and records.

#### **E. DUTY TO REPLACE THE CONTRACT AIRCRAFT**

CONTRACTOR reserves the right to replace the Contract Aircraft at any time with an equivalent or better aircraft. CONTRACTOR, however, has no obligation during an actual Dispatch to replace a Contract Aircraft that is lost or destroyed in the performance of this Agreement or its Agreement with any other Subscriber. CONTRACTOR shall use its best efforts to repair and restore to service any Contract Aircraft that may be disabled. CONTRACTOR, however, shall not be liable for the unavailability of or delay in supplying a replacement for a Contract Aircraft lost or destroyed in the performance of this Agreement or an agreement with any other Subscriber, except that the retainer fee shall be reduced in accordance with Paragraph III.A.

#### **F. DISPATCH REQUESTS**

Requests for Dispatch shall be made only through the personnel authorized in the Subscriber Endorsement, or a duly authorized designee, signed by the requesting CGA Member. Dispatch requests may be made by: (a) telephone; (b) telecopier/facsimile; (c) telex; or (d) in writing, including e-mail. All telephone requests shall be promptly confirmed in writing or by telecopier/facsimile/e-mail. The requesting CGA Member shall be responsible for all fees, costs, and expenses resulting from a Dispatch in accordance with the terms and conditions of this Agreement.

#### **G. STANDBY REQUESTS**

A CGA Member may request CONTRACTOR to activate a Contract Aircraft to standby for potential Dispatch. Standby requests shall be made in the same manner as that provided in Paragraph II.G. for Dispatch requests. The requesting CGA Member must specify whether the Primary or Secondary Aircraft or both aircrafts are to be on standby. Once designated for standby, CONTRACTOR shall not make that aircraft available to any other CGA Member or third party without the CGA Member's prior consent, subject to Paragraph II.C.5 (a). After CONTRACTOR has been on standby for two hours, CONTRACTOR's obligation under Paragraph II.C.1 shall be reduced from 4 hours to 2 hours. CONTRACTOR's obligation under Paragraph II.C.3 shall be similarly reduced from 8 hours to 4 hours if

a second aircraft has been requested and has been on standby for at least 4 hours.

The CGA Member requesting CONTRACTOR to standby for potential Dispatch shall be responsible for all fees, costs and expenses in accordance with the terms and conditions of Exhibit C.

#### **H. DRILL AND TRAINING ACTIVITIES**

CGA Members conduct periodic drills and training activities and various federal and state laws provide for announced and unannounced drills on oil spill response capability. CONTRACTOR shall make its services available upon a CGA Member's request for those drill or training activities. For announced drills, CONTRACTOR will be given a minimum of twelve (12) hours notice. CONTRACTOR may also be subject to unannounced drills by CGA Members. Rates shall be in accordance with Exhibit C. The duration of the drill or training activity shall be as requested by the CGA Member.

Use of the Contract Aircraft on actual Dispatch, or request for actual Dispatch or standby request of the Contract Aircraft by any Subscriber, shall supersede any drill, training, or other non-emergency use of this aircraft. A CGA Member releasing the Contract Aircraft to another Subscriber for Dispatch shall be responsible for all fees, charges, expenses and other obligations of this Agreement until such release and shall provide written notice confirming the release within twenty (24) hours of the effective time of such release.

#### **I. CREW TRAINING AND CERTIFICATION**

CONTRACTOR shall be responsible for conducting all necessary training flights and appropriate training, certification, and maintenance preparedness, to maintain flight proficiency to safely conduct low altitude overwater spraying operations. CGA shall reimburse CONTRACTOR for fuel and lubrication costs incurred in such activities not to exceed one hour per month per aircraft. The reimbursement of these expenses shall in no way limit or imply the appropriate amount of flight time necessary to maintain the proficiency to perform the Services.

