Torres Rojas, Genara PDA 12457

From: scottjohnston1@comcast.net
Sent: Friday, July 15, 2011 10:16 AM
To: Van Duyne, Sheree
Cc: Torres Rojas, Genara; Duffy, Daniel
Subject: Freedom of Information Online Request Form

Information:

First Name: Scott
Last Name: Johnston
Company: For Hire Warehousing
Mailing Address 1: 16 Postal Road
Mailing Address 2:
City: Cream Ridge
State: NJ
Zip Code: 08514
Email Address: scottjohnston1@comcast.net
Phone: 609-758-0816
Required copies of the records: Yes

List of specific record(s):
1. Copy of all new leases with AarhusKarlshamn, issued either in Dec, 2010 or in year 2011 refer to Port Authority of NY NJ meeting minures Dec, 7, 2010, during which the Board authorized the Executive Director to enter into a new lease with AarhusKarlsham Please note that the previous leases and supplements with Aarhus were already provided to me under prevoius requests. 2. Copies of all Lease Supplements issued to Hudson Tank Terminals after 2005, if any, the original lease and supllements 1-10 have already been provided to me under previous requests. 3. Copies of all correspondence between Hudson Tank Termnals and the Port Authority of NY NJ since September, 2010.

THE PORT AUTHORITY OF NY & NJ

Daniel D. Duffy
FOI Administrator

December 7, 2011

Mr. Scott Johnson
For Hire Warehousing
16 Postal Road
Cream Ridge, NJ 08514

Re: Freedom of Information Reference No. 12457

Dear Mr. Johnson:

This is a response to your July 15, 2011 request, which has been processed under the Port Authority's Freedom of Information Policy (the "Policy," copy enclosed) for copies of the current lease agreements between the Port Authority and AarhusKarlshamn and copies of all supplements for Hudson Tank Terminals after 2005 and correspondence since September 2010.

Material responsive to your request and available under the Policy, which consists of 128 pages, will be forwarded to your attention upon receipt of a photocopying fee of $32 (25¢ per page). Payment should be made in cash, certified check, company check or money order payable to "The Port Authority of New York & New Jersey" and should be sent to my attention at 225 Park Avenue South, 17th Floor, New York, NY 10003.

Certain material responsive to your request is exempt from disclosure pursuant to exemptions (1), (2) and (6) of the Policy.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Sincerely,

Daniel D. Duffy
FOI Administrator

Enclosure

225 Park Avenue South
New York, , NY 10003
T: 212 435 3642 F: 212 435 7555

Hudson Tank Terminals Corporation

FACSIMILE COVER SHEET

TO: MS. KATHY OPTHOF

COMPANY: PORT AUTHORITY OF NY/NJ

PHONE: 973-589-2144

FAX: 973-589-0281

FROM: KENT D. KIMBALL

PHONE: 973-465-1115

FAX: 973-465-9053

DATE:

PAGES:

(including cover page)

SUBJECT: VESSEL TRAFFIC REPORT

KATHY:

ATTACHED IS THE VESSEL TRAFFIC REPORT FOR THE THIRD QUARTER OF 2010. PLEASE CALL IF YOU HAVE ANY QUESTIONS.

REGARDS

KENT D. KIMBALL

CC: MR. WAYNE RAKOSKI

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
3RD QUARTER, 2010
(METRIC TONS)

	IMPORTS	EXPORTS	TOTAL
JULY	36,220	1,035	37,255
AUGUST	30,740	0	30,740
SEPTEMBER	41,470	270	41,740
TOTALS	108,430	1,305	109,735

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
3RD QUARTER, 2010
==========
(METRIC TONS)

JULY, 2010

VESSEL	ETA	COMMODITY	IMPORT	EXPORT
CHEMBULK				
VIRGIN GORDA	7/1	#1 CASTOR OIL	1,500	
STOLT INVENTION	7/8	OLEIC ACID	295	
		K REFINED GLYCERINE	795	
		TP STEARIC ACID	295	
		COCONUT FATTY ACID	295	
		RBD PALM OLEIN	3,000	
		NB PK STEARINE	2,095	
		RBD PKO	985	
		V1695 PALMITIC ACID	620	
		V1890 STEARIC ACID	490	
		E7036 TP STEARIC ACID	500	
		STEARYL ALCOHOL	495	
		CETYL ALCOHOL	285	
		C1214 FATTY ALCOHOL	305	
		K REFINED GLYCERINE	505	
		PALMITIC ACID	295	
		K REFINED GLYCERINE	905	
		C1216 FATTY ALCOHOL	750	
STOLT PRIDE	7/11	RBD PALM STEARINE	1,485	
		RBD PALM OLEIN	495	
		NBD PK OLEIN	995	
		DF RBD PALM STEARINE	495	
HELLEN	7/19	POMACE OLIVE OIL	395	
		REFINED OLIVE OIL	350	
		VIRGIN OLIVE OIL	300	
		EX VIRGIN OLIVE OIL	500	
		POMACE OLIVE OIL	500	
		POMACE OLIVE OIL	915	
		REFINED OLIVE OIL	700	
		REFINED OLIVE OIL	560	
		EX VIRGIN OLIVE OIL	2,130	
		EX VIRGIN OLIVE OIL	520	
	SUBTOTAL		24,750	0

(CONTINUED ON NEXT PAGE)

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
3RD QUARTER, 2010
(CONTINUED)

(METRIC TONS)

JULY, 2010

VESSEL	ETA	COMMODITY	IMPORT	EXPORT
NORDIC COPENHAGEN	7/24	YELLOW GREASE		1,035
CHAMPION TRADER	7/27	RBD PKO	495	
		RBD PKO	3,480	
		COCHIN COCONUT OIL	2,505	
		COCHIN COCONUT OIL	4,990	
		SUBTOTAL, THIS PAGE	11,470	1,035
		SUBTOTAL, LAST PAGE	24,750	0
		TOTAL, JULY	36,220	1,035

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
3RD QUARTER, 2010
==========
(METRIC TONS)

AUGUST, 2010

VESSEL	ETA	COMMODITY	IMPORT	EXPORT
STOLT CREATIVITY	8/4	K REFINED GLYCERINE	755	
		OLEIC ACID	400	
		NB PK STEARINE	1,795	
		NBD PK OLEIN	1,510	
		RBD PALM STEARINE	1,455	
		DF RBD PALM STEARINE	495	
		RBD PALM OLEIN	1,500	
		E7036 TP STEARIC ACID	500	
		K REFINED GLYCERINE	1,000	
		TA1618M FATTY ALCOHOL	505	
		K REFINED GLYCERINE	1,005	
		V1695 PALMITIC ACID	795	
		V1890 STEARIC ACID	485	
		C1216 FATTY ALCOHOL	500	
		CETYL ALCOHOL	280	
		STEARYL ALCOHOL	500	
STOLT STREAM	8/19	RBD PK STEARINE	795	
		DF RBD PK STEARINE	500	
		RBD PKO	505	
		RBD PALM OLEIN	1,995	
NORIENT SCORPIUS	8/25	RBD PKO	3,495	
		COCHIN COCONUT OIL	2,990	
		RBD PKO	1,005	
		COCHIN COCONUT OIL	5,975	
			=======	=======
		TOTAL	30,740	

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
3RD QUARTER, 2010
==========
(METRIC TONS)

SEPTEMBER, 2010

VESSEL	ETA	COMMODITY	IMPORT	EXPORT
STOLT PERSEVERANCE	9/1	RBD PK OLEIN	1,495	
		RBD PALM STEARINE	1,010	
		RBD PALM OLEIN	2,490	
		RBD PK STEARINE	2,510	
		DF RBD PALM STEARINE	490	
		STEARYL ALCOHOL	300	
		K REFINED GLYCERINE	800	
		C1216 FATTY ALCOHOL	1,000	
		K REFINED GLYCERINE	1,005	
		K REFINED GLYCERINE	1,000	
		OLEIC ACID	300	
		COCONUT FATTY ACID	200	
		V1695 PAMITIC ACID	750	
		V1890 STEARIC ACID	495	
		E-7036 TP STEARIC ACID	495	
		RBD COCONUT OIL	500	
STOLT NORLAND	9/4	#1 CASTOR OIL	1,000	
GOLDEN FLORENCE	9/6	#1 CASTOR OIL	2,645	
		#1 CASTOR OIL	2,995	
		NEUTRALIZED CASTOR	505	
		PALE PRESSED CASTOR	495	
STOLT AMI	9/7	POMACE OLIVE OIL	985	
		REFINED OLIVE OIL	1,155	
		EX VIRGIN OLIVE OIL	2,400	
		EX VIRGIN OLIVE OIL	490	
CLIPPER KRYSTAL	9/10	YELLOW GREASE		270
PRISCO EKATERINA	9/18	RBD PKO	3,980	
		COCHIN COCONUT OIL	2,480	
		RBD PKO	510	
		COCHIN COCONUT OIL	5,995	
STOLT HELLULAND	9/24	#1 CASTOR OIL	995	
			======	=======
		TOTAL	41,470	270

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
4TH QUARTER, 2010
(METRIC TONS)

	IMPORTS	EXPORTS	TOTAL
(3) - OCTOBER	29,360	-	29,360
(5) - NOVEMBER	32,930	-	32,930
/4) - DECEMBER	28,870	1,050	29,920
TOTALS	91,160	1,050	92,210

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
4TH QUARTER, 2010
(METRIC TONS)

OCTOBER, 2010

VESSEL	ETA	COMMODITY	IMPORT	EXPORT
STOLT CONFIDENCE	10/9	K REFINED GLYCERINE	600	
		OLEIC ACID	200	
		RBD PALM STEARINE	1,000	
		RBD PALM OLEIN	3,505	
		DF RBD PK STEARINE	495	
		RBD PK STEARINE	1,995	
		RBD PK OLEIN	1,495	
		K REFINED GLYCERINE	430	
		C1216 FATTY ALCOHOL	850	
		C810 FATTY ACID	305	
		PALMITIC ACID	295	
		K REFINED GLYCERINE	505	
		CETYL ALCOHOL	285	
		STEARYL ALCOHOL	395	
		C1214 FATTY ALCOHOL	305	
CHAMPION PIONEER	10/21	RBD PKO	3,505	
		COCHIN COCONUT OIL	2,990	
		RBD PKO	990	
		COCHIN COCONUT OIL	5,015	
STOLT SWAZI	10/30	REFINED OLIVE OIL	505	
		POMACE OLIVE OIL	395	
		EX VIRGIN OLIVE OIL	400	
		VIRGIN OLIVE OIL	260	
		EX VIRGIN OLIVE OIL	1,150	
		EX VIRGIN OLIVE OIL	490	
		REFINED OLIVE OIL	510	
		POMACE OLIVE OIL	490	
		TOTAL	29,360	

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
4TH QUARTER, 2010

(METRIC TONS)

NOVEMBER, 2010

VESSEL	ETA	COMMODITY	IMPORT	EXPORT
STOLT EFFICIENCY	11/3	RBD PK STEARINE	1,995	
		RBD PK OLEIN	1,500	
		RBD PALM STEARINE	995	
		DF RBD PALM STEARINE	490	
		RBD PALM OLEIN	2,995	
		NBD PALM OLEIN CSPO	595	
		V1695 PALMITIC ACID	625	
		V1890 STEARIC ACID	495	
		K REFINED GLYCERINE	1,190	
		OLEIC ACID	400	
		HP PALMITIC ACID	290	
		TP STEARIC ACID	285	
		K REFINED GLYCERINE	1,000	
		K REFINED GLYCERINE	1,205	
		C1216 FATTY ALCOHOL	500	
		C1214 FATTY ALCOHOL	300	
		STEARYL ALCOHOL	600	
		B7036 TP STEARIC ACID	560	
GOLDEN CHARLOTTE	11/9	#1 CASTOR OIL	980	
		#1 CASTOR OIL	3,235	
CHAMPION EXPRESS	11/24	RBD PKO	2,960	
		COCHIN COCONUT OIL	2,485	
		COCHIN COCONUT OIL	1,990	
		RBD PKO	500	
STOLT VESTLAND	11/27	#1 CASTOR OIL	995	
		#1 CASTOR OIL	1,295	
WHITNEY	11/29	C1214 FATTY ALCOHOL	955	
		K REFINED GLYCERINE	1,100	
		C810 FATTY ACID	415	
			32,930	

VESSEL TRAFFIC AT HUDSON TANK TERMINALS
4TH QUARTER, 2010
(METRIC TONS)

DECEMBER, 2010

VESSEL	ETA	COMMODITY	IMPORT	EXPORT
STOLT AMI	12/6	EXTRA VIRGIN OLIVE	400	
		POMACE OLIVE OIL	395	
		EXTRA VIRGIN OLIVE	510	
		EX VIRGIN OLIVE OIL	1,670	
		REFINED OLIVE OIL	615	
		POMACE OLIVE OIL	505	
STOLT CREATIVITY	12/9	V1890 STEARIC ACID	485	
		RBD PALM OLEIN	1,995	
		RBD PK STEARINE	1,645	
		RBD PK OLEIN	1,495	
		COCONUT FATTY ACID	295	
		K REFINED GLYCERINE	1,250	
		TP STEARIC ACID	295	
		TA1618 FATTY ALCOHOL	990	
		K REFINED GLYCERINE	1,205	
		C1216 FATTY ALCOHOL	1,500	
		K REFINED GLYCERINE	1,005	
		E7036 TP STEARIC ACID	500	
		STEARIC ACID	495	
		PALMITIC ACID	520	
		C1214 FATTY ALCOHOL	305	
		CETYL ALCOHOL	300	
		STEARYL ALCOHOL	500	
		PALM MID FRACTION	500	
BUNGA BALSAM	12/16	RBD PKO	1,505	
		COCHIN COCONUT OIL	2,495	
		COCHIN COCONUT OIL	4,995	
		RBD PKO	500	
NORDIC STOCKHOLM	12/21	YELLOW GREASE		1,050
		TOTAL	28,870	1,050

Hudson Tank Terminals Corporation

173 Export Street • Port Newark, New Jersey 07114

Tel: (973) 465-1115 Fax: (973) 465-9053

June 27, 2011

Mr. Wayne Rakoski
Senior Property Representative
The Port Authority of NY & NJ
260 Kellogg Street
Port Newark, New Jersey 07114

Lease No. LNS-867

Dear Mr. Rakoski:

In accordance with our lease agreement we are herewith enclosing our check in the amount of $154,483.20 representing additional basic rental for the period June 1, 2010 to May 31, 2011 for Throughput rental. A statement detailing the annual Tonnage & Throughput Rental calculation is attached.

Sincerely,

Albert F. Mogerley, President

AFM:vw
Enclosures

Hudson Tank Storage Company
Calculation of Throughput Rental
June 1, 2010 thru May 31, 2011
Lease No.LNS-867; Supplement No. 10
June 27, 2011

Period	Volume (Metric Tons)
Jun-10	33,755
Jul-10	37,255
Aug-10	30,740
Sep-10	41,740
Oct-10	29,360
Nov-10	32,930
Dec-10	29,920
Jan-11	29,800
Feb-11	32,645
Mar-11	29,385
Apr-11	27,095
May-11	49,055
	403,680

A.	Total Metric Tons:	403,680
	Less: Exemption Amount	(300,000)
	Excess tonnage:	103,680
	Tariff Rate (FMC Sch.Pa-10 Feb. 2011	$ 1.49
	Throughput Rental Amount Due	$154,483.20

The tonnage reference above is the actual tonnage through our facility for the period June 1, 2010 thru May 31, 2011.

Albert F. Mogerley
President & Chief Financial Officer

HUDSON TANK STORAGE COMPANY

173 EXPORT STREET
PORT NEWARK, NEW JERSEY 07114

FIRST FIDELITY BANK, N.A., NEW JERSEY
NEWARK, NEW JERSEY 07192
55-2/212113

105740

CHECK NUMBER

PAY

TO THE ORDER OF

The Port Authority of NY & NJ
260 Kellogg Street
Port Newark, New Jersey 07114

DATE
06/27/11

AMOUNT
$154,483.20

AUTHORIZED SIGNATURE

"105740" :021200025: 113.109266 6"

HUDSON TANK STORAGE COMPANY 105740 CHECK NUMBER

Period June 1, 2010 to May 31, 2011 for Throughput rental.

Keough, Patricia A. (PCD)

From: stephen mogerley [httcorp@earthlink.net]
Sent: Sunday, April 17, 2011 8:47 AM
To: King, Charles
Cc: Smith, Matthew (PCD); Kulik, Michael
Subject: Roof Photographs
Attachments: Roof-041711.pdf

Chuck,
Attached are photographs of the roof.