#### **J. NON-CGA MEMBER USE OF CONTRACTOR EQUIPMENT**

CONTRACTOR may, subject to the express, written permission of CGA (which shall not be unreasonably withheld) and the restrictions and conditions set forth below, use any of its personnel or equipment, or provide services, or enter into service contracts, with third parties. When permission for such use is given, the CGA may impose restrictions and conditions on the use.

With respect to occasional or *ad hoc* use of CONTRACTOR's personnel or equipment by third parties, CONTRACTOR shall reimburse and/or credit to CGA's retainer obligations as set forth in Exhibit C, an amount equal to 50% of the charges made to such third party by CONTRACTOR, excluding operational third party costs (fuel, personnel, etc.).

Where CONTRACTOR contracts with third party spill response organizations, spill management organizations, individual companies, and government agencies for services similar to some or all of the Services, such as providing standby aircraft, dispersant spraying, and participating in spill response drills, CONTRACTOR shall reimburse and/or credit to CGA's retainer obligations as set forth in Exhibit C, an amount equal to 50% of the charges made to such third party by CONTRACTOR.

#### **K. TERM AND TERMINATION**

1. The term of this Agreement shall commence from September 26, 2008 and shall continue in force until the September 26, 2018, unless otherwise terminated pursuant to this Paragraph II.K.

2. CGA shall provide CONTRACTOR with a new Exhibit A fifteen (15) days prior to the start of each contract year, identifying those CGA Members who are in good standing and authorized to request the Services during the option term.

3. Either Party shall have the right to terminate this Agreement, without cause, upon 60 days written notice. In the event of such termination pursuant to this Paragraph II.K.3, CONTRACTOR shall be compensated for all properly performed Services until the effective termination date, including the retainer and all other compensation as described in Exhibit C.

4. If CONTRACTOR breaches any provision of this Agreement, CGA shall have the right, by giving CONTRACTOR written notice, to suspend payments until such breach has been cured to CGA's satisfaction. If such breach is not cured to CGA's satisfaction within 30 days of delivery of written notice to CONTRACTOR, CGA shall have the right, in addition to any other rights it may have hereunder or by law, to terminate this Agreement and CONTRACTOR and CGA shall be relieved of all further obligations hereunder to CONTRACTOR. Termination of the Agreement pursuant to this Paragraph II.K.4 shall not relieve CONTRACTOR of its obligations or from any damages.

5. Upon termination of this Agreement before September 26, 2018, or if CONTRACTOR defaults, enters into bankruptcy, or for any other reason is unable to meet the terms of the Agreement, CONTRACTOR shall reimburse CGA the total costs incurred by CGA associated with the purchase of and ancillary equipment added to the Primary Contract Aircraft. In the event CONTRACTOR is unable to reimburse CGA for the aforementioned costs, CGA shall retain the exclusive rights to determine, in its sole discretion, the disposition of the Primary Contract Aircraft. Any funds that result from the sale of the Primary Contract Aircraft shall be applied towards the loan balance associated with it.

6. Regardless of the reason or cause for termination of the Agreement, the release, defense, indemnity, and hold harmless obligation of each Party shall survive termination.

#### **L. NON-TRANSFERABILITY/AIRCRAFT DISPOSITION**

CONTRACTOR shall not be purchased, acquired or merge with another company or juridical entity or change ownership without the specific, written approval of CGA. Additionally, the sale of, removal, or change in service of any of CONTRACTOR-owned equipment is subject to the approval of CGA.

### **III. COSTS AND PAYMENT**

CONTRACTOR shall be compensated in accordance with Exhibit C.

#### **A. PAYMENT**

On the first of each month, CONTRACTOR shall invoice CGA:

1. In advance, for one-twelfth of CGA's retainer fee pursuant to Exhibit C;
2. On the first day of each month CONTRACTOR will invoice the CGA Member requesting Services for any charges incurred pursuant to Exhibit C for the previous month. All invoices shall be supported by flight logs and all third-party charges will be supported by copies of invoices.
3. CGA and CGA Members agree to pay all invoices or any undisputed portion thereof within thirty (30) days of receipt, pursuant to Paragraph III.F. If any invoice to CGA or CGA Members or any portion thereof remains unpaid after thirty (30) days, CONTRACTOR shall notify CGA and the CGA Member that it must pay such amount within ten (10) calendar days or provide an explanation of any dispute or disagreement over the form or amount of the invoice. If CGA or CGA Member does not either pay such amount or provide an explanation within fifteen (15) calendar days of receipt of notice from CONTRACTOR, CGA or the CGA Member shall be in default and, in addition to any other remedies it may have in this Agreement or by law, CONTRACTOR may refuse to provide further Services until such default is remedied. A CGA Member may, at its discretion, pay even a disputed invoice without waiver of its right to later contest the correctness of such invoice.
4. If at any time during the term of this Agreement, the Contract Aircraft or suitable substitute aircraft acceptable to CGA or it

members are unavailable to meet the obligations set forth in this Agreement, CONTRACTOR shall immediately notify CGA in writing, and in addition to any other rights CGA may have, the retainer fee shall be reduced proportionately for each unavailable Contract Aircraft for the period of any month during which any such aircraft is unavailable.

5. In the event that CONTRACTOR obtains any refund or rebate of sales or other taxes relating to the purchase of Primary Contract Aircraft, CONTRACTOR will credit CGA in its invoice for payments under Section IIIA herein.

#### **B. AUDIT**

CONTRACTOR shall maintain during the course of the work, and retain for not less than four (4) years after completion thereof, complete and accurate records in support of all CONTRACTOR's charges to CGA and CGA Members under this Agreement. CGA and CGA Members shall have the right, at any reasonable time, to inspect and audit those records by any authorized representative of their choosing, provided that nothing contained herein shall be construed as obligating CONTRACTOR to change its current record-keeping practices.

#### **C. LIENS**

CONTRACTOR shall provide such documentation as CGA and CGA Members shall reasonably request to demonstrate that bills for services and materials have been paid and that no liens will affect any property belonging to CGA or CGA Members. CONTRACTOR shall also provide such documentation as CGA shall reasonably request to demonstrate that CONTRACTOR's performance of its obligations under this Agreement will not be adversely affected by any liens on property belonging to CONTRACTOR. CONTRACTOR shall promptly and satisfactorily settle all liens or claims arising from CONTRACTOR's obligations and performance hereunder and affecting any property belonging to CGA or CGA Members. If CONTRACTOR fails or refuses to promptly and satisfactorily settle said liens or claims, then CGA or the affected CGA Member shall, after notifying CONTRACTOR in writing, have the right to settle such liens or claims at CONTRACTOR's cost, including the amount of the lien or claim, and accrued interest, if any, and all other reasonable expenses. CGA and/or the affected CGA Member shall deduct all such costs of settling said liens and claims from amounts payable to CONTRACTOR. In the event amounts payable to CONTRACTOR are insufficient to pay the costs necessary to settle said liens or claims, then CGA and/or the affected CGA Member shall have the right to recover same through set-off (civil law "compensation") or any other legal collection process. All costs, including but not limited to reasonable attorneys' fees, expenses and court costs for enforcement of this Paragraph III.C shall be borne by CONTRACTOR.

### **IV. MISCELLANEOUS TERMS AND PROVISIONS**

#### **A. CHOICE OF LAW**

This Agreement shall be governed, enforced and interpreted in accordance with the General Maritime Laws of the United States of America.

#### **B. FORCE MAJEURE**

The Parties shall not be liable to each other for delays, damages, or any failure to act, due to, occasioned or caused by reason of federal or state laws, or the rules, regulations or orders of any public body or official exercising or purporting to exercise authority or control concerning the operations covered hereby, or due to, occasioned or caused by strikes, terrorists, riots, civil commotions, action of the elements or causes to the extent beyond the control of the parties affected thereby. Delays due to the above causes, or any of them, shall not be deemed to be a breach of or failure to perform under this Agreement. However, during the existence of such force majeure

conditions, no payments shall be due by CGA or CGA Members to CONTRACTOR when services are not being performed except payments for the provision of goods and services occurring prior to the existence of force majeure. Appropriate steps shall be promptly taken to remedy force majeure conditions except that no Party shall be obligated to settle strikes or other labor disputes. Notices of force majeure occurrences and the details constituting them shall be given promptly to the other parties in writing.