Steve Mogerley

-----Original Message-----
>From: stephen mogerley
>Sent: Apr 17, 2011 8:40 AM
>To: "King,Charles"
>Cc: "Smith,Matthew (PCD)" , "Kulik,Michael"
>Subject: RE: Bldg. 173 Repairs
>
>Chuck,
>
>We have gone back and forth with the Port Authority over repairs to our warehouse roof (for a month and a half) and windows (for over one year). Last night we lost more of the warehouse roof, our tank room flooded, rain water short circuited and blew out a 440 volt transformer in the warehouse, rain water shorted out the fire pull boxes in the warehouse sending false alarms to the Newark Fire Department and the PA, and the wind and loose flashing broke more of the warehouse windows. I will forward photographs of the warehouse roof on Monday.
>
>We have given the Port Authority ample time to make these repairs. These repairs are essential to protect our equipment and personnel. We are giving the Port Authority notice that if these repairs are not started immediately we will undertake these projects and submit the invoices to the Port Authority as is provided for in our lease. Please let me know.
>
>Stephen Mogerley
>Hudson Tank Terminals
>Tel: 973-465-1115
>Cell:
>-----Original Message-----
>>From: stephen mogerley
>>Sent: Mar 21, 2011 12:33 PM
>>To: "Chmielewski,Tom"
>>Cc: "King,Charles" , "Smith,Matthew (PCD)" , "Kulik,Michael"
>>Subject: RE: Bldg. 173 Repairs
>>
>>Tom,
>>
>>Until the repairs are scheduled and accomplished is there anything the Port Authority can or will do with the roof to reduce the amount of rain water entering our tank room?
>>
>>Steve Mogerley
>>
>>-----Original Message-----
>>>From: "Chmielewski, Tom"
>>>Sent: Mar 16, 2011 3:05 PM
>>>To: stephen mogerley
>>>Cc: "King, Charles" , "Smith, Matthew (PCD)" , "Kulik, Michael"
>>>Subject: RE: Bldg. 173 Repairs

>>>
>>>Stephen,
>>> PA maintenance is obtaining quotations for that work which is exclusive of the roof. I will keep you advised of their progress.
>>> Tom
>>>
>>>
>>>-----Original Message-----
>>>From: stephen mogerley [mailto:httcorp@earthlink.net]
>>>Sent: Wednesday, March 16, 2011 2:41 PM
>>>To: Chmielewski, Tom
>>>Cc: King, Charles; Smith, Matthew (PCD); Kulik, Michael
>>>Subject: RE: Bldg. 173 Repairs
>>>
>>>Tom,
>>>
>>>I understand that roofing fabric is a recent event. However, the loose window frames, the loose flashing and the resultant broken panes of glass have been discussed for almost a year and absolutely no repairs have been made. This issue was a problem well in advance of the winter damage the Port Authority is now dealing with. You have seen the condition of the warehouse windows and flashing, and you must understand the urgency of repairing these items - especially the loose window frames and flashing above the warehouse entrances. Could you please let me know when the Port Authority will repair or replace the windows and flashing?
>>>
>>>Thanks,
>>>Stephen Mogerley
>>>Vice President
>>>Hudson Tank Terminals
>>>173 Export Street
>>>Newark, NJ 07114
>>>973-465-1115
>>>
>>>-----Original Message-----
>>>>From: "Chmielewski, Tom"
>>>>Sent: Mar 15, 2011 4:22 PM
>>>>To: stephen mogerley
>>>>Cc: "King, Charles" , "Smith, Matthew (PCD)" , "Kulik, Michael"
>>>>Subject: RE: Bldg. 173 Repairs
>>>>
>>>>Steven,
>>>> A contractor will work on the roof since it is too large for our maintenance unit.
>>>> It was a rather severe winter that resulted in much damage that Port Authority maintenance is currently addressing.
>>>> Your patience is appreciated and I will keep you abreast of the repair plans for #173 as they are finalized.
>>>> Tom
>>>>
>>>>
>>>>-----Original Message-----
>>>>From: stephen mogerley [mailto:httcorp@earthlink.net]
>>>>Sent: Tuesday, March 15, 2011 3:31 PM
>>>>To: Chmielewski, Tom
>>>>Subject: Bldg. 173 Repairs
>>>>
>>>>Tom,
>>>>
>>>>Last year we notified the Port Authority of necessary repairs to the warehouse windows and flashing. Calls and emails were directed to you because your are Hudson Tank's designated tenant representative. In these communications we have stressed the urgency of these repairs many times. The last written communication to you was by email on November 3, 2010. Could you please let me know when the Port Authority intends to make these repairs?
>>>>
>>>>Thanks for helping with this matter.
>>>>
>>>>Regards,

>>>>Stephen Mogerley
>>>>Vice President
>>>>Hudson Tank Terminals
>>>>173 Export Street
>>>>Newark, NJ 07114
>>>>Tel: 973-465-1115
>>>>Fax: 973-465-9053
>>>>
>>>>
>>>>
>>>>
>>>>
>>>>NOTICE: THIS E-MAIL AND ANY ATTACHMENTS CONTAIN INFORMATION FROM THE PORT
>>>>AUTHORITY OF NEW YORK AND NEW JERSEY AND AFFILIATES. IF YOU BELIEVE YOU HAVE
>>>>RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY,
>>>>PERMANENTLY DELETE THIS E-MAIL (ALONG WITH ANY ATTACHMENTS), AND DESTROY ANY
>>>>PRINTOUTS.
>>>
>>>
>>>
>>>
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>>>PRINTOUTS.

Keough, Patricia A. (PCD)

From: stephen mogerley [httcorp@earthlink.net]
Sent: Sunday, April 17, 2011 8:41 AM
To: King, Charles
Cc: Smith, Matthew (PCD); Kulik, Michael
Subject: RE: Bldg. 173 Repairs

Chuck,

We have gone back and forth with the Port Authority over repairs to our warehouse roof (for a month and a half) and windows (for over one year). Last night we lost more of the warehouse roof, our tank room flooded, rain water short circuited and blew out a 440 volt transformer in the warehouse, rain water shorted out the fire pull boxes in the warehouse sending false alarms to the Newark Fire Department and the PA, and the wind and loose flashing broke more of the warehouse windows. I will forward photographs of the warehouse roof on Monday.

We have given the Port Authority ample time to make these repairs. These repairs are essential to protect our equipment and personnel. We are giving the Port Authority notice that if these repairs are not started immediately we will undertake these projects and submit the invoices to the Port Authority as is provided for in our lease. Please let me know.

Stephen Mogerley
Hudson Tank Terminals
Tel: 973-465-1115
Cell:
-----Original Message-----
>From: stephen mogerley <httcorp@earthlink.net>
>Sent: Mar 21, 2011 12:33 PM
>To: "Chmielewski,Tom" <tchmiele@panynj.gov>
>Cc: "King,Charles" <cking@panynj.gov>, "Smith,Matthew (PCD)"
><msmith@panynj.gov>, "Kulik,Michael" <mkulik@panynj.gov>
>Subject: RE: Bldg. 173 Repairs
>
>Tom,
>
>Until the repairs are scheduled and accomplished is there anything the Port Authority can or will do with the roof to reduce the amount of rain water entering our tank room?
>
>Steve Mogerley
>
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>>Sent: Mar 16, 2011 3:05 PM
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>>Cc: "King, Charles" <cking@panynj.gov>, "Smith, Matthew (PCD)"
>><msmith@panynj.gov>, "Kulik, Michael" <mkulik@panynj.gov>
>>Subject: RE: Bldg. 173 Repairs
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>>Stephen,
>> PA maintenance is obtaining quotations for that work which is exclusive of the roof. I will keep you advised of their progress.
>> Tom
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>>-----Original Message-----

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>>Vice President
>>Hudson Tank Terminals
>>173 Export Street
>>Newark, NJ 07114
>>973-465-1115
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>>>Subject: RE: Bldg. 173 Repairs
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>>> Your patience is appreciated and I will keep you abreast of the repair plans for #173 as they are finalized.
>>> Tom
>>>
>>>
>>>-----Original Message-----
>>>From: stephen mogerley [mailto:httcorp@earthlink.net]
>>>Sent: Tuesday, March 15, 2011 3:31 PM
>>>To: Chmielewski, Tom
>>>Subject: Bldg. 173 Repairs
>>>
>>>Tom,
>>>
>>>Last year we notified the Port Authority of necessary repairs to the warehouse windows and flashing. Calls and emails were directed to you because your are Hudson Tank's designated tenant representative. In these communications we have stressed the urgency of these repairs many times. The last written communication to you was by email on November 3, 2010. Could you please let me know when the Port Authority intends to make these repairs?
>>>
>>>Thanks for helping with this matter.
>>>

>>>Regards,
>>>Stephen Mogerley
>>>Vice President
>>>Hudson Tank Terminals
>>>173 Export Street
>>>Newark, NJ 07114
>>>Tel: 973-465-1115
>>>Fax: 973-465-9053
>>>
>>>
>>>
>>>
>>>
>>>NOTICE: THIS E-MAIL AND ANY ATTACHMENTS CONTAIN INFORMATION FROM THE
>>>PORT AUTHORITY OF NEW YORK AND NEW JERSEY AND AFFILIATES. IF YOU
>>>BELIEVE YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE
>>>SENDER IMMEDIATELY, PERMANENTLY DELETE THIS E-MAIL (ALONG WITH ANY
>>>ATTACHMENTS), AND DESTROY ANY PRINTOUTS.
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>>SENDER IMMEDIATELY, PERMANENTLY DELETE THIS E-MAIL (ALONG WITH ANY
>>ATTACHMENTS), AND DESTROY ANY PRINTOUTS.

: For Port Authority Use Only :
:
: Permit Number: MNS-334 :

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
225 Park Avenue South
New York, New York 10003

PORT NEWARK
SPACE PERMIT

The Port Authority of New York and New Jersey (herein called the "**Port Authority**") hereby grants to the Permittee hereinafter named permission to use and occupy the following described space (herein referred to as the "**Space**") at Port Newark, in the City of Newark, County of Essex and State of New Jersey (herein called the "**Facility**"), in accordance with the Terms and Conditions hereof and the endorsements annexed hereto; and said Permittee agrees to pay the fee or fees hereinafter specified and to perform all other obligations imposed upon it in the said Terms and Conditions and the endorsements.

1. **PERMITTEE:** AARHUSKARLSHAMN USA INC., a Delaware corporation

2. **PERMITTEE'S ADDRESS:** 131 Marsh Street
Port Newark
Newark, New Jersey 07114

3. **PERMITTEE'S REPRESENTATIVE:** Jean-Marc Rotsaert

4. **SPACE:** As set forth in Special Endorsement No. 1 hereof.

5. **PURPOSES:** As set forth in Special Endorsement No. 2 hereof.

6. **FEES:** As set forth in Special Endorsement No. 3 hereof.

7. **EFFECTIVE DATE:** April 1, 2011

8. **EXPIRATION DATE:** March 31, 2012, unless sooner revoked or terminated as herein provided.

9. **ENDORSEMENTS:** 11.1, 19.4, Special Endorsements, Exhibit A and Insurance Schedule

Dated: As of April 1, 2011

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

Name RICHARD M. LARRABEE
(Please Print Clearly)

(Title) DIRECTOR, PORT COMMERCE DEPT.

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:

AARHUSKARLSHAMN USA INC.
Permittee

By _____

Name JEAN-MARC ROTSAERT
(Please Print Clearly)

(Title) President

SS CONFORMED COPY

TERMS AND CONDITIONS

1) **Certain Definitions**.

a) "**Effective Date**" shall mean the date designated as the "Effective Date" in Item 7 on the cover page of this Permit.

b) "**Executive Director**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the Executive Director by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Executive Director of the Port Authority for the time being or his duly designated representative or representatives.

c) "**Expiration Date**" shall mean the date designated as the "Expiration Date" in Item 8 on the cover page of this Permit.

d) "**Facility**" shall have the meaning set forth in the granting clause on the cover page of this Permit.

e) "**Hazardous Substance**" shall mean any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer, endocrine disruption or reproductive toxicity, petroleum and petroleum products and substances declared to be hazardous or toxic or the removal, containment or restriction of which is required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any federal, state, county, or municipal or other local statute or law now or at any time hereafter in effect as amended or supplemented and by the regulations adopted and publications promulgated pursuant thereto.

f) "**Manager of the Facility**" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager by this Permit; but until further notice from the Port Authority to the Permittee it shall mean the Manager (or temporary or Acting Manager) of the Facility for the time being, or his or her duly designated representative or representatives.

g) "**Permittee's Representative**" shall mean the individual named in Item 3 on the cover page of this Permit or such other individual as the Permittee may designate by notice in accordance with the provisions of Section 19 below, entitled "Notices".

2) **Effectiveness**.

a) The permission granted by this Permit shall take effect upon the Effective Date. Notwithstanding any other term or condition hereof, it may at any time be revoked by the Port Authority without cause upon thirty (30) days' prior notice, and terminated by the Permittee without cause upon thirty (30) days' prior notice; provided, however, that it may be revoked on twenty-four (24) hours' notice if the Permittee fails to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Permit, including without

limitation the obligation to pay fees. Further, in the event the Port Authority exercises its right to revoke or terminate this Permit for any reason other than "without cause", the Permittee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such revocation or termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of any space which may be used and occupied under this Permit (on failure of the Permittee to have it restored), preparing such space for use by a succeeding permittee, the care and maintenance of such space during any period of non-use of the space, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the space in order (such as but not limited to cleaning and decorating the same). Unless sooner revoked or terminated, such permission shall expire in any event upon the Expiration Date. Revocation or termination shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation or termination.

b) No exercise by the Port Authority of any right of revocation granted to it in this Section shall be deemed to be a waiver of any other rights of revocation contained in this Section or elsewhere in this Permit or a waiver of any other rights or remedies which may be available to the Port Authority under this Permit or otherwise.

3) **Use of Space by Permittee**.

a) The Space shall be used, pursuant to the permission hereby granted,

i) if the Permittee is a corporation, by the Permittee acting only through the medium of its officers and employees,

ii) if the Permittee is an unincorporated association, or a "Massachusetts" or business trust, by the Permittee acting only through the medium of its members, trustees, officers and employees,

iii) if the Permittee is a partnership, by the Permittee acting only through the medium of its general partners and employees, or

iv) if the Permittee is an individual, by the Permittee acting only personally or through the medium of his employees; or

v) if the Permittee is a limited liability company, by the Permittee acting only through the medium of its members, managers and employees;

and the Permittee shall not, without the written approval of the Port Authority, use the Space through the medium of any other person, corporation or legal entity. The Permittee shall not assign or transfer this Permit or the permission granted hereby, or enter into any contract requiring or permitting the doing of anything hereunder by an independent contractor, without the written approval of the Port Authority. In the event of the issuance of this Permit to more than one individual or other legal entity (or to any combination thereof), then and in that event each and every obligation or undertaking herein stated to be fulfilled or performed by the Permittee shall be the joint and several obligation of each such individual or other legal entity.

b) The Permittee's Representative specified in Item 3 of the cover page of this Permit (or such substitute as the Permittee may hereafter designate in writing) shall have full authority to act for the Permittee in connection with this Permit and any act or things done or to be done hereunder, and to execute on the Permittee's behalf any amendments or supplements to this Permit or any extension hereof and to give and receive notices hereunder.

c) This Permit shall not constitute the Permittee the agent or representative of the Port Authority for any purpose whatsoever.

d) The Permittee hereby agrees that it will not carry on any business or operation in the Space or at the Facility other than as specifically provided herein without receiving the prior written consent of the Port Authority, which consent, if given, will be in the form of a Supplement hereto or a separate agreement with the Port Authority, which consent will specify whether the provisions regarding fees contained herein or any other provisions regarding fees shall apply thereto.

4) **Condition of Space**.

a) The Permittee hereby acknowledges that prior to the execution of this Permit it has thoroughly examined and inspected the Space and has found the Space in good order and repair and has determined the Space to be suitable for the Permittee's operations hereunder and acknowledges and agrees that it has not relied on any representations or statements of the Port Authority, its Commissioners, officers, employees or agents as to the condition or suitability thereof for use by the Permittee for the purposes contemplated herein. The Permittee agrees to and shall take the Space in its "as is" condition and the Port Authority shall have no obligation hereunder for preparation of the Space for the Permittee's use. The Permittee agrees that no portion of the Space will be used initially or at any time during the effective period of the permission granted hereunder which is in a condition unsafe or improper for the purposes contemplated herein so that there is possibility of injury or damage to life or property and the Permittee further agrees that before any use it will immediately correct any such unsafe or improper condition.

b) Except to the extent required for the performance of any of the obligations of the Permittee under this Permit, nothing contained in this Permit shall grant to the Permittee any rights whatsoever in the air space above the height of the structures located on the Space as of the Effective Date hereof.

c) The parties to this Permit hereby acknowledge that the Space is non-residential real estate.

d) Except as specifically provided in this Permit, the Port Authority shall be under no obligation to furnish any services or utilities whatsoever at or in the Space.

e) The Port Authority shall have no responsibility to keep the Space guarded, attended or patrolled at any time. The Port Authority shall have no obligation to police the use of the Space, or to ensure that others do not use or occupy the Space, or to provide any other service whatsoever in connection therewith.