### **C. ASSIGNMENT**

Neither this Agreement, nor any obligation arising in connection with this Agreement may be assigned or subcontracted by any Party without the prior written consent of the other Parties. In the event that CONTRACTOR is allowed to subcontract work under this Agreement, CONTRACTOR shall contractually obligate the subcontractor to comply with all terms and conditions of this Agreement. This Agreement may be transferred by any Party to a third-party that succeeds to all or substantially all of the Party's assets by merger, consolidation, purchase or otherwise. In case of such transfer, written notice of the transfer shall be given to the other parties to this Agreement.

### **D. LIABILITY AND INDEMNITIES**

1. CONTRACTOR shall release, protect, defend, indemnify, and hold harmless CGA, CGA Members, and their directors, officers, and employees, from and against any and all loss, damage, claim, suit, liability (including strict liability), judgment, and expense of any nature (including reasonable attorneys' fees, investigation cost, and other costs of litigation) arising out of or in any way related to any demand, claim, or lawsuit arising out of, or in any connection whatsoever with this Agreement and ***whether or not caused by the joint, concurrent, active or passive negligence or other legal fault of CONTRACTOR, its employees, agents, representatives, contractors and subcontractors of any tier, CGA or CGA Members, or any other entity.*** The foregoing indemnity shall not apply when the loss, damage, claim, suit, liability (including strict liability), judgment, and expenses (including reasonable attorneys' fees, investigation cost and other costs of litigation) is caused solely by the negligence of CGA and/or CGA members.

2. CGA, and in the event of a request for Dispatch, the requesting CGA Members, shall release, protect, defend, indemnify, and hold harmless CONTRACTOR, its directors, officers, and employees from and against any and all loss, damage, claim, suit, liability (including strict liability), judgment, and expense of any nature (including reasonable attorneys' fees, investigation cost, and other costs of litigation) arising out of or in any way related to any demand, claim, or lawsuit arising out of or in any connection whatsoever with this Agreement ***if caused solely by the negligence of CGA or the requesting CGA Member.*** In the event of a request for Dispatch, the obligations of this Paragraph IV.D.2 shall only apply to the requesting CGA Member, and not to CGA.

3. Notwithstanding the above, CGA, or in the event of a request for Dispatch, the requesting CGA Member, shall release, protect, defend, indemnify, and hold harmless CONTRACTOR, its directors, officers, and employees from and against any and all loss, damage, claim, suit, liability (including strict liability), judgment, and expense of any nature (including reasonable attorneys' fees, investigation cost, and other costs of litigation) arising out of or in any way related to any demand, claim, or lawsuit arising out of or in connection with this Agreement to the extent, but only to the extent, any damage or liability is caused directly by Dispersant if it is applied in accordance with instructions provided by the CGA Member and the manufacturer's directions including the MSDS. In the event of a request for Dispatch, the obligations of this Paragraph IV.D.3 shall only apply to the requesting CGA Member, and not to CGA.

4. The Parties shall not be liable to each other for consequential damages not specifically referred to elsewhere in this Agreement,

except that personal injury and property damage shall not be considered consequential damages.

5. Any Party shall have the right at its option to participate at its sole expense in the defense of any claim or suit covered by this Paragraph with an attorney of its choice without relieving any other Party of any of its obligations hereunder.

6. All attorneys' fees and other costs incurred in enforcing any release, defense, indemnity and hold harmless obligations in this Agreement shall be recoverable by the prevailing Party.

7. The provisions of this Paragraph are separate from, in addition to, and shall not be limited by any insurance required by this Agreement.

8. Insurance covering this indemnity provision shall be provided by CONTRACTOR.

### **E. INSURANCE**

1. CONTRACTOR shall at its own cost (including deductibles) maintain at all times, insurance with companies satisfactory to CGA in amounts not less than those specified herein:

- a. Workers' Compensation and Occupational Disease insurance, in compliance with the laws of all jurisdictions in which any operations under this Agreement are to be performed covering all persons employed by CONTRACTOR, and Employers' Liability Insurance with a limit of one million (\$1,000,000) dollars. The policy must be endorsed to include coverage for the United States Longshore and Harbor Workers' Compensation Act, its extension under the Outer Continental Shelf Lands Act.
- b. Commercial General Liability Insurance (Airport Liability) covering the Services and all of CONTRACTOR's operations. Such coverage is to include premises, operations, elevators, independent contractors, products, completed operations, personal injury, actions over, severability of interests, and contractual liability covering all of CONTRACTOR's obligations under this Agreement with limits not less than five million (\$5,000,000) dollars.
- c. Commercial Automobile Liability Insurance covering owned, hired, and non-owned vehicles with limits not less than \$1,000,000.
- d. Aircraft Liability Insurance covering all owned, non-owned and hired aircraft with minimum limits for public liability of five million (\$5,000,000) dollars for bodily injury to each person, five million (\$5,000,000) dollars for each accident, and public liability property damage of five million (\$5,000,000) dollars for each accident; and spotter Aircraft with minimum limits for public liability of two million (\$2,000,000) dollars for bodily injury to each person, two million (\$2,000,000) dollars for each accident, and public liability property damage of two million (\$2,000,000) dollars for each accident.
- e. Aircraft Hull Insurance covering all Contract Aircraft for six million (\$6,000,000) dollars.

2. All insurance shall be carried by insurance carrier(s) acceptable to CGA and shall not be materially changed without thirty (30) days prior written notice to CGA.

3. Any insurance policies required hereunder shall also provide that deductibles, if any, will be for the account of CONTRACTOR. The amount of any deductible shall not exceed \$10,000 for Secondary, Backup & Spotter Contract Aircraft. The amount of deductible for the Primary Contract Aircraft shall not exceed 5% of the insured cost of the aircraft.

4. All insurance policies shall be endorsed to make CGA and CGA Members additional named insureds and further shall provide a waiver of subrogation in favor of CGA and CGA Members. Such insurance policies shall be endorsed to reflect that CGA and the CGA Members being named as an additional insured shall not preclude CGA and CGA Members' rights of recovery under said policy(ies).

If this endorsement carries an additional premium, it shall be effected through a premium bearing endorsement for CGA's account.

5. All insurance policies shall be endorsed to state that such insurance shall be considered primary and non-contributory to any other insurance that might potentially be available to CGA Members.

6. CGA may from time to time require CONTRACTOR to provide additional insurance in such amounts as may be reasonably necessary to provide adequate coverage for the other activities of CONTRACTOR which may create unusual risks. Such additional insurance shall be provided on a cost-reimbursable basis for the account of CGA.

7. CONTRACTOR shall furnish evidence of insurance required under this Agreement in the form of CGA's Certificate of Insurance or another form acceptable to CGA, and, where required, a premium bearing endorsement. If required by CGA, CONTRACTOR shall furnish copies of any policies requested. However, CGA's failure to either notice or object to non-conforming insurance coverage shall not be construed as a waiver of CGA's right to insert or correct coverage.

8. CONTRACTOR's obligations to obtain and maintain insurance under this Agreement shall not be limited in any way by the liability and indemnity provisions of this Agreement.