5) **Payment of Fees.**

a) Unless otherwise expressly provided in this Permit, the Permittee shall pay to the Port Authority a fee for its use and occupancy of the Space. The fee specified is a monthly fee, payable in advance on the Effective Date and on the first day of each and every calendar month thereafter.

b) Payments made hereunder shall be sent to the following address:

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY
P.O. BOX 95000-1517
PHILADELPHIA, PENNSYLVANIA 19195-0001

or made via the following wire transfer instructions:

Credit Bank:	TD Bank 6000 Atrium Way, Mount Laurel NJ 08054
Bank ABA Number:	
Beneficiary Account/ID #:	
Beneficiary Name:	The Port Authority of NY & NJ

or sent to such other address, or via such other wire transfer instructions, as may hereafter be substituted therefor by the Port Authority, from time to time, by notice to the Permittee.

c) If the permission granted hereunder becomes effective on a date other than the first day of a calendar month or expires or is revoked or terminated on a date other than the last day of a calendar month, the fee payable for the part of the month during which the permission is in effect shall be computed by prorating the monthly fee on a daily basis, using the exact number of days in the month involved.

d) Upon execution of this Permit by the Permittee, the Permittee shall pay to the Port Authority all unpaid fees and other monies due and payable under this Permit as of the date of execution.

6) **Late and Service Charges.**

a) If the Permittee should fail to pay any amount required under this Permit when due to the Port Authority or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period (hereinbelow described) during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) of such unpaid amount for each late charge period. There shall be twenty-four (24) late charge periods on a calendar year basis; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (15) (but not less than thirteen (13)) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Audit Findings (as defined below) shall consist of each late charge period following the date the unpaid amount should have been paid under this Permit. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of

payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section with respect to such unpaid amount. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Permit, including without limitation the Port Authority's rights set forth in Section 2 hereof or (y) any obligations of the Permittee under this Permit. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Permit shall be payable instead at such legal maximum.

b) ***Audit.***

i) The Permittee shall permit and/or cause to be permitted in ordinary business hours during the effective period of this Permit and for one (1) year thereafter the examination and audit by the officers, employees and representatives of the Port Authority of all the records and books of account of the Permittee (including without limitation all corporate records and books of account which the Port Authority in its sole discretion believes may be relevant in connection with the Permittee's use and occupancy of the Space as permitted hereunder) within ten (10) days following any request by the Port Authority from time to time and at any time to examine and audit any such corporate records and books of account.

ii) In the event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Permittee (the "**Audit Findings**"), the Permittee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Permittee under this Permit or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Permit with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (x) any rights of the Port Authority under this Permit, including, without limitation, the Port Authority's rights to revoke this Permit or (y) any obligations of the Permittee under this Permit.

7) **Security Deposit**.

a) ***Security Deposit.***

i) *Required Security Amount.* As security for the Permittee's full, faithful and prompt performance of and compliance with all of its obligations under this Permit, the Permittee shall, upon its execution and delivery of this Permit, deposit with

the Port Authority (and shall keep deposited throughout the Term) the sum set forth in the Special Endorsements hereto as the "**Required Security Amount**", either in cash, or in bonds of the United States of America, the State of New Jersey, the State of New York, or The Port Authority of New York and New Jersey, having a market value of the Required Security Amount; provided, however, that if the Required Security Amount is Twenty Thousand Dollars and No Cents ($20,000.00) or greater, the Permittee shall be required, instead, to deliver to the Port Authority a letter of credit as provided in the following paragraph (b).

ii) *Requirements for Bonds.* Bonds qualifying for deposit hereunder shall be in bearer form, but if bonds of that issue were offered only in registered form, then the Permittee may deposit such bond or bonds in registered form, provided, however, that the Port Authority shall be under no obligation to accept such deposit of a bond in registered form unless such bond has been re-registered in the name of the Port Authority (the expense of such re-registration to be borne by the Permittee) in a manner satisfactory to the Port Authority. The Permittee may request the Port Authority to accept a registered bond in the Permittee's name and, if acceptable to the Port Authority the Permittee shall deposit such bond together with a bond power (and such other instruments or other documents as the Port Authority may require) in form and substance satisfactory to the Port Authority. In the event the deposit is returned to the Permittee, any expenses incurred by the Port Authority in re-registering a bond to the name of the Permittee shall be borne by the Permittee.

iii) *Use of Deposit.* In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to use the deposit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Permittee. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the deposit itself shall cure any default or breach of this Permit on the part of the Permittee. With respect to any bonds deposited by the Permittee, the Port Authority shall have the right, in order to satisfy any of its claims or demands against the Permittee, to sell the same in whole or in part, at any time and from time to time, with or without prior notice at public or private sale, all as determined by the Port Authority, together with the right to purchase the same at such sale free of all claims, equities or rights of redemption of the Permittee. The Permittee hereby waives all right to participate therein and all right to prior notice or demand of the amount or amounts of the claims or demands of the Port Authority against the Permittee. The proceeds of every such sale shall be applied by the Port Authority first to the costs and expenses of the sale (including but not limited to advertising or commission expenses) and then to the amounts due the Port Authority from the Permittee. Any balance remaining shall be retained in cash toward bringing the deposit to the Required Security Amount. In the event that the Port Authority shall at any time or times so use the deposit, or any part thereof, or if bonds shall have been deposited and the market value thereof shall have declined below the Required Security Amount, the Permittee shall, on demand of the Port Authority and within two (2) days thereafter, deposit with the Port Authority additional cash or bonds so as to maintain the deposit at all times at the full Required Security Amount, and such additional deposits shall be subject to all the conditions of this Section.

iv) *No Encumbrance.* The Permittee agrees that it will not assign or encumber the deposit.

v) *Interest.* The Permittee may collect or receive any interest or income earned on bonds and interest paid on cash deposited in interest-bearing bank accounts, less any part thereof or amount which the Port Authority is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of an administrative expense, or custodial charge, or otherwise; provided, however, that the Port Authority shall not be obligated by this provision to place or to keep cash deposited hereunder in interest-bearing bank accounts.

vi) *Return of Deposit.* After the expiration or earlier termination of the Term, and upon condition that the Permittee shall then be in no way in default under any part of this Permit, and upon written request therefor by the Permittee, the Port Authority will return the deposit to the Permittee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Permittee of this Permit.

vii) *Tax Number.* For the purposes of the foregoing provisions, the Permittee hereby certifies that its federal Taxpayer Identification Number is set forth in the Special Endorsements hereto.

b) ***Letter of Credit.***

i) *Letter of Credit in Lieu of Security Deposit.* In lieu of the security deposit required pursuant to the preceding paragraph (a), the Permittee may deliver (if the Required Security Amount is less than Twenty Thousand Dollars and No Cents ($20,000.00)), and *must* deliver (if the Required Security Amount is Twenty Thousand Dollars and No Cents ($20,000.00) or greater) to the Port Authority, as security for all obligations of the Permittee under this Permit, a clean irrevocable letter of credit issued by a banking institution satisfactory to the Port Authority and having its main office within the Port of New York and New Jersey District, in favor of the Port Authority in the amount of the Required Security Amount.

ii) *Form and Terms.* The form and terms of each letter of credit delivered under this Section, as well as the institution issuing it (which shall be an investment-grade rated bank), shall be subject to the prior and continuing approval of the Port Authority; **the form of any proposed letter of credit shall be submitted to the Port Authority in advance for review and approval by its Credit, Collection and Accounts Receivable unit.** Such letter of credit shall provide that it shall continue throughout the Term and for a period of not less than six (6) months thereafter; such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter of credit.

iii) *Return of Any Existing Security Deposit.* Upon acceptance of such letter of credit by the Port Authority, and upon request by the Permittee made thereafter, the Port Authority will return any security deposit theretofore made under and in accordance with the provisions of the foregoing paragraph (a). The Permittee shall have the same rights to receive such deposit during the existence of a valid letter of credit as it

would have to receive such sum upon expiration of the Term and fulfillment of the obligations of the Permittee under this Permit.

iv) *Cancellation; Drawdowns.* Upon notice of cancellation of a letter of credit, the Permittee agrees that unless, by a date twenty (20) days prior to the effective date of cancellation, the letter of credit is replaced by security in the Required Security Amount or another letter of credit satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof, and thereafter the Port Authority will hold the same as security under the foregoing paragraph (a). If the Port Authority makes any drawing under a letter of credit held by the Port Authority hereunder, the Permittee, on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to the full Required Security Amount.

v) *Failure to Provide Letter of Credit.* Following the Port Authority's acceptance of a letter of credit in lieu of the security deposit required pursuant to the foregoing paragraph (a), any failure to provide such letter of credit at any time during the Term which is valid and available to the Port Authority, including any failure of any banking institution issuing any such letter of credit previously accepted by the Port Authority to make one or more payments as may be provided in such letter of credit, shall be deemed to be a breach of this Permit on the part of the Permittee.

vi) *No Waiver.* No action by the Port Authority pursuant to the terms of any letter of credit, or receipt by the Port Authority of funds from any bank issuing any such letter of credit, shall be deemed to be a waiver of any default by the Permittee under the terms of this Permit, and all remedies under this Permit of the Port Authority consequent upon such default shall not be affected by the existence of, or a recourse to, any such letter of credit.

c) ***Obligations under other Agreements.*** If the Permittee is obligated by any other agreement to maintain a security deposit with the Port Authority to insure payment and performance by the Permittee of all fees, rentals, charges and obligations which may become due and owing to the Port Authority arising from the Permittee's operations at the Facility pursuant to any such other agreement or otherwise, then all such obligations under such other agreement and any deposit pursuant thereto also shall be deemed obligations of the Permittee under this Permit and as security hereunder as well as under any such other agreement and all provisions of such other agreement with respect to such obligations and any obligations thereunder of the Port Authority as to the security deposit are hereby incorporated herein by this reference as though fully set forth herein and hereby made a part hereof. The termination, revocation, cancellation or expiration of any other agreement to which such security shall apply or any permitted assignment of such other agreement shall not affect such obligations as to such security which shall continue in full force and effect hereunder.

8) **Indemnification of Port Authority**.

a) The Permittee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal costs and expenses incurred in connection with the defense of) all claims and demands of third persons, including

but not limited to claims and demands for death or personal injuries, or for property damages, arising out of any of the operations, acts or omissions of the Permittee hereunder.

b) The Permittee represents that it is the owner of or fully authorized to use or sell any and all services, processes, machines, articles, marks, names or slogans used or sold by it in its operations under or in any way connected with this Permit. Without in any way limiting its obligations under the preceding paragraph (a) hereof, the Permittee agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents and representatives of and from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the operations of the Permittee under or in any way connected with this Permit.

c) If so directed, the Permittee shall at its own expense defend any suit based on any claim or demand referred to in the foregoing paragraphs (a) or (b) (even if such claim or demand is groundless, false or fraudulent), and in handling such it shall not, without obtaining the prior written consent of the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal, the immunity of the Port Authority, its governmental nature or the provisions of any statutes respecting the Port Authority.

d) In the event of any injury or death to any person (other than employees of the Permittee) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, or damage to any property (other than the Permittee's property) at the Facility when caused by the Permittee's operations, acts or omissions of the Permittee hereunder, the Permittee shall immediately notify the Port Authority and promptly thereafter furnish to the Port Authority copies of all reports given to the Permittee's insurance carrier.

9) **Right of Entry Reserved**. The Port Authority shall have the right at any time and as often as it considers necessary, to inspect the Space and (without any obligation so to do) to enter thereon to make ordinary repairs, and in the event of emergency to take such action therein as may be required for the protection of persons or property.

10) **Law Compliance.**

a) The Permittee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Permittee's operations at the Facility which may be necessary for the Permittee's operations thereat.

b) The Permittee shall pay all taxes, license, certification, permit and examination fees and excises which may be assessed, levied, exacted or imposed on its property or operation hereunder or on the gross receipts or income therefrom, and shall make all applications, reports and returns required in connection therewith.

c) The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to the Permittee's operations at the Facility.

d) The Permittee's obligations to comply with governmental requirements are provided herein for the purpose of assuring proper safeguards for the protection of persons

and property at the Facility and are not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

11) **Rules and Regulations**. The Permittee shall observe and obey (and compel its officers, employees, guests, invitees, and those doing business with it, to observe and obey) the rules and regulations and procedures of the Port Authority now in effect, and such further reasonable rules and regulations and procedures which may from time to time during the effective period of this Permit, be promulgated by the Port Authority for reasons of safety, health, preservation of property or maintenance of a good and orderly appearance of the Facility or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it shall give notice to the Permittee of every rule and regulation hereafter adopted by it at least five (5) days before the Permittee shall be required to comply therewith.

12) **Conduct of Operations**.

a) The Permittee shall immediately comply with all orders, directives and procedures as may be issued by the Manager of the Facility covering the operations of the Permittee under this Permit at any time and from time to time. The Port Authority may, at any time and from time to time, without prior notice or cause, withdraw or modify any designations, approvals, substitutions or redesignations given by it hereunder.

b) The Permittee shall not install any fixtures or make any alterations, additions, improvements or repairs to any property of the Port Authority except with the prior written approval of the Port Authority.

c) Unless otherwise expressly provided, the Permittee shall not install any vending machines or similar devices in the Space or use the Space (or permit it to be used) for the sale to its employees or to the public of any of the following goods and services: beverages, food, candy, gum, ice cream or ice cream products, tobacco or tobacco products, periodicals, books, drugs, toys, games, souvenirs, jewelry, novelties, clothing, flowers, sporting or photographic goods, toilet articles, theatre tickets, shoe shines, pressing and cleaning, developing and printing of photographs and films or baggage-checking. The specificity of the foregoing enumeration of disallowed activities shall not be deemed to infer that any particular activities not so enumerated are permitted under this Permit.

d) No signs, posters or similar devices shall be erected, displayed or maintained in view of the general public in or about the Space without the written approval of the Manager of the Facility; and any not approved by him may be removed by the Port Authority at the expense of the Permittee. The Permittee shall not display, or permit the display of, advertising of third parties in the Space.

e) The Permittee, its employees, invitees and those doing business with it shall have no right hereunder to park vehicles within the Facility, except in regular parking areas upon payment of regular charges therefor.

f) The operations of the Permittee, its employees, invitees and those doing business with it shall be conducted in an orderly and proper manner and so as not to annoy, disturb or be offensive to others at the Facility. The Permittee shall provide and its employees

shall wear or carry badges or other suitable means of identification which shall be subject to the approval of the Manager. The Port Authority shall have the right to object to the Permittee as to the demeanor, conduct and appearance of the Permittee's employees, invitees and those doing business with it, whereupon the Permittee will take all steps necessary to remove the cause of the objection.

g) The Permittee shall daily remove from the Facility by means of facilities provided by it all garbage, debris and other waste material (whether solid or liquid) arising out of or in connection with the permission granted hereunder, and any such not immediately removed shall be temporarily stored in a clean and sanitary condition, in suitable garbage and waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and to be of a design safely and properly to contain whatever material may be placed therein; said receptacles being provided and maintained by the Permittee. The receptacles shall be kept covered except when filling or emptying the same. The Permittee shall exercise extreme care in removing such garbage, debris and other waste materials from the Facility. The manner of such storage and removal shall be subject in all respects to the continual approval of the Port Authority. No facilities of the Port Authority shall be used for such removal unless with its prior consent in writing. No such garbage, debris or other waste materials shall be or be permitted to be thrown, discharged or disposed into or upon the waters at or bounding the Facility.

13) **Care of Space**.

a) The Permittee shall at all times keep the Space in a clean and orderly condition and appearance, together with all fixtures, equipment and personal property of the Permittee and of the Port Authority located in or on the Space, including without limitation thereto the interior surface of windows and both sides of all entrance doors.

b) The Permittee shall repair, replace, rebuild and paint all or any part of the Space or of the Facility which may be damaged or destroyed by the acts or omissions of the Permittee, its officers, members, employees, agents, representatives, contractors, customers, guests, invitees or other persons who are doing business with the Permittee who are on or at the Space or the Facility with the consent of the Permittee.

c) The Permittee shall take good care of the Space, including therein, without limitation thereto, walls, partitions, floors, ceilings, doors and columns, and all parts thereof, and all equipment and fixtures, and shall do all preventive maintenance and make all necessary non-structural repairs, replacements, rebuilding and painting necessary to keep the Space in the condition existing on the effective date and to keep any improvements, additions and fixtures made or installed during the effective period of this Agreement in the condition they were in when made or installed except for reasonable wear which does not adversely affect the watertight condition or structural integrity of the building or adversely affect the efficient or proper utilization or the appearance of any part of the Space.

d) In the event the Permittee fails to commence so to make or do any repair, replacement, rebuilding or painting required by this Agreement within a period of ten (10) days after notice from the Port Authority so to do, or fails diligently to continue to completion the repair, replacement, rebuilding or Painting of all the premises required to be repaired, replaced, rebuilt or painted by the Permittee under the terms of this Agreement, the Port Authority may, at

its option, and in addition to any other remedies which may be available to it, repair, replace, rebuild or paint all or any part of the Space included in the said notice, the Port Authority's cost thereof to be paid by the Permittee on demand. This option or the exercise thereof shall not be deemed to create or imply any obligation or duty to the Permittee or others.

e) The obligation of the Permittee as set forth in paragraphs (b) and (c) above, in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured, is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance; provided, however, that if at any time because of this release the insurance carrier of any policy covering the premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the premises; the Permittee shall pay to the Port Authority an amount equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel any such policy or shall refuse to issue or renew the same or shall refuse to issue a policy with an endorsement thereon under which this release is permitted without prejudice to the interest of the insured or shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance policy or to obtain or keep in force any such endorsement.

f) The Port Authority shall have no duty of repair or maintenance as to the Space or any fixtures, equipment or personal property which is located in or on the Space.

g) The Permittee shall immediately clear all drainage and supply stoppages and partial blocks, in and in connection with any plumbing fixtures, equipment and system which are a part of or are located in or on the Space. All glass in windows and doors which are a part of or are located in or on the Space and which may be broken shall be replaced by the Permittee not later than five days after breakage or at any earlier date if so directed by the Port Authority and immediately if such replacement is necessary to protect the Space, any part thereof or any other property of the Port Authority against damage, loss or theft. The Permittee shall have no obligation under this paragraph where the condition is caused by the negligence or willful misconduct of the Port Authority.

h) The Permittee shall immediately notify the Port Authority if any portion or all of the Space or any of the said Port Authority fixtures, equipment or personal property is destroyed, damaged or in need of repair, regardless of the Permittee's responsibility therefor.

i) Nothing herein contained shall relieve the Permittee of its obligations to secure the Port Authority's written approval before installing any fixtures in or upon or making any alterations, decorations, additions or improvements in the Space.

j) In the event of a partial or total destruction of the Space, the Permittee shall immediately remove any and all of its property and debris from the Space or portion thereof destroyed.

14) **Permittee Property**.

a) Any personal property placed or installed by the Permittee in the Space shall remain the property of the Permittee and must be removed on or before the Expiration Date or on or before the revocation or termination of the permission hereby granted, whichever shall be earlier.

b) If the Permittee shall fail to remove its property upon the expiration, termination or revocation hereof, the Port Authority may, at its option, as agent for the Permittee and at the Permittee's risk and expense, remove such property to a public warehouse for deposit or retain the same in its own possession and after the expiration of thirty (30) days sell the same at public auction, the proceeds of which shall be applied first to the expenses of sale, second to any sums owed by the Permittee to the Port Authority, and any balance remaining shall be paid to the Permittee, or may take such other action as may be necessary or desirable. Any excess of the total cost of removal, storage and sale over the proceeds of sale shall be paid by the Permittee to the Port Authority upon demand.

15) **Prohibited Acts**.

a) The Permittee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Board of Fire Underwriters and the Fire Insurance Rating Organization of New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the Permittee's operations hereunder. If by reason of the Permittee's failure to comply with the provisions of this Section, any fire insurance, extended coverage or rental insurance rate on the Facility or any part thereof or upon the contents of any building thereon shall at any time be higher than it otherwise would be, then the Permittee shall on demand pay the Port Authority that part of all fire insurance premiums paid or payable by the Port Authority which shall have been charged because of such violation by the Permittee.

b) The Permittee shall not do or permit to be done any act which

i) will invalidate or be in conflict with any fire insurance policies covering the Facility or any part thereof or upon the contents of any building thereon, or

ii) will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon, or

iii) in the opinion of the Port Authority will constitute a hazardous condition, so as to increase the risks normally attendant upon the operations contemplated by this Permit, or

iv) may cause or produce upon the Facility any unusual, noxious or objectionable smokes, gases, vapors or odors, or

v) may interfere with the effectiveness or accessibility of the drainage and sewerage system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located or to be installed or located in or on the Facility, or

vi) shall constitute a nuisance in or on the Facility or which may result in the creation, commission or maintenance of a nuisance in or on the Facility.

c) For purposes of this Section, "Facility" includes all structures located thereon.

16) **Specifically Prohibited Activities**.

a) The Permittee shall not dispose of nor permit anyone to dispose of any waste materials (whether liquid or solid) by means of any toilets, sanitary sewers or storm sewers at the Facility.

b) The Permittee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance on the Facility. Any Hazardous Substance disposed of, released or discharged by the Permittee (or permitted by the Permittee to be disposed of, released or discharged) on the Facility shall upon notice by the Port Authority to the Permittee be completely removed and/or remediated by the Permittee at its sole cost and expense.

c) The Permittee shall not operate any engine or any item of automotive equipment in the Space without adequate ventilation.

d) The Permittee shall not use any cleaning materials having a harmful or corrosive effect in the Space.

e) The Permittee shall not fuel or defuel any equipment in the Space or elsewhere at the Facility without the prior approval of the Manager of the Facility except in accordance with Port Authority rules and regulations.

f) The Permittee shall not start or operate any engine or any item of automotive equipment in the Space unless such space is adequately ventilated and unless such engine is equipped with a proper spark-arresting device.

g) The Permittee shall not solicit business in the public areas of the Facility and shall not at any time use any electric amplifying devices or hand megaphones whatsoever.

17) **Labor Disturbances**.

a) Possible Labor Disturbance.

i) The Permittee shall not employ any persons or use any labor, or use or have any equipment, or permit any condition to exist, which shall or may cause or be conducive to any labor complaints, troubles, disputes or controversies at the Facility which interfere or are likely to interfere with the operation of the Facility or any part thereof by the Port Authority or with the operations of the lessees, licensees, permittees or other users of the Facility or with the operations of the Permittee under this Permit.

ii) The Permittee shall immediately give notice to the Port Authority (to be followed by written notice and reports) of any and all impending or existing labor complaints, troubles, disputes or controversies and the progress thereof. The Permittee

shall use its best efforts to resolve any such complaints, troubles, disputes or controversies.

b) If any type of strike or other labor activity is directed against the Permittee at the Facility or against any operations pursuant to this Permit resulting in picketing or boycott for a period of at least forty-eight (48) hours, which, in the opinion of the Port Authority, adversely affects or is likely adversely to affect the operation of the Facility or the operations of other permittees, lessees or licensees thereat, whether or not the same is due to the fault of the Permittee, and whether caused by the employees of the Permittee or by others, the Port Authority may at any time during the continuance thereof, by twenty-four (24) hours' notice, revoke this Permit, effective at the time specified in the notice. Revocation shall not relieve the Permittee of any liabilities or obligations hereunder which shall have accrued on or prior to the effective date of revocation.

18) **Duties under Other Agreements**.

a) Except as specifically provided herein to the contrary, the Permittee shall not, by virtue of the issue and acceptance of this Permit, be released or discharged from any liabilities or obligations whatsoever under any other Port Authority permits or agreements including but not limited to any permits to make alterations.

b) In the event that any space or location covered by this Permit is the same as is or has been covered by another Port Authority permit or other agreement with the Permittee, then any liabilities or obligations which by the terms of such permit or agreement, or permits thereunder to make alterations, mature at the expiration or revocation or termination of said permit or agreement, shall be deemed to survive and to mature at the expiration or sooner termination or revocation of this Permit, insofar as such liabilities or obligations require the removal of property from and/or the restoration of the space or location.

19) **Notices**. A bill or statement may be rendered or any notice or communication which the Port Authority may desire to give the Permittee shall be deemed sufficiently rendered or given if the same be in writing and sent by registered or certified mail addressed to the Permittee at the address specified on the cover page hereof or at the latest address that the Permittee may substitute therefor by notice to the Port Authority, or left at such address, or delivered to the Permittee's Representative, and the time of rendition of such bill or statement and of the giving of such notice or communication shall be deemed to be the time when the same is mailed, left or delivered as herein provided. Any notice from the Permittee to the Port Authority shall be validly given if sent by registered or certified mail addressed to the Executive Director of the Port Authority at 225 Park Avenue South, New York, New York 10003 or at such other address as the Port Authority shall hereafter designate by notice to the Permittee.

20) **No Broker**. The Permittee represents and warrants that no broker has been concerned in the negotiation or execution of this Permit and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Permittee shall indemnify the Port Authority and save it harmless from any and all claims which have been or which may be

made by any and all persons, firms, or corporations whatsoever for services in connection with the negotiation and execution of this Permit or in connection with any permission to use the Space.

21) **Waiver of Trial by Jury**. The Permittee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Permittee in respect of the Space and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Permit. The Permittee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or action for non-payment of fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed. The foregoing reference to summary proceedings shall not be construed to mean that a landlord-tenant relationship exists between the Port Authority and the Permittee.

22) **Effect of Use and Occupancy after Expiration, Revocation or Termination**. Without in any way limiting any other provision of this Permit, unless otherwise notified by the Port Authority in writing, in the event the Permittee continues its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit, as such effective period of permission may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Permit or other remedies the Port Authority may have by law or otherwise, the Permittee shall pay to the Port Authority a fee for the period commencing on the day immediately following the date of such expiration or the effective date of such revocation or termination and ending on the date that the Permittee shall surrender and completely vacate the Space at a rate equal to twice the monthly fee as provided for herein then in effect. Nothing herein contained shall be deemed to give the Permittee any right to continue its use and occupancy of the Space after the expiration, revocation or termination of the effective period of the permission granted under this Permit. The Permittee acknowledges that the failure of the Permittee to surrender, vacate and yield up the Space to the Port Authority on the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Permittee hereby assumes the risk of such injury, damage or loss and hereby agrees that it shall be responsible for the same and shall pay the Port Authority for the same whether such are foreseen or unforeseen, special, direct, consequential or otherwise and the Permittee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

23) **No Personal Liability**. No Commissioner, officer, agent or employee of the Port Authority shall be charged personally by the Permittee with any liability, or held liable to it, under any term or provision of this Permit, or because of its execution or attempted execution, or because of any breach hereof.

24) **No Waiver**. No failure by the Port Authority to insist upon the strict performance of any agreement, term, covenant or condition of this Permit or to exercise any right or remedy consequent upon a breach or default thereof, and no extension, supplement or amendment of this

Permit during or after a breach thereof, unless expressly stated to be a waiver, and no acceptance by the Port Authority of fees, charges or other payments in whole or in part after or during the continuance of any such breach or default, shall constitute a waiver of any such breach or default of such agreement, term, covenant or condition. No agreement, term, covenant or condition of this Permit to be performed or complied with by the Permittee, and no breach or default thereof, shall be waived, altered or modified except by a written instrument executed by the Port Authority. No waiver by the Port Authority of any default or breach on the part of the Permittee in performance of any agreement, term, covenant or condition of this Permit shall affect or alter this Permit but each and every agreement, term, covenant and condition thereof shall continue in full force and effect with respect to any other existing or subsequent breach or default thereof.

25) **Construction and Application of Terms**.

a) The use of headings in this Permit is for convenience of reference only and in no way intended to define, limit or describe the scope or intent of any provision hereof.

b) Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applicable to the interpretation of this Permit or any amendments, addendums or supplements hereto or any endorsements, exhibits, schedules or other attachments hereto.

c) The provisions and obligations contained in any endorsements, exhibits, schedules or other attachments hereto shall have the same force and effect as if set forth in full herein.

d) To the extent that any provisions of this Permit are in any instance to be construed in accordance with the laws of a state, the laws of the State of New Jersey shall apply.

26) **Entire Agreement**. This Permit, including the cover page, the Terms and Conditions and the attached exhibits, endorsements, schedules and other attachments, if any, constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended, except by written endorsement duly executed on behalf of the parties and attached hereto. The Permittee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing herein.

* * * * * * *

The Port Authority, by its officers, employees, representatives, contractors, licensees, and their employees, shall have the right for the benefit of the Port Authority, or the Permittee and/or for the benefit of others than the Permittee to maintain existing and future heating, water, gas, electricity, sewerage, drainage, fire protection sprinkler, ventilating, refrigerating, fuel and communication systems and other such service systems, including all tubes, pipes, lines, mains, wires, conduits and equipment on or about the Space and to enter upon the Space at all reasonable times and to make such repairs, replacements and alterations as may, in the opinion of the Port Authority, be deemed necessary or advisable, and, from time to time, to construct or install over, on, in or under the Space new tubes, pipes, lines, mains, wires, conduits and equipment, provided however, that the same shall be done so as to interfere as little as reasonably possible with the Permittee's operations.

Nothing contained in this Endorsement shall or shall be construed to impose upon the Port Authority any obligations so to maintain or to make repairs, replacements, alterations or additions or any liability for failure to do so.

STANDARD ENDORSEMENT NO. 11.1
MAINTENANCE OF SERVICE FACILITIES
All Facilities
7/21/49

Notwithstanding any other provision of this Permit, the permission hereby granted shall in any event terminate with the expiration or termination of the lease of Port Newark from The City of Newark to the Port Authority under the agreement between the City and the Port Authority dated October 22, 1947, as the same from time to time may have been or may be supplemented or amended. Said agreement dated October 22, 1947 has been recorded in the Office of the Register of Deeds for the County of Essex on October 30, 1947 in Book E 110 of Deeds at pages 242, et seq. No greater rights or privileges are hereby granted to the Permittee than the Port Authority has power to grant under said agreement as supplemented or amended as aforesaid.

Port Newark shall mean the land and premises in the County of Essex and State of New Jersey, which are easterly of the right of way of the Central Railroad of New Jersey and are shown upon the exhibit attached to the said agreement between the City and the Port Authority and marked "Exhibit A", as contained within the limits of a line of crosses appearing on said exhibit and designated Boundary of terminal area in City of Newark, and lands contiguous thereto which may have been heretofore or may hereafter be acquired by the Port Authority to use for marine terminal purposes.

The Port Authority has agreed by a provision in its agreement of lease with the City covering Port Newark to conform to the enactments, ordinances, resolutions and regulations of the City and of its various departments, boards and bureaus in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection, to the extent that the Port Authority finds it practicable so to do. The Permittee shall, within forty eight (48) hours after its receipt of any notice of violation, warning notice, summons, or other legal process for the enforcement of any such enactment, ordinance, resolution or regulation, deliver the same to the Port Authority for examination and determination of the applicability of the agreement of lease provision thereto. Unless otherwise directed in writing by the Port Authority, the Permittee shall conform to such enactments, ordinances, resolutions and regulations insofar as they relate to the operations of the Permittee at Port Newark. In the event of compliance with any such enactment, ordinance, resolution or regulation on the part of the Permittee, acting in good faith, commenced after such delivery to the Port Authority but prior to the receipt by the Permittee of a written direction from the Port Authority, such compliance shall not constitute a breach of this Permit, although the Port Authority thereafter notifies the Permittee to refrain from such compliance. Nothing herein contained shall release or discharge the Permittee from compliance with any other provision hereof respecting governmental requirements.

SPECIAL ENDORSEMENTS

1) **Space**. Subject to and in accordance with all the terms and conditions of this Permit and the Endorsements annexed thereto, the Port Authority hereby grants the Permittee permission to use and occupy the open area located at the Facility as shown in diagonal cross-hatching on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A", together with the fixtures, improvements and other property of the Port Authority located or to be located therein or thereon (the "**Space**").

2) **Purposes**. The Permittee, in accordance with all the provisions and conditions of this Permit, shall use the Space as a construction staging area to support the Permittee's construction of a new deodorizer building and cooling tower structure on another premises leased to the Permittee by the Port Authority pursuant to Port Authority Lease No. LPN-301.

3) **Fees**. From and after the Effective Date, the Permittee agrees to pay to the Port Authority a monthly fee for the Space in the amount of Three Thousand Three Hundred Sixty-two Dollars and No Cents ($3,362.00).