#### **F. INDEPENDENT CONTRACTOR**

CONTRACTOR is an independent contractor with respect to the performance of all work hereunder and neither CONTRACTOR nor anyone employed by CONTRACTOR shall be deemed for any purpose to be the employee, agent, servant or representative of CGA or the CGA Members in performance of any work or service hereunder. The Services shall meet the approval of CGA and/or the CGA Member requesting Dispatch and shall be subject to the general right of inspection provided herein for CGA and CGA Member to secure the satisfactory completion thereof. But CGA and/or the CGA Members requesting Dispatch shall have no direction or control of CONTRACTOR or its employees and agents as to the methods to be employed, CGA and/or the CGA Members being interested only in the results to be obtained. It is not the intention of the parties to create, nor shall this Agreement be construed as creating, a partnership, joint venture, agency relationship or association, or to render the Parties liable as partners, co-venturers, or principals.

#### **G. DISCLOSURE**

CONTRACTOR shall not disclose to any person any knowledge, information or data accumulated by CONTRACTOR, its agents, or employees during the performance of its obligations, or as required by a federal or state on-scene coordinator pursuant to law, or as directed by CGA or the CGA Member requesting Dispatch under the Agreement, except as necessary to the performance of those obligations. CONTRACTOR shall not submit any material concerning this Agreement or the work performed under this Agreement for publication or public dissemination.

#### **H. NOTICES**

All notices contemplated in this Agreement and any approvals, consents or requests for consent shall be directed to or received from:

CONTRACTOR: AIRBORNE SUPPORT, INC.  
P.O. Box 487  
Bourg, Louisiana 70343-0487  
Attention: Howard Barker  
Tel. 504-851-6391  
Fax 504-851-6393

CLEAN GULF ASSOCIATES, INC.  
Executive Director  
Poydras Center, Suite 1020  
650 Poydras Street  
New Orleans, LA 70130  
Attention: Frank M. Paskewich  
Tel. 504-799-3035  
Fax 504-799-3036

All other written notices and communications shall be sent to the above address by registered express mail, courier service with return receipt, facsimile, telex, email, or hand delivered with confirmation of delivery to such address and shall be effective when received. CONTRACTOR shall deliver copies of any notice it receives under this Paragraph III to all other Subscribers within 48 hours of receipt by CONTRACTOR.

#### **I. SAVINGS/SEVERABILITY**

In the event one or more of the provisions contained in this Agreement shall be held, for any reason, to be invalid, void, illegal, contrary to law and/or unenforceable in any respect, this Agreement shall be deemed to be amended to partially or completely modify such provision or portion thereof to the extent, but only to the extent, necessary to make it enforceable. If necessary, this Agreement shall be deemed to be amended to delete the unenforceable provision or portion thereof, in which event such invalidity, voidness, illegality or unenforceability shall not affect the remaining provisions hereof, and this Agreement shall remain unaffected and shall be construed as if such invalid, void, illegal or unenforceable provision never had been contained herein.

#### **J. NON WAIVER**

No forbearance by CGA in enforcing any right or term in this Agreement shall be deemed as a waiver of CGA's rights to insist on full and correct performance of CONTRACTOR's obligations.

CLEAN GULF ASSOCIATES  
By: #Signed Joel E. Plauche  
TITLE: Chairman, Executive Committee

CONTRACTOR Airborne Support, Inc.  
By: #Signed Howard Barker  
TITLE: President

**EXHIBIT C**  
**SCHEDULE OF COMPENSATION**

The following Schedule of Compensation shall apply to the Services.

**1. Retainer**

The retainer for the remaining 2008 term year shall be \$71,828.80 per month. For the term year beginning 1 January 2009 and ending 31 December 2009, the retainer shall be \$95,000 per month. The retainer in subsequent years will be approved by the CGA Executive Committee. Additionally, CGA will guaranty monthly payment of the amortized promissory note for the Primary Contract Aircraft for the entire term of this Agreement. This retainer scheme applies to the use of the Primary Aircraft, the Secondary Contract Aircraft, the Backup Aircraft, and the Twin Commander 690A spotter aircraft. CGA shall not be responsible for any expense, including aircraft flight charges, fuel costs, maintenance, repairs and personnel costs associated with CONTRACTOR's DC-4.