4) **Security Agreement**. Notwithstanding anything to the contrary contained in this Permit, the Permittee hereby agrees that this Permit is one of the "Agreements", as such term is defined in that certain Security Agreement entered into between the Port Authority and the Permittee, dated as of February 20, 2009 and identified by Port Authority Agreement No. PCX-006 (the "**Security Agreement**"), and that a breach or failure to perform or comply with any of the terms and conditions of the Security Agreement, including without limitation failure to provide a security deposit in accordance with the terms and provisions of the Security Agreement at any time during the term under any of the Agreements valid and available to the Port Authority or, if applicable, any failure of any banking institution issuing a letter of credit to make one or more payments as provided in the Security Agreement, shall constitute a material breach of this Permit and the Security Agreement thereby entitling the Port Authority to immediately exercise any and all rights available to it, including without limitation the right to terminate this Permit for cause.

5) **TAA Review Fee**. The Permittee shall pay to the Port Authority, as compensation for its review and oversight of any construction and installation work undertaken by the Permittee with respect to the Space, a fee (the "**TAA Review Fee**"), in connection with the plan review and inspection of such work. The TAA Review Fee shall be an amount equal to three percent (3%) of the actual cost of such construction work.

For the Port Authority

Initialed:

For the Permittee

INSURANCE SCHEDULE

(a) The Permittee named in the permit to which this Insurance Schedule is attached and of which it constitutes an integral part (the "**Permit**"), in its own name as insured and including the Port Authority as an additional insured, shall maintain and pay the premiums during the effective period of the Permit on a policy or policies of Commercial General Liability Insurance and Commercial Automobile Liability Insurance, including premises-operations and products-completed operations and covering bodily-injury liability, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limit set forth below:

	Minimum Limits
Commercial General Liability Insurance Combined single limit per occurrence for death, bodily injury and property damage liability:	$3,000,000.00
Commercial Automobile Liability Insurance Combined single limit per occurrence for death, Bodily injury and property damage liability:	$2,000,000.00
Workers' Compensation and Employers Liability Insurance Permittee's obligations under the applicable State Workers' Compensation Law for those employees of the Permittee employed in operations conducted pursuant to the Permit at or from the Airport:	Statutory

In the event the Permittee maintains the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured, except for the Workers' Compensation and Employers Liability Insurance policies, to the full extent of all such insurance in accordance with all terms and provisions of the Permit, including without limitation this Insurance Schedule.

(b) Each policy of insurance, except for the Workers' Compensation and Employers Liability Insurance policies, shall also contain an ISO standard "separation of insureds" clause or a cross liability endorsement providing that the protections afforded the Permittee thereunder with respect to any claim or action against the Permittee by a third person shall pertain and apply with like effect with respect to any claim or action against the Permittee by the Port Authority and any claim or action against the Port Authority by the Permittee, as if the Port Authority were the named insured thereunder, but such clause or endorsement shall not limit, vary, change or affect the protections afforded the Port Authority thereunder as an additional insured. Each policy of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Permittee under this Permit.

(c) All insurance coverages and policies required under this Insurance Schedule may be reviewed by the Port Authority for adequacy of terms, conditions and limits of

coverage at any time and from time to time during the period of permission under the Permit. The Port Authority may, at any such time, require additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as the Port Authority may deem required and the Permittee shall promptly comply therewith.

(d) Each policy must be specifically endorsed to provide that the policy may not be cancelled, terminated, changed or modified without giving thirty (30) days' written advance notice thereof to the Port Authority. Each policy shall contain a provision or endorsement that the insurer "shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority." The foregoing provisions or endorsements shall be recited in each policy or certificate to be delivered pursuant to the following paragraph (e).

(e) A certified copy of each policy or a certificate or certificates of insurance evidencing the existence thereof, or binders, shall be delivered to the Port Authority upon execution and delivery of the Permit by the Permittee to the Port Authority. In the event any binder is delivered it shall be replaced within thirty (30) days by a certified copy of the policy or a certificate of insurance. Any renewal policy shall be evidenced by a renewal certificate of insurance delivered to the Port Authority at least thirty (30) days prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the Permit. The aforesaid insurance shall be written by a company or companies approved by the Port Authority. If at any time any insurance policy shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policy shall be or become unsatisfactory to the Port Authority, the Permittee shall promptly obtain a new and satisfactory policy in replacement. If the Port Authority at any time so requests, a certified copy of each policy shall be delivered to or made available for inspection by the Port Authority.

(f) The foregoing insurance requirements shall not in any way be construed as a limitation on the nature or extent of the contractual obligations assumed by the Permittee under the Permit. The foregoing insurance requirements shall not constitute a representation or warranty as to the adequacy of the required coverage to protect the Permittee with respect to the obligations imposed on the Permittee by the Permit or any other agreement or by law.

For the Port Authority

Initialed:

For the Permittee

Lease No. LPN-301

AGREEMENT OF LEASE

between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

and

AARHUSKARLSHAMN USA INC.

Dated as of December 31, 2010

CONFORMED COPY

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Lease No. LPN-301

THIS AGREEMENT OF LEASE, made as of December 31, 2010, by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter, the "Port Authority"), a body corporate and politic created by Compact between the States of New Jersey and New York, with the consent of the Congress of the United States of America, and having an office and place of business at 225 Park Avenue South, New York, New York 10003 and **AARHUSKARLSHAMN USA INC.** (hereinafter, the "Lessee"), a corporation organized and existing under the laws of the State of Delaware and having an office and place of business at 131 Marsh Street, Port Newark, Newark, New Jersey 07114, whose representative is Jean-Marc Rotsaert.

WITNESSETH, THAT:

The Port Authority and the Lessee, for and in consideration of the covenants and agreements hereinafter contained, hereby agree as follows:

Section 1. Letting and Easement

(a) The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark (sometimes hereinafter called the "Facility"), in the City of Newark, in the County of Essex and the State of New Jersey, the open area consisting of approximately 290,127 square feet of space shown in diagonal crosshatching on the sketch hereto attached, hereby made a part hereof, and marked "Exhibit A," together with the buildings, structures, fixtures and improvements heretofore constructed by the Lessee within the open area in accordance with the terms of that certain Agreement of Lease by and between the Port Authority and the Lessee dated as of July 26, 1988 (hereinafter, the "1988 Lease"), or that certain Agreement of Lease by and between the Port Authority and the Lessee dated as of September 1, 1996 (hereinafter, the "1996 Lease"), as the same have heretofore been amended, modified and supplemented (hereinafter, collectively the "1988 and 1996 Leases"), and together with the buildings, structures, storage tanks, fixtures, improvements and other property, if any, of the Port Authority located or to be located thereon, all of which is hereinafter collectively called the "Premises." As provided in Section 7(m) of this Agreement, title to certain improvements heretofore constructed and installed by the Lessee pursuant to the 1988 and 1996 Leases is held by the Lessee in accordance with the terms of the 1988 and 1996 Leases. The parties agree that the Premises constitutes non-residential property.

(b) During the period from the Commencement Date (as defined in Section 2, below) to December 31 , 2013, both dates inclusive, the Lessee shall have the right to install (and thereafter operate) a permanent above-ground piping system connecting Public Berth No. 12 to the Premises along the strip of land shown in stipple on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-1" (which area is sometimes hereinafter referred to as the "New Easement Area"). The Lessee shall submit an Alteration Application (as defined in the

Section of this Agreement entitled "Lessee's Construction Work") with respect to such installation, and the same shall be subject to a Review Fee, as also defined in said Section.

(i) In the event the Lessee installs such piping system during the aforesaid period, the Port Authority, upon application therefor from time-to-time during the letting and upon forty (40) days' prior notice from the Lessee, will issue a berthing permit to seagoing vessels, other than those being operated in common carrier service, for use of the water adjacent to Public Berth No. 12 solely for the discharge of vegetable oil to the Lessee's piping system for the transfer thereof to the Premises in connection with the permitted use of the Premises described in the Section of this Agreement entitled "Rights of User." The Lessee's use of Public Berth No. 12 for this purpose shall be subject to the Port Authority's tariff, as incorporated in FMC Schedule No. PA 10, as amended from time-to-time, including, without limitation, payment to the Port Authority of dockage and wharfage charges as set forth therein from time-to-time with respect to each vessel. The Lessee shall have no rights to permit the use of Public Berth No. 12 for the berthing of seagoing vessels except as otherwise expressly provided herein.

(ii) Except to the extent required to construct and maintain the piping system described in this paragraph and for the performance of any obligations it has with respect to the New Easement Area pursuant to the provisions of this Agreement in the event it elects to construct the piping system, the Lessee shall have no rights whatsoever in and to the ground and the subsurface areas below the New Easement Area, and the Port Authority shall have the right to the use thereof so long as such use shall not affect the structural integrity or right to support of the Lessee's piping system.

(iii) In the event the Lessee constructs the piping system described in this paragraph (b), the Lessee shall have all the same obligations and liabilities with respect to the New Easement Area as it has with respect to the Premises, except that the obligations and liabilities imposed pursuant to Section 48 of this Agreement shall not be applicable to the New Easement Area. Except with respect to "Rights of User" as set forth in Section 6 of this Agreement, whenever the term "Premises" is used in this Agreement it shall include the New Easement Area.

(iv) If the Lessee fails to construct the piping system within the time period set forth in this paragraph (b), the Lessee's right to use the New Easement Area shall become null and void and of no further force or effect, and the Lessee shall have no further right to use the New Easement Area at any time thereafter.

(c) The Port Authority acknowledges that pursuant to a specific grant of rights set forth in the 1988 Lease, the Lessee constructed an overhead bridge across the Marine Terminal Highway located on the Facility and denominated as "Marsh Street" for the purpose of installing a piping system connecting the premises under the 1988 Lease with a certain portion of the Facility under lease to another Facility tenant. The Port Authority hereby re-grants and confirms the aforesaid right of easement granted to the Lessee under the 1988 Lease with respect to the land lying beneath the piping system and the overhead bridge constructed by the Lessee in

order to permit the Lessee to continue to use the bridge and piping system it installed in accordance with the provisions of the 1988 Lease. The Lessee shall have all the same obligations and liabilities with respect to this existing easement area as it has with respect to the Premises, and, except with respect to "Rights of User" as set forth in Section 6 of this Agreement, whenever the term "Premises" is used in this Agreement it shall include this existing easement area. The Lessee shall have no rights whatsoever in and to the ground and the subsurface areas below this existing easement area, and the Port Authority shall have the right to the use thereof so long as such use shall not affect the structural integrity or right to support of the Lessee's piping system.

(d) In accordance with a specific grant of rights under the 1988 Lease, the Lessee removed certain railroad tracks located on the premises covered by the 1988 Lease and thereafter constructed new railroad tracks running along a strip of land shown in diagonal hatching on Exhibit A in order to connect with existing railroad tracks located elsewhere at the Facility. During the Term of the letting hereunder, the Lessee shall have the non-exclusive right to use the said railroad tracks constructed by the Lessee, as hereinabove described, and the off-premises railroad tracks to which they are connected, subject to and in accordance with all of the provisions of Standard Endorsement No. L 24.4 annexed to this Agreement and hereby made a part hereof.

(e) The parties hereto hereby acknowledge that the easement right granted to the Lessee in subsection 1(b) of the 1988 Lease to install a piping system connecting Berth 8 at the Facility to the premises under the 1988 Lease, has, in accordance with its express terms, lapsed and is of no force and effect under this Agreement, given that the Lessee did not install such piping system during the period for such installation provided in the 1988 Lease.

Section 2. Term

The term of the letting under this Agreement (sometimes hereinafter, the "Term") shall commence at 12:01 o'clock A.M. on January 1, 2011 (hereinafter sometimes, the "Commencement Date") and shall expire, if not sooner terminated, at 11:59 o'clock P.M. on December 31, 2030.

Section 3. Rentals

(a) The Lessee shall pay to the Port Authority an annual rental (hereinafter, the "basic rental"), as follows:

(i) During the period from January 1, 2011 through December 31, 2011 at the rate of Seven Hundred Sixty-three Thousand Thirty-four Dollars and Four Cents ($763,034.04) per annum, payable in advance in equal monthly installments of Sixty-three Thousand Five Hundred Eighty-six Dollars and Seventeen Cents ($63,586.17) on January 1, 2011 and on the first day of each calendar month thereafter during such period;

(ii) During the period from January 1, 2012 through December 31,

2012 at the rate of Eight Hundred Thirty-eight Thousand Four Hundred Sixty-seven Dollars and No Cents ($838,467.00) per annum, payable in advance in equal monthly installments of Sixty-nine Thousand Eight Hundred Seventy-two Dollars and Twenty-five Cents ($69,872.25) on January 1, 2012 and on the first day of each calendar month thereafter during such period;

(iii) During the period from January 1, 2013 through December 31, 2013 at the rate of Nine Hundred Twenty-two Thousand Six Hundred Three Dollars and Ninety-two Cents ($922,603.92) per annum, payable in advance in equal monthly installments of Seventy-six Thousand Eight Hundred Eighty-three Dollars and Sixty-six Cents ($76,883.66) on January 1, 2013 and on the first day of each calendar month thereafter during such period;

(iv) During the period from January 1, 2014 through December 31, 2014 at the rate of Nine Hundred Ninety-two Thousand Two Hundred Thirty-four Dollars and Forty Cents ($992,234.40) per annum, payable in advance in equal monthly installments of Eighty-two Thousand Six Hundred Eighty-six Dollars and Twenty Cents ($82,686.20) on January 1, 2014 and on the first day of each calendar month thereafter during such period.

The basic rental set forth in this paragraph (a) shall be adjusted during the term of the letting in accordance with the provisions of Section 4 of this Agreement.

(b) As used in this Agreement, the following terms shall have the meanings set forth below:

(1) "Annual Period" shall mean, as the context requires, the twelve-month period commencing on January 1, 2011, and each succeeding twelve-month period commencing on each January 1st occurring thereafter during the term of the letting under the Lease.

(2) "Exemption Tonnage" shall mean Two Hundred Thousand (200,000) metric tons for each Annual Period.

(3) "Production Fee" shall be equal to $3.00 per metric ton. The Production Fee will increase annually in accordance with the provisions of Section 4 of this Agreement.

(4) "Ton" and "tonnage" shall mean metric tons.

(c) In addition to the basic rental set forth in paragraph (a), above, the Lessee shall pay to the Port Authority an annual additional basic rental (hereinafter, the "Production Rental") during the twelve-month period commencing January 1, 2011 and each succeeding twelve-month period commencing on each January 1st thereafter during the Term. The Production Rental shall be calculated as follows: if, during any Annual Period during the Term, the total number of tons of processed vegetable oil produced at the Premises by the Lessee shall exceed the Exemption Tonnage, then the Lessee shall pay to the Port Authority a sum equal to the product obtained by multiplying: (1) the number of tons of processed vegetable oil produced by the Lessee at the Premises during each Annual Period that is in excess of the Exemption Tonnage by (2) the sum of Three Dollars and No Cents ($3.00). The Production Rental shall be

reported and paid by the Lessee as follows: on or before the 30th day immediately following the end of each Annual Period, the Lessee shall render to the Port Authority a statement sworn to by the chief financial officer of the Lessee showing the tonnage of vegetable oil processed by the Lessee at the Premises during the Annual Period, and the Lessee shall pay to the Port Authority at the time of rendering such statement the amount of any Production Rental due under the provisions of this paragraph.

(d) Upon any termination of the letting hereunder (even if stated to have the same effect as expiration), the tonnage of cargo shall be reported and the Production Rental shall be paid on the 20th day of the first month following the month in which the effective date of such termination occurs, as follows: the Lessee shall render to the Port Authority a statement sworn to by the chief financial officer of the Lessee of the total tonnage of processed vegetable oil produced by the Lessee at the Premises during the Annual Period in which the effective date of termination falls; the payment then due on account of all the Production Rental for the Annual Period in which the effective date of termination falls shall be the excess of the Production Rental for such Annual Period, computed as follows, over the total of all Production Rental payments previously made by the Lessee for such Annual Period: an amount equal to the product obtained by multiplying (1) the number of tons of processed vegetable oil produced by the Lessee at the Premises that is in excess of the Exemption Tonnage by (2) the sum of Three Dollars and No Cents ($3.00), said Exemption Tonnage being multiplied by a fraction, the numerator of which shall be the number of days from the commencement of the Annual Period in which the effective date of termination falls to the effective date of termination and the denominator of which shall be 365.

(e) Nothing contained in this Agreement shall be deemed to render any records, or any sworn statement, of the Lessee required to be maintained or supplied hereunder conclusive as to any of the matters set forth therein. The Port Authority may at its sole discretion, in lieu of any records or books of account or statements of the Lessee, employ its own records and books of account for the calculation of any amounts to be paid under this Agreement.

(f) In the event that the Lessee shall at any time by the provisions of the Lease become entitled to an abatement of the Production Rental payable under paragraph (b) hereof, then the Exemption Tonnage shall be reduced proportionately to the reduction of said basic rental.

Section 4. Escalation

(a) As used in paragraph (b) of this Section:

(1) "Index" shall mean the Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100) published by the Bureau of Labor Statistics of the United States Department of Labor.

(2) "Base Period" shall mean the calendar month of October

2013.

(3) "Adjustment Period" shall mean, as the context requires, the calendar month of October 2014 and the calendar month of October in each calendar year that thereafter occurs during the Term.

(4) "Anniversary Date" shall mean, as the context requires, January 1, 2015 (the "First Anniversary Date") and each anniversary of such date that thereafter occurs during the Term.

(5) "Percentage Increase" shall mean the percentage of increase in the Index on each Anniversary Date equal to a fraction the numerator of which shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the Base Period and the denominator of which shall be the Index for the Base Period.

(b) Commencing on the First Anniversary Date and for the period commencing with each Anniversary Date and continuing through to the day preceding the next Anniversary Date, or the expiration date of the Term under this Agreement, as the case may be, both dates inclusive, in lieu of the basic rental set forth in subparagraph (a)(iv) of Section 3 hereof, the Lessee shall pay a basic rental at a rate per annum equal to the greatest of:

(1) the sum obtained by adding to the annual basic rental set forth in subparagraph (a)(iv) of Section 3 hereof the product obtained by multiplying such basic rental by one hundred percent (100%) of the Percentage Increase for such Anniversary Date, or

(2) the basic rental payable immediately prior to such Anniversary Date including all amounts included therein as a result of prior adjustments thereof pursuant to the provisions of this paragraph, or

(3) the amount set forth in the Schedule annexed to this Agreement, hereby made a part hereof, and marked "Schedule A" opposite the Anniversary Date in question.

Notwithstanding any other provision of this Agreement, the basic annual rental that shall be payable pursuant to Section 3 hereof and this Section commencing with each Anniversary Date and continuing through to the day preceding the following Anniversary Date, or the expiration date of the term of the letting under this Agreement, as the case may be, both dates inclusive, shall in no event exceed the amount set forth in the Schedule annexed to this Agreement, hereby made a part hereof, and marked "Schedule B" opposite the Anniversary Date in question. For example, if the Percentage Increase for the calendar month of January 2015 is shown to be four percent (4%), then the basic annual rental payable under Section 3 hereof and this Section for the one-year period commencing January 1, 2015 shall be $992,234.40 plus four percent (4%) thereof, or $1,031,923.78, but if (A) said increase is shown to be one percent (1%), then the basic

annual rental for that one-year period shall be $1,012,079.09, and if (B) said increase is shown to be six percent (6%), then the basic annual rental for that one-year period shall be $1,041,846.12. As a further example, if for the calendar month of January 2016 the calculated increase is shown to be seven percent (7%), then the basic annual rental payable under Section 3 hereof and this Section for the one-year period commencing January 1, 2016 shall be $992,234.40, plus seven percent (7%) thereof, or $1,061,690.80, but if (C) said increase is shown to be one percent (1%), then the basic annual rental for that one-year period shall be $1,031,923.78, and if (D) said increase is shown to be twelve percent (12%), then the basic annual rental for that one-year period shall be $1,091,457.84.

(c) In the event the Index to be used in computing any adjustment referred to in paragraph (b) of this Section is not available on the effective date of such adjustment, the Lessee shall continue to pay the basic rental at the annual rate then in effect subject to retroactive adjustment at such time as the specified Index becomes available, *provided, however*, that the Port Authority may at its option substitute for such Index the Index for the latest preceding month then published to constitute the specified Index. In the event the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100) shall hereafter be converted to a different standard reference base or otherwise revised or the United States Department of Labor shall cease to publish the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100), then for the purposes hereof there shall be substituted for the Index such other appropriate index or indices properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest adjustment as the Port Authority may in its discretion determine.

If after an adjustment in basic rental shall have been fixed for any period, the Index used for computing such adjustment shall be changed or adjusted, then the rental adjustment for that period shall be recomputed and from and after notification of the change or adjustment, the Lessee shall make payments based upon the recomputed rental and upon demand shall pay any excess in the basic rental due for such period as recomputed over amounts theretofore actually paid on account of the basic rental for such period. If such change or adjustment results in a reduction in the basic rental due for any period prior to notification, the Port Authority will credit the Lessee with the difference between the basic rental as recomputed for that period and amounts of basic rental actually paid.

If any adjustment of basic rental referred to in any of the subparagraphs of paragraph (b) of this Section is effective on a day other than the first day of a calendar month, there shall be payable in advance on the effective date of rental adjustment an installment of basic rental equal to 1/12th of the increment of annual basic rental as adjusted multiplied by a fraction, the numerator of which shall be the number of days from the effective date of the rental adjustment to the end of the calendar month in which the rental adjustment was effective and the denominator of which shall be the number of days in that calendar month.

Section 5. Abatement

If at any time during the period from January 1, 2011 through December 31, 2014 the Lessee shall become entitled to an abatement of basic rental, whether pursuant to the terms of this Agreement, or otherwise, such abatement shall be computed as follows: for each square foot of usable open area the use of which is denied the Lessee, at the annual rate of $2.63 during the period from January 1, 2011 through December 31, 2011; at the annual rate of $2.89 during the period from January 1, 2012 through December 31, 2012; at the annual rate of $3.18 during the period from January 1, 2013 through December 31, 2013; and at the annual rate of $3.42 during the period January 1, 2014 through December 31, 2014, the rate thereafter to be adjusted during the term of the letting proportionately to the adjustment in basic rental in accordance with the provisions of paragraph (b) of Section 4 hereof.

Section 6. Rights of User

The Lessee shall use the Premises solely for the operation of a facility constructed by the Lessee for the receipt substantially by waterborne transportation of vegetable and other similar oils and essences (hereinafter sometimes referred to as "vegetable oil") and for the storage, handling, processing, and shipment thereof and for ancillary purposes related thereto. The Lessee shall not use the Premises for any other purpose or purposes whatsoever.

Section 7. Lessee's Construction Work

(a) The Lessee agrees to and shall perform the construction and installation work more fully described in the exhibit attached hereto, hereby made a part hereof and marked "Exhibit B" (the said work hereinafter, the "Lessee's Construction Work"). The Lessee shall perform the Lessee's Construction Work at its sole cost and expense, and the Port Authority shall have no obligation to make any payment to the Lessee on account of the performance of the Lessee's Construction Work. The Lessee agrees that it shall spend not less than Fourteen Million Dollars and No Cents ($14,000,000.00) on the Lessee's Construction Work, which shall include, but not be limited to, the "cost," as defined below, of the following items of equipment and material to be acquired and installed by the Lessee in connection with its "Deodorizer No. 3 Project": deodorizer equipment, boilers, pipes, valves, electrical wiring, controls, foundation, piles, building supports, heat exchangers, drop tanks, oil storage tanks, truck scales, computer process software and computer hardware, paving costs directly incurred in connection with the Deodorizer No. 3 Project and shall also include equipment leasing costs, the costs of other equipment and labor costs incurred in connection with the performance of the Lessee's Construction Work, but shall not include the amount of the Review Fee, as defined in paragraph (q), below, of this Section. The Lessee agrees that it shall substantially complete the Lessee's Construction Work no later than December 31, 2013, as such date may be extended due to Force Majeure (as hereinafter defined in paragraph (a) of the Section of this Agreement entitled "Force Majeure", the terms of which paragraph (a) shall be applicable to the Lessee in connection with the performance by the Lessee of the Lessee's Construction Work). For purposes of this Agreement, "substantial completion" shall mean completion by the Lessee of not less than eighty-five percent (85%) of all of the Lessee's Construction Work, provided that in the event

the Lessee has completed at least eighty-five percent (85%), but not the entirety of the Lessee's Construction Work by December 31, 2013, the Lessee shall demonstrate to the Port Authority, upon request, firm and binding commitments with third party contractors and suppliers for the full completion of the Lessee's Construction Work within a reasonable time thereafter, not to exceed six (6) months. The Lessee's failure to comply with the provisions of this Section with respect to the construction and installation of the Lessee's Construction Work shall not constitute an event of default under Section 23 of this Agreement. Within thirty (30) days following full completion of the Lessee's Construction Work, the Lessee shall deliver to the Port Authority a certificate signed by an authorized officer of the Lessee attaching a full statement of the cost of the Lessee's Construction Work performed in the Premises by or on behalf of the Lessee, which shall consist only of a final cost summary and copies of invoices paid by the Lessee (but not copies of invoices paid by any contractors or subcontractors). The aforesaid certificate shall also be accompanied by full and complete invoices or statements of the Lessee's qualified architect or professional engineer and of any other technical, mechanical, electrical and structural consultants and subcontractors and service providers retained by the Lessee for the performance of the Lessee's Construction Work, setting forth the actual direct cost incurred by the Lessee in performing the Lessee's Construction Work in the Premises. "Cost," as used herein, shall mean the sum of direct labor and material costs and contract costs for the purchase and installation of fixtures, equipment and related finishing work. In no event whatsoever shall "cost", as defined and computed in this paragraph, include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any equipment or fixtures or the making of any finishing unless the same are actually installed in the Premises and substantially completed.

(b) The Lessee shall be the insurer of the Port Authority, its Commissioners, officers, agents and employees with respect to the Lessee's Construction Work against the following distinct and several risks, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from affirmative willful acts done by the Port Authority subsequent to commencement of the work:

(i) The risk of loss or damage to all such construction prior to the completion thereof. In the event of such loss or damage, the Lessee shall forthwith repair, replace and make good the work without cost to the Port Authority;

(ii) The risk of death, injury or damage, direct or consequential, to the Port Authority, and its Commissioners, officers, agents and employees, and to its or their property, arising out of or in connection with the performance of the work. The Lessee shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, for all such injuries and damages, and for all loss suffered by reason thereof;

(iii) The risk of claims and demands, just or unjust, by third persons against the Port Authority, and its Commissioners, officers, agents and employees,

arising or alleged to arise out of the performance of the work. The Lessee shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, against and from all such claims and demands, and for all loss and expense incurred by it and by them in the defense, settlement or satisfaction thereof including without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential.

(c)(1) Prior to the commencement of any of the Lessee's Construction Work, the Lessee shall submit to the Port Authority for its approval a construction application in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract (the "Tenant Alteration Application"). The data to be supplied by the Lessee shall identify each of the items constituting the Lessee's Construction Work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. The Lessee shall pay to the Port Authority a Review Fee (as defined in paragraph (q) of this Section) for its cost of administration with regard to the Lessee's Tenant Alteration Application. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority, acting in a non-arbitrary and non-capricious manner, and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. The Port Authority shall review the Lessee's Tenant Alteration Application in accordance with standard Port Authority Tenant Alteration Application procedures. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Port Authority shall not request any revisions or modifications to the plans and specifications covering the Lessee's construction work (i) except for reasons of safety, health operational utility impact on or compatibility of the proposed work on utility systems or on other parts of the Facility or (ii) unless the Port Authority, acting in non-arbitrary and non-capricious manner, determines that the proposed work fails to comply with all governmental laws, ordinances, enactments, resolutions, rules and orders, including without limitation the enactments ordinances resolutions and regulations of the City of Newark and its various departments, boards and bureaus that are applicable or would be applicable if the Port Authority were a private corporation, or fails to comply with all applicable requirements of the National Fire Protection Association. All plans and specifications submitted by the Lessee in accordance with this paragraph shall be in such detail as may permit the Port Authority, acting in a non-arbitrary and non-capricious manner, to make a determination as to whether the standards set forth in this paragraph are met. The Port Authority shall not apply the standards enumerated in this paragraph in an arbitrary or capricious manner, and the Port Authority shall apply such standards without discrimination against the Lessee. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port

Authority, acting in a non-arbitrary and non-capricious manner, may require for such review. Following the Port Authority's receipt of the Lessee's Tenant Alteration Application and complete plans and specifications, the Port Authority, acting in a non-arbitrary and non-capricious manner, shall give its written approval or rejection thereof or shall request such revisions or modifications thereto as the Port Authority, acting in a non-arbitrary and non-capricious manner, may find necessary based upon the standards enumerated in this paragraph. The Port Authority agrees to act with reasonable promptitude in granting or withholding its approval. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been approved by the Port Authority. In considering the Lessee's requests for approval of contractors and subcontractors, and the contracts such contractors and subcontractors are operating under, the Port Authority shall not act in an arbitrary and capricious manner, and the Port Authority agrees to act with reasonable promptitude in granting or withholding its approval thereof after written request therefor by the Lessee and will advise the Lessee of the specific reasons for its withholding of any approval. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Tenant Alteration Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in paragraphs (i) and (j) of this Section. All of the Lessee's Construction Work shall be performed by the Lessee in accordance with the Tenant Alteration Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon final completion of all of the Lessee's Construction Work the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this paragraph certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement, and the Lessee shall supply the Port Authority with one (1) set of as-built drawings of the Lessee's Construction Work in such form as the Port Authority shall determine. The Lessee shall keep said drawings current during the term of the letting under this Agreement. No changes or modifications to such work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, the Port Authority shall inspect the work with reasonable promptitude, and, unless such certification is not correct, a certificate of final completion shall be delivered to the Lessee by the Port Authority with reasonable promptitude. In the event the Port Authority withholds the said certificate of final completion, it shall advise the Lessee of the specific reasons therefor. Except as set forth in subparagraph (2) of this paragraph, the Lessee shall not use or permit the use of the Lessee's Construction Work for the purposes set forth in Section 6 of this Agreement prior to final completion of the Lessee's Construction Work.

(2) In the event that from time to time during the performance of the Lessee's Construction Work integral and material portions of the Lessee's Construction Work are substantially completed or properly usable the Lessee may deliver to the Port Authority a certificate signed by a responsible officer of the Lessee certifying that such portion of the Lessees Construction Work has been performed in accordance with the Tenant Alteration Application

and the plans and specifications applicable thereto which have been approved by the Port Authority and in compliance with all applicable governmental laws, rules, orders, ordinances, enactments, resolutions, regulations, statutes, requirements, codes, directions and executive orders and the provisions of this Agreement and certifying that such portion of the Lessee's Construction Work can be properly and safely be used even though the balance of the Lessee's Construction Work to be performed on the premises has not been completed and that the Lessee desires such use. In addition, the architect or engineer who sealed or prepared the Lessee's plans in accordance with the provisions of this paragraph shall certify that such portion of the Lessee's Construction Work has been performed in accordance with the Tenant Alteration Application and the plans and specifications applicable thereto which have been approved by the Port Authority and in compliance with all applicable governmental laws, rules, orders, ordinances, enactments, resolutions, regulations, statutes, requirements, codes, directions, and executive orders and the provisions of this Agreement and certifying that such portion of the Lessee's Construction Work can be properly and safely be used even though the balance of the Lessee's Construction Work to be performed on the premises has not been completed. The Port Authority shall inspect such portion of the Lessee's Construction Work with reasonable promptitude and, exercising its discretion in a non-arbitrary and non-capricious manner, shall deliver a certificate to the Lessee with respect to such portion of the Lessee's Construction Work with reasonable promptitude permitting the Lessee to use such portion of the Lessee's Construction Work in connection with its permitted use as set forth in Section 6 of this Agreement or advise the Lessee of the specific reasons for withholding said certificate. In such event the Lessee may use such of the Lessee's Construction Work for the purposes set forth in Section 6 hereof, subject to the condition that all risk thereafter with respect to the Lessee's Construction Work and any liability therefor for negligence or other reason shall be borne by the Lessee and subject to such further limitations restrictions and requirements as the Port Authority, acting in a non-arbitrary and non-capricious manner, may at that time impose. Use of any portion of the Lessee's Construction Work for the purposes set forth in Section 6 hereof prior to the final completion of the Lessee's Construction Work in accordance with the provisions of this subparagraph shall be subject to and in accordance with all of the terms provisions and conditions of this Agreement except as amended by the terms of the above-mentioned Port Authority consent. At any time prior to the final completion of the Lessee's Construction Work, the Lessee shall promptly upon receipt of written notice from the Port Authority cease its use of such portion of the Lessee's Construction Work which it had been using pursuant to permission granted in this subparagraph.

(d) Except as set forth in paragraph (e) of this Section, the Lessee shall not commence any portion of the Lessee's Construction Work until the Tenant Alteration Application and plans and specifications covering such work, referred to in paragraph (c) of this Section, have been finally approved by the Port Authority and the insurance required pursuant to paragraphs (i) and (j) obtained.