If at any time during the term of this Agreement, the Contract Aircraft or suitable substitute aircraft acceptable to CGA or CGA's Members are unavailable to perform the Services, CONTRACTOR shall immediately notify CGA and in addition to any of the rights CGA might have, the retainer fee shall be reduced proportionately for each unavailable Contract Aircraft for the period of any month during which any such aircraft is unavailable.

**2. Acquisition Costs of Primary Aircraft and Costs of Financing of Same**

CGA agrees to guarantee payment of up to \$6,500,00 in debt of CONTRACTOR incurred to acquire and/or renovate the Primary Contract Aircraft and, to the extent necessary, secure such guarantee with property or funds of CGA in required by the lender providing such financing on terms reasonably acceptable to CGA. CGA shall also pay the debt service of CONTRACTOR (or reimburse CONTRACTOR for its payments) on such guaranteed debt until such debt is fully satisfied or until this Agreement terminates by its terms. In addition, CGA agrees to guarantee payment of any interest rate hedging agreement obligations of CONTRACTOR incurred in connection with such indebtedness incurred or acquire and/or renovate the Primary Contract Aircraft, and pay the amounts, which may become due by CONTRACTOR to the counterparty under any such hedging arrangement.

**3. Dispatch Charges**

The charge for each dispatch of the Contract Aircraft shall be:

- a. A flight rate of \$2,100.00 for the Primary Contract Aircraft and \$1,500.00 for the Secondary Contract Aircraft, and \$1,250.00 for the Aero Commander 690A Spotter Aircraft for each hour of actual flight or pro rata portion thereof from the time a Contract Aircraft departs from its Home Base until it returns, subject to a five hour minimum per day per plane.
- b. Fuel, oil and lubricants charges incurred during the Dispatch shall be charged on an actual cost basis, in addition to the flight rates.
- c. Dispersant loading charge of \$30.00/hour per man. There shall be no additional charge for any overtime incurred during loading operations.

**4. Standby Charges**

CONTRACTOR shall charge a requesting CGA Member \$2,100.00 for the Primary Contract Aircraft and \$1,500.00 for the Secondary Contract Aircraft, and \$1,250.00 for the Aero Commander 690A Spotter Aircraft for standby time. A minimum charge of 5 hours shall be charged if the plane is not actually dispatched. Standby charges shall cease to accrue (a) immediately upon an instruction to terminate standby by the requesting CGA member or (b) upon an order by the requesting CGA Member to dispatch the Aircraft that has been on standby.

**5. Drill Charges**

- a. The CGA Member who requests CONTRACTOR to participate in a drill exercise shall be:
  - i. A flight rate of \$2,100.00 for the Primary Contract Aircraft and \$1,500.00 for the Secondary Contract Aircraft, and \$1,250.00 for the Aero Commander 690A Spotter Aircraft, for each hour of actual flight, or pro rata portion thereof.
  - ii. Fuel, oil, and lubricant charges incurred during CGA requested training shall be charged on an actual cost basis, in addition to the flight rates.

**6. Additional Charges**

- a. When the Contract Aircraft are operating from either CONTRACTOR's Home Base, or from a staging area other than CONTRACTOR's Home Base, the CGA Member shall be responsible for the following charges in addition to those set forth in this Exhibit C:
  - i. Extraordinary operating expenses, such as additional crew and relief pilots, specialized ground support equipment and personnel, etc.
  - ii. When a Contract Aircraft is operating from a Staging Area other than CONTRACTOR's Home Base, the CGA Member shall also be responsible for the following charges in addition to those set forth in this Exhibit C:
    - a. Crew Member's actual and reasonable expenses, not exceeding One Hundred and Fifty (\$150.00) Dollars per day per person;
    - b. The cost of one rental automobile per crew (full size);
    - c. Extraordinary operating expenses, such as, license fees, aircraft parking and tie down fees, etc.

**7. Replacement of Dispersant**

A requesting CGA Member shall be responsible for actual replacement cost of any Dispersant supplied by CONTRACTOR.

**8. Annual Review of Rates**

The Parties shall review the rates set forth in this Exhibit C annually.