(e) If the Lessee desires to commence construction of the Lessee's construction work prior to the approval by the Port Authority of the complete Tenant Alteration Application and plans and specifications covering all of such work pursuant to paragraph (c) of this Section, the Lessee shall submit to the Port Authority a separate Tenant Alteration Application for each portion of the Lessee's Construction Work the Lessee so desires to

commence (each such portion of the Lessee's Construction Work being hereinafter designated as "Partial Approval Work") that shall be executed by an authorized officer of the Lessee and shall be accompanied by final and complete plans, specifications, drawings and data with respect to such portion of the Lessee's Construction Work (the final and complete plans, specifications, drawings and data covering each such portion of the Lessee's Construction Work are hereinafter referred to as the "Partial Approval Work Plans") setting forth in detail the work to be performed in connection with each such portion of the Lessee's Construction Work. The Port Authority shall have full and complete discretion as to whether to permit the Lessee to proceed with the performance of any Partial Approval Work. If the Port Authority consents to the performance of any Partial Approval Work, the Port Authority shall review the Tenant Alteration Application covering such work and shall give its written approval or rejection of the Partial Approval Work Plans with respect thereto or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Port Authority shall review the Lessee's Tenant Alteration Application in accordance with standard Port Authority Tenant Alteration Application procedures. Upon the Port Authority's approval of the Tenant Alteration Application covering an item of Partial Approval Work and its approval of the Partial Approval Work Plans with respect thereto, the Lessee may proceed to perform such item of Partial Approval Work subject to and in accordance with the following terms and conditions:

(1) The performance by the Lessee of any item of Partial Approval Work in accordance with the Port Authority's approval will be at its sole risk and if for any reason the plans and specifications for the balance of the Lessee's Construction Work or any part thereof are not approved by the Port Authority or if the approval thereof calls for modifications or changes in any item of Partial Approval Work undertaken by the Lessee under any approval granted by the Port Authority pursuant to this subparagraph, the Lessee will as directed by the Port Authority and at the Lessee's sole cost and expense either restore the area affected to the condition existing prior to the commencement of such item of Partial Approval Work or make such modifications and changes to such work as may be required by the Port Authority.

(2) Nothing contained in any approval given pursuant to this subparagraph shall constitute determination or indication by the Port Authority that the Lessee has complied with any laws, rules, orders, ordinances, enactments, resolutions, regulations, statutes, requirements, codes, directions and executive orders, including but not limited to those of the City of Newark that may pertain to the Partial Approval Work to be performed and that the Lessee is required to comply with pursuant to this Agreement.

(3) Each item of Partial Approval Work shall be performed in accordance with and subject to the terms and provisions of this Agreement covering the Lessee's Construction Work and in accordance with the approved Tenant Alteration Application covering such item of Partial Approval Work and in accordance with the approved Partial Approval Work Plans constituting part of such Tenant Alteration Application, and subject to any requirements stipulations and provisions that the Port

Authority may impose in its approval of the performance of such item of Partial Approval Work.

(4) No Partial Approval Work performed by the Lessee pursuant to the provisions of this paragraph shall affect or limit the obligations of the Lessee under any prior approvals it may have obtained with respect to the Lessee's Construction Work.

(5) The fact that the Lessee has performed any item of Partial Approval Work and that the Port Authority has consented to the performance thereof shall not affect or limit the obligations of the Lessee under this Agreement with respect to the Lessee's Construction Work. The Lessee specifically understands that neither the Port Authority's approval of any Tenant Alteration Application and Partial Approval Work Plans covering any item of Partial Approval Work nor the performance by the Lessee of any item of Partial Approval Work pursuant to such approval shall obligate the Port Authority to approve the Tenant Alteration Application and plans and specifications submitted by the Lessee for the balance of the Lessee's Construction Work or shall create or be deemed to create any obligation on the part of the Port Authority to permit subsequent Partial Approval Work to be performed. Without limiting the generality of the provisions of this paragraph, it is specifically understood that the Port Authority may withhold its approval of the Tenant Alteration Application and Partial Approval Work Plans covering any item of Partial Approval Work if the Port Authority determines that review of subsequent items of Partial Approval Work is required before the Port Authority can approve reject or comment upon such Partial Approval Work Plans.

(6) In the event that in the non-arbitrary and non-capricious opinion of the Port Authority the Lessee at any time during the performance of any portion of any item of Partial Approval Work under the approval granted by the Port Authority pursuant to this paragraph shall fail to comply with all of the provisions of this Agreement with respect to such Partial Approval Work or shall fail to comply with the provisions of the Tenant Alteration Application covering such work and the plans and specifications forming part thereof or shall fail to comply with any requirements stipulations or provisions imposed by the Port Authority in its approval of the performance of such item of Partial Approval Work or if in the Port Authority's opinion the Lessee shall be in breach of any of the provisions of this Agreement covering such work or shall be in breach of any of the provisions of the Tenant Alteration Application and plans and specifications covering the performance of such Partial Approval Work or shall be in breach of any requirements stipulations or provisions imposed by the Port Authority in its approval of the Partial Approval Work, the Port Authority shall have the right to cause the Lessee to cease all or such part of such item of the Partial Approval Work as is being performed in violation of this Agreement, the Tenant Alteration Application and plans and specifications, or the conditions of the Port Authority's approval. Upon written direction from the Port Authority, the Lessee shall promptly cease performance of the portion of the Partial Approval Work specified. The Lessee shall thereupon submit to the Port Authority for its written approval the Lessee's proposal for making modifications, corrections or changes in or to the item of Partial Approval Work that has been or is to be

performed so that the same will comply with the provisions of this Agreement, the Tenant Alteration Application and plans and specifications, or the conditions of the Port Authority's approval covering such Partial Approval Work. The Lessee shall not commence construction of the portion of the Partial Approval Work that has been halted until it has received written approval of the proposed modifications, corrections or changes.

(7) It is hereby expressly understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of any Partial Approval Work by the Lessee and the rights granted to the Port Authority hereunder shall not create or be deemed to create such duty or obligation. Accordingly, the fact that the Port Authority has not exercised its right to require the Lessee to cease performance of all or any part of the Partial Approval Work shall not be or be deemed to be an agreement or acknowledgement on the part of the Port Authority that the Lessee has in fact performed such work in accordance with the terms of this Agreement, the Tenant Alteration Application and plans and specifications covering such work or the conditions of the Port Authority's approval of such Partial Approval Work, nor shall such fact be or be deemed to be waiver by the Port Authority of any of the requirements of this Agreement with respect to such work or any of the requirements of the Tenant Alteration Application and plans and specifications covering such work or any of the conditions of the Port Authority's approval of such work.

(f) Without limiting the generality of any of the provisions of this Agreement, the Lessee's Construction Work shall be performed in such a manner that there will be at all times during construction a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of, or resulting from construction. Subject to the provisions of this Agreement, the Lessee shall construct such structures, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives set forth in this paragraph, and, without limiting the generality of the foregoing, such construction shall be subject to the Port Authority's review and approval in accordance with the provisions of this Section.

(g) Without limiting or affecting the generality of paragraph (c) of this Section, the Lessee shall be solely responsible for plans and specifications used by it and for the adequacy and sufficiency of such plans and specifications and all the improvements, fixtures and equipment depicted thereon or covered thereby, regardless of the consent thereto or approval thereof by the Port Authority. The Lessee likewise shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the Premises by the Lessee and all other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee in the Premises and shall do all preventive maintenance and make all repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear and tear which does not (i) adversely affect the efficient or proper

utilization of any part of the Premises, or (ii) adversely affect the appearance of any part of the Premises. The Port Authority shall have no obligation or liability in connection with the performance of any of the Lessee's Construction Work or for the contracts for the performance thereof entered into by the Lessee. Any warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of the Port Authority as well as the Lessee. In the event of any inconsistency between the provisions of this Agreement and those of the Lessee's Tenant Alteration Application, the provisions of this Agreement shall control, including, without limitation, the provisions of paragraph (q) of this Section requiring the payment of the Review Fee, as defined in said paragraph (q).

(h) The Lessee shall pay all claims lawfully made against it by its contractors, subcontractors, materialmen and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them. Nothing herein contained shall be deemed to constitute consent to the creation of any lien or claim against the Premises or any part thereof, nor to prevent the Lessee from contesting claims in good faith. No contractor or third party shall, or shall be deemed to, have acquired any rights against the Port Authority by virtue of the execution of this Agreement, and nothing contained herein shall operate or give to any such contractor or third party any claim or right of action against the Port Authority and its Commissioners, officers, agents and employees.

(i) In addition to all policies of insurance otherwise required by this Agreement, the Lessee shall procure and maintain or cause to be procured and maintained in effect during the performance of that portion of the Lessee's Construction Work constituting the Lessee's Construction Work:

(i) Commercial General Liability Insurance including but not limited to coverage for the Premises operations and completed-operations, with a contractual liability endorsement covering the obligations assumed by the Lessee under paragraph (b) of this Section, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of $5 million.

(ii) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage for bodily injury and property damage of $2 million.

(iii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law and in limits of not less than $1 million per accident. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by (aa) the U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B – "Jones Act," maritime (including coverage for Masters or Members of the Crew of Vessels) and (bb) Coverage B under the Federal Employers' Liability Act.

(j) In addition to the insurance required pursuant to the provisions of paragraph (h) of this Section, the Lessee shall procure or cause to be procured prior to the commencement of any work Builder's Risk Insurance (All Risk) covering loss or damage (including any loss or damage resulting from flood or earthquake) to any structures, improvements, fixtures and equipment and furnishing and materials on the Premises during said construction, whether or not attached to the land, in an amount equal to the full replacement cost. Such insurance shall name the Port Authority as an insured and such policy shall provide that the loss shall be adjusted with the Lessee, and that the proceeds thereof shall be paid to the Lessee to be used by the Lessee for, and applied strictly and solely to the payment of, the cost of the repair, replacement, rebuilding or other performance of the Lessee's Construction Work.

(k) With the exception of the Workers' Compensation and Employers' Liability Insurance policy each policy of insurance described in paragraph (i) of this Section shall include the Port Authority as an additional insured (including, without limitation, for coverage under Premises operations and completed-operations), and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured or the coverage under the contractual liability endorsement described in subdivision (i) of paragraph (h) of this Section. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured. Such insurance shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority.

(l) Unless otherwise set forth herein, each policy of insurance described in paragraphs (i) and (j) of this Section shall be subject to the applicable provisions of paragraph (e) of the Section 13 of this Agreement entitled "Indemnity and Liability Insurance."

(m) Title to and property in all improvements and fixtures placed, constructed or installed in or on the Premises, except (1) the pipes, piping systems, railroad tracks, trade fixtures or other items of personal property installed by the Lessee for use in connection with the operations described Section 6 of this Agreement and removable without substantial injury to the Premises, (2) the items of equipment installed as part of Lessee's Construction Work and (3) those improvements constructed by the Lessee and title to which expressly remained in the Lessee in accordance with the terms of the 1988 and 1996 Leases, shall vest in the Port Authority upon placement, construction or installation thereof. Without limiting any other term of this Agreement, and notwithstanding the foregoing provisions, upon notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the

letting of the Premises under this Agreement, the Lessee shall remove from the Premises any improvements, fixtures, trade fixtures or equipment as the Port Authority may specify in its notice and shall repair any damages to the Premises cause by such removal.

(n) In the performance of the Lessee's Construction Work the Lessee shall not permit any situation or condition to continue that may cause or be conducive to any labor troubles at the Facility which interferes with the progress of other construction work at the Facility. The determinations of the Port Authority shall be conclusive on the Lessee and, upon notice from the Port Authority, the Lessee shall or shall cause its contractor to rectify any condition specified in the notice as soon as is reasonably possible, unless failure to rectify any condition specified in the notice immediately will result in an emergency situation, in which event the Lessee shall or shall cause its contractor to rectify such condition immediately. In the event of failure by the Lessee or any of its contractors promptly and expeditiously to comply with the requirements of this paragraph (whether or not such failure is due to the Lessee's fault) the Port Authority by notice shall have the right to suspend the Port Authority's permission to the Lessee to proceed with any portion of the Lessee's Construction Work being performed by or on behalf of the Lessee, and the Lessee shall thereupon immediately cease the same. Unless failure to immediately suspend construction will result in an emergency situation, the Port Authority will give the Lessee reasonable advance notice before directing a cessation of construction. When labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority by notice to the Lessee shall reinstate the permission to the Lessee to perform the work on all the same terms and conditions as before the suspension. "Labor troubles" shall mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, complaints, disputes, controversies or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any.

(o) Without limiting any of the terms and conditions hereof, the Lessee understands and agrees that it shall use good faith efforts to put into effect prior to the commencement of the Lessee's Construction Work an affirmative action program and Minority Business Enterprise (MBE) program and Women-owned Business Enterprise (WBE) program in accordance with the provisions of Schedule E, attached hereto and hereby made a part hereof. The provisions of Schedule E shall be applicable to the Lessee's contractor or contractors and subcontractors at any tier of construction as well as to the Lessee, and the Lessee agrees to include the provisions of Schedule E in all of its construction contracts so as to make the provisions and undertakings set forth in Schedule E the direct obligation of the construction contractor or contractors and subcontractors at any tier of construction. The Lessee agrees to and shall require its contractors and subcontractors to furnish to the Port Authority such data, including but not limited to compliance reports, relating to the operation and implementation of the affirmative action, MBE, and WBE programs of the Lessee and its contractor, contractors, and subcontractors at any tier of construction called for under the provisions of this paragraph and Schedule E annexed hereto as the Port Authority may request at any time and from time to time and the Lessee agrees to and shall also require that its contractors and subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions of this paragraph and Schedule E annexed hereto to effectuate the goals of affirmative action, MBE, and WBE programs. The

obligations imposed on the Lessee under this paragraph and Schedule E annexed hereto shall not be construed to impose any greater requirements on the Lessee than those that may be imposed on the Lessee under applicable law.

(p) In addition to and without limiting any terms and provisions hereof, the Lessee shall provide in all of its contracts and subcontracts covering the Lessee's Construction Work, or any portion thereof, that:

(1) The contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and shall undertake or continue existing programs of affirmative action to ensure that minority group persons are afforded equal employment opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeships and on-the-job training;

(2) At the request of either the Port Authority or the Lessee, the contractor shall request such employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding and which is involved in the performance of the contract with the Lessee to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder;

(3) The contractor will state, in all solicitations or advertisements for employees placed by or on behalf of the contractor in the performance of the contract, that all qualified applicants will be afforded equal employment opportunity without discrimination because of race, creed, color, national origin, sex, age, disability or marital status;

(4) The contractor will include the provisions of subdivisions (1) through (3) of this paragraph in every subcontract or purchase order in such a manner that such provisions will be binding upon each subcontractor or vendor as to its work in connection with the contract;

(5) "Contractor" as used in this paragraph shall include each contractor and subcontractor at any tier of construction.

(q) The Lessee shall pay to the Port Authority a fee as compensation for its review and oversight of the Lessee's Construction Work (hereinafter, the "Review Fee"). The total Review Fee shall be an amount equal to two percent (2%) of the actual construction cost of the Lessee's Construction Work, excluding therefrom all costs for the purchase or acquisition of equipment or materials. Upon final completion of all of the work under each Tenant Alteration Application to be performed by the Lessee as set forth in the Lessee's approved plans and specifications, the Lessee shall submit to the Port Authority a certification signed by a

responsible officer thereof certifying that all such work has been completed and a statement of the total cost of such work, which shall consist of a final cost summary and copies of invoices paid by the Lessee in connection with the work under each such Tenant Alteration Application. The Port Authority shall have the right (but shall not be obligated) to conduct an interim inspection and audit in connection with the work performed under the Tenant Alteration Application certified as completed and shall have the rights in the conduct of such interim inspection and audit as are set forth below in this paragraph with regard to the final inspection and audit. Upon receipt of the Lessee's certification, or following the aforesaid audit by the Port Authority, the Port Authority shall render a bill to the Lessee setting forth the Review Fee for the Tenant Alteration Application, and the Lessee shall pay the Review Fee to the Port Authority within fifteen (15) days of receipt of said bill. No payment made by the Lessee on account of the cost under a Tenant Alteration Application as set forth in the immediately preceding sentence shall be considered final until the final determination of the cost of the Lessee's Construction Work as set forth below in this paragraph. Upon final completion of all of the Lessee's Construction Work, the Lessee shall submit to the Port Authority a certification signed by a responsible officer thereof certifying that all such work has been completed and a statement of the total cost of such work, which shall consist of a final cost summary and copies of invoices paid by the Lessee in connection with Lessee's Construction Work. The Lessee shall also supply to the Port Authority such supporting documents and records as the Port Authority shall deem necessary to substantiate the matters set forth in the Lessee's certificate. Upon receipt of the Lessee's certification, the Port Authority shall render a bill to the Lessee setting forth the Review Fee for each Tenant Alteration Application for which the Lessee has not previously made payment under the provisions of this paragraph, and the Lessee shall pay the Review Fee for each such Tenant Alteration Application to the Port Authority within fifteen (15) days of receipt of said bill. No payment made by the Lessee on account of the cost of the Lessee's Construction Work pursuant to the provisions of this paragraph, including, without limitation, any payment made by the Lessee following the Port Authority's receipt of the Lessee's final certification of cost, shall be considered final until the final determination of the cost of the Lessee's Construction Work as set forth below in this paragraph. Such final determination shall occur only after the Port Authority has examined and approved the Lessee's final certificate of cost and such records and other documentation of the Lessee as the Port Authority shall deem necessary to substantiate such cost. The Lessee shall permit the Port Authority by its agents, employees and representatives at all reasonable times prior to a final determination of the cost of the Lessee's Construction Work to examine and audit the records and other documentation of the Lessee that pertain to and will substantiate such cost.

(r) Prior to the commencement of any major repairs (other than those performed in the ordinary course of permitted operations), replacements or alterations required to be performed by the Lessee during the Term pursuant to the terms of this Agreement (subsequent to the completion of the Lessee's Construction Work), except in the case of emergency, the Lessee shall submit to the Port Authority for its approval an alteration application ("Alteration Application") in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be

entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. Each Alteration Application shall be subject to a Review Fee, calculated in accordance with paragraph (q), above. The data to be supplied by the Lessee shall identify each anticipated repair, replacement or alteration and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's Alteration Application and complete plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Port Authority shall review the Lessee's Tenant Alteration Application in accordance with standard Port Authority Tenant Alteration Application procedures. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Alteration Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in paragraphs (h) and (i) of this Section. All of the aforesaid work shall be performed by the Lessee in accordance with the Alteration Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon final completion of all of the aforesaid work, the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this paragraph certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement, and the Lessee shall supply the Port Authority with as-built drawings of the aforesaid work in such form and number requested by the Port Authority.

Section 8. Ingress and Egress

The Lessee, for itself, its officers, employees, agents and business invitees, shall have the right of ingress and egress between the Premises and the city streets outside the Facility and the right of passage within the Facility. Such rights shall be exercised by means of such pedestrian or vehicular ways as may from time to time be designated by the Port Authority for the use of the public, which the Lessee shall have the right to use in common with others having rights of passage within the Facility. The use of any such way shall be subject to the rules and regulations of the Port Authority which are now in effect or which may hereafter be promulgated

for the safe and efficient operation of the Facility. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way or any other area at, in or near the Facility presently or hereafter used as such, so long as a reasonably equivalent means of ingress and egress as provided above remains available to the Lessee. The Lessee hereby releases and discharges the Port Authority and its successors and assigns, of and from any and all claims, demands, or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any way or other area whether within or outside the Facility, so long as a reasonably equivalent means of ingress and egress remains available to the Lessee as provided in this Section. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the Premises or in, along, across or through any streets, ways and walks near the Premises.

Section 9. Governmental and Other Requirements

(a) The Lessee shall procure from all governmental authorities having jurisdiction over the operations of the Lessee hereunder, all licenses, certificates, permits and other authorization which may be necessary for the conduct of such operations.

(b) The Lessee shall promptly observe, comply with and execute all laws and ordinances and governmental rules, regulations, requirements, orders and similar items now or at any time during the occupancy of the Premises by the Lessee which may pertain or apply to its operations hereunder, or to its use and occupancy of the Premises hereunder, and in addition, shall make all improvements, repairs and alterations that may be so required.

(c) The obligation of the Lessee to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property in or near the Facility, and proper operation by the Lessee. Such provision herein is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

Section 10. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees and others on the Premises with its consent to observe and obey) the Rules and Regulations of the Port Authority now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, or preservation of property, or for the maintenance of the good and orderly appearance of the Premises, or for the safe or efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation at least ten (10) days before the Lessee shall be required to comply therewith.

(b) If a copy of the Rules and Regulations is not attached as Exhibit R to this Agreement, then the Port Authority will notify the Lessee thereof either by delivery of a copy, or by publication in a newspaper published in the Port of New York District, or by making a copy available at the office of the Secretary of the Port Authority.

(c) The Port Authority hereby agrees to apply the Rules and Regulations now in effect and any further rule or regulation hereafter promulgated by the Port Authority equitably and without discrimination against the Lessee and all other tenants at the Facility except to the extent that any present Rule or Regulation may be inapplicable by agreement or otherwise to the Lessee or any such tenant.

(d) No statement or provision in any present or future Rule or Regulation shall be deemed a representation or promise by the Port Authority that the services or privileges described shall be or remain available, or that the charges, prices, rates or fees stated therein shall be or remain in effect throughout the letting, all of the same being subject to change by the Port Authority from time to time whenever it deems a change advisable.

(e) In the event that any present or future Rule or Regulation, or any part thereof, is inconsistent with the rights granted to the Lessee under this Agreement or prevents the use of the Premises for the purposes stated in Section 6 of this Agreement, then, only to the extent of such inconsistency, it shall not apply to the Lessee, its agents, employees or invitees; but nothing herein contained shall limit the effectiveness of any present or future Rule or regulation promulgated by the Port Authority for reasons of safety, health or preservation of property, or for the safe or efficient operation of the Facility.

Section 11. Method of Operation

(a) In the performance of its obligations hereunder and in the use of the Premises, the Lessee shall conduct its operations in an orderly and proper manner, so as not to annoy disturb or be offensive to others near the Premises or at the Facility, and as soon as reasonably possible the Lessee shall remove the cause of any objection made by the Port Authority relative to the demeanor, conduct or appearance of any of the employees of the Lessee or of any others on the Premises with the consent of the Lessee.

(b) The Lessee shall not allow any garbage, debris or other waste materials (whether solid or liquid) to collect or accumulate on the Premises and the Lessee shall remove from the Premises and from the Facility all garbage, debris and other waste materials (whether solid or liquid) arising out of its operations hereunder. Any such material which may be temporarily stored shall be kept in suitable waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and in any case to be designed and constructed to contain safely the waste material placed by the Lessee therein. Said receptacles shall be provided and maintained by the Lessee and shall be kept covered except when being filled or emptied. The Lessee shall use extreme care when effecting removal of all such material, shall effect such removal at such times and by such means as are first approved by the Port Authority, and shall in

no event make use of any facilities or equipment of the Port Authority for the removal of such material except with the prior consent of the Port Authority.

(c) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the utility, mechanical, electrical and other systems installed or located anywhere at the Facility.

(d) The Lessee shall not commit any nuisance or permit its employees or others on the Premises with its consent to commit or create or continue or tend to create any nuisance in or near the Facility.

(e) The Lessee shall take all reasonable measures to eliminate vibrations tending to damage the Premises or the Facility or any part thereof.

(f) The Lessee shall not cause or permit to be caused or produced upon the Premises, to permeate the same or to emanate therefrom, any unusual, noxious or objectionable smokes, gases, vapors or odors.

(g) The Lessee shall not do or permit to be done any act or thing at the Facility which shall or may subject the Port Authority to any liability or responsibility for injury to any person or persons or damage to any property.

(h) The Lessee shall not overload any floor, roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such, including but not limited to supporting members, damaged by overloading.

(i) The Lessee shall permit the use of the Premises at any time and from time to time for the installation, maintenance and operation of such navigation lights as may be required by the United States Coast Guard or other governmental authority having jurisdiction, and the Lessee shall furnish such electricity as may be required for use by navigation lights which may be so installed.

(j) The Lessee shall not do or permit to be done any act or thing on the Premises or at the Facility which (i) will invalidate or conflict with any fire insurance policies covering the Premises or any part thereof, or the Facility, or any part thereof, or (ii) which, in the opinion of the Port Authority, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations permitted by this Agreement, or (iii) which will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon. The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the Insurance Services office of New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Lessee on the Premises, and the Lessee shall, subject to and in accordance with the provisions of this Agreement relating to construction by the Lessee, make all improvements, alterations and repairs of the Premises that may be required at any time

hereafter by any such present or future rule, regulation, requirement, order or direction. If by reason of any failure on the part of the Lessee to comply with the provisions of this paragraph, any rate for fire insurance, extended coverage or rental insurance on the Premises or any part thereof, or on the Facility or any part thereof, shall at any time be higher than it otherwise would be, then the Lessee shall pay to the Port Authority that part of all premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Lessee.

(k) From time to time and as often as required by the Port Authority, the Lessee shall conduct pressure, water-flow and other appropriate tests of the fire-extinguishing system and fire-fighting equipment on the Premises, whether furnished by the Port Authority or by the Lessee. The Lessee shall keep all fire-fighting and fire-extinguishing equipment well supplied with a fresh stock of chemicals and with sand, water or other materials as the case may be, for the use of which such equipment is designed, and shall train the appropriate number of its employees in the use of all such, equipment, including in such training periodic drills.

(l) [Intentionally Omitted]

(m) The Lessee shall not throw, discharge or deposit or permit to be thrown, discharged or deposited any cargo, refuse, ashes or any material whatsoever, into or upon the waters of or about the Facility.

Section 12. Signs

(a) Except with the prior consent of the Port Authority, the Lessee shall not erect, maintain or display any advertising, signs, posters or similar devices at or on the Premises or elsewhere at the Facility.

(b) Upon demand by the Port Authority, the Lessee shall remove, obliterate, or paint out any and all advertising, signs, posters, and similar devices placed by the Lessee on the Premises or elsewhere at the Facility and in connection therewith at the expiration or earlier termination of the letting, shall restore the Premises and the Facility to the condition thereof prior to the placement of such advertising, sign, poster or device. In the event of a failure on the part of the Lessee so to remove, obliterate or paint out each and every such piece of advertising, sign, poster or device and so to restore the Premises and the Facility after receipt of written notice from the Port Authority, the Port Authority may perform the necessary work and the Lessee shall pay the costs thereof to the Port Authority on demand.

Section 13. Indemnity and Liability Insurance

(a) The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from all claims and demands of third persons including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, arising out of the use or occupancy of the Premises by the Lessee or by its officers, agents, employees, or representatives, contractors, subcontractors or their employees, or by others on the Premises with the consent of

any of the foregoing persons, or out of any other acts or omissions of the Lessee, its officers, agents or employees on the Premises or elsewhere at the Facility, or out of the acts or omissions of others on the Premises with the consent of the Lessee, including claims and demands of the party, if any, from which the Port Authority derives its rights in the Facility for indemnification arising by operation of law or through agreement of the Port Authority with such party.

(b) If so directed by the Port Authority, the Lessee shall at its own expense defend any suit based upon any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent) in which event it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or its provisions of any statutes respecting suits against the Port Authority.

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on the following described policies of liability insurance:

(i) Commercial General Liability Insurance including but not limited to coverage for Premises-Operations and Products Liability-Completed Operations, with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000.00. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards. If the Lessee's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(ii) Workers' Compensation and Employers' Liability Insurance in accordance with the requirements of law. The Workers' Compensation Policy shall be specially endorsed to include coverage afforded by (aa) the U.S. Longshoremen's and Harbor Workers' Compensation Act and Coverage B – "Jones Act," maritime (including coverage for Masters or Members of the Crew of Vessels) and (bb) Coverage B under the Federal Employers' Liability Act.

(d) With the exception of the Workers' Compensation and Employers' Liability Insurance Policy, each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured (including, without limitation, for purposes of Premises operations and completed-operations) and each such policy shall contain a provision that the insurer shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. Each such policy shall contain a contractual liability endorsement covering the indemnity obligations of the Lessee

under this Section and such policies shall not contain any care, custody or control exclusions. Such insurance shall also contain an endorsement providing that the protection afforded the Lessee thereunder with respect to any claim or action against the Lessee by a third party shall pertain and apply with like effect with respect to any claim or action against the Lessee by the Port Authority and against the Port Authority by the Lessee, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured.

(e) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority within fifteen (15) days after the execution of this Agreement by the Port Authority and the Lessee and the delivery to the Lessee of a fully executed copy thereof (which date is hereinafter called "the Commencement Date"). In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance or as to coverages or minimum limits, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain one or more new and satisfactory policies in replacement. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

Section 14. Maintenance and Repair

(a) The Lessee shall at all times keep the Premises clean, and in an orderly condition and appearance, together with all the fixtures, equipment and personal property of the Lessee located in or on the Premises.

(b) The Lessee shall repair, replace, rebuild and paint all or any part of the Premises or of the Facility which may be damaged or destroyed by the acts or omissions of the Lessee or by those of its officers or employees, or of other persons on or at the Premises with the consent of the Lessee.

(c) Subject to the provisions of Section 18 of this Agreement, throughout the Term of the letting under this Agreement, the Lessee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the Premises, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the Premises and all other fixtures, machinery, or equipment now or hereafter belonging to or

connected with said Premises or the Lessee's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of the following items: (1) catch basins and storm sewer system drains, which are to be kept fully functional, clear of obstruction and free of damage at all times; (2) any paving required on the Premises; (3) sprinkler systems; (4) gas and electric from the meter (utility companies are responsible up to the meter); (5) the electrical system, equipment and fixtures, including, without limitation, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and all relamping and fuse replacement; (6) the plumbing system, fixtures and equipment, and all finished plumbing; (7) buildings and all parts thereof; (8) any security measures (including fencing, guard booths, and jersey barriers); (9) signs; (10) fire extinguishers; and (11) all painting. The Lessee shall maintain all such improvements, utilities, fixtures, machinery and equipment at all times in good condition, and shall perform all necessary preventive maintenance thereto so that at the expiration or termination of the letting and all times during the letting, the same (or a reconstruction of all or any part thereof) will be in as good condition as at the commencement of the term of the letting thereof (or, in the case of improvements made during the letting hereunder, in as good condition as at the time of the installation or construction thereof), except for reasonable wear and tear which does not adversely affect the watertight condition or structural integrity of the buildings or other structures on the Premises or adversely affect the efficient or the proper utilization of any part of the Premises. The Lessee shall make frequent periodic inspections of the Premises and, subject to Sections 7, 15 and 18 of this Agreement, shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacements, which repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship.

(d) Without limiting the obligations of the Lessee stated elsewhere in this Agreement, the Lessee shall be solely responsible to the Port Authority for loss or theft of or damage to any and all personal property, equipment and fixtures belonging to the Port Authority or for which it is responsible, located or to be located in or on the Premises, excepting only loss, theft or damage that results solely from the affirmative negligent or willful acts of the Port Authority, its Commissioners, officers, employees and representatives, and shall promptly replace or repair the same within twenty (20) days after such loss, theft or damage; and the Lessee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the letting under this Agreement in the same condition as at the commencement of the letting, reasonable wear and tear not materially affecting the efficient use and functioning of the same excepted.

(e) The obligation of the Lessee as set forth in paragraphs (b) and (c) of this Section in the event of damage or destruction covered by any contract of insurance under which the Port Authority is the insured is hereby released to the extent that the loss is recouped by actual payment to the Port Authority of the proceeds of such insurance, *provided, however*, that if at any time because of this release the insurance carrier of any policy covering the Premises or any part thereof shall increase the premiums otherwise payable for fire, extended coverage or rental coverage applicable to the Premises, the Lessee shall pay to the Port Authority an amount

equivalent to such increase or increases on demand; and provided, further, that if at any time this release shall invalidate any such policy of insurance or reduce, limit, or void the rights of the Port Authority thereunder, or if because of this release, any such insurance carrier shall cancel such endorsement or refuse to renew the same or shall take any other action to alter, decrease or diminish the benefits of the Port Authority under the policy, then the release shall be void and of no effect.

Section 15. Casualty

(a) In the event that as a result of a casualty, whether or not insured or insurable, the Premises are damaged the Lessee shall rebuild the same with due diligence. Without in any way limiting the obligations of the Lessee set forth in the first sentence of this paragraph, with respect to all portions of the Premises, the Lessee shall secure and maintain in its own name as assured and shall pay the premiums on the following policy of insurance in the limit set forth below, which policy shall be effective during the term of the letting under this Agreement:

(1) All risk property damage insurance covering the full replacement cost of any property owned, leased, or within the care, custody or control of the Lessee and now or in the future located on or constituting a part of the Premises, except for any personal property owned by the Port Authority. Full replacement cost shall be determined by the Port Authority. No omission on the part of the Port Authority to make such determination shall relieve the Lessee of its obligations to maintain the appropriate insurance under this paragraph. Such insurance shall cover and insure against such hazards and risks as at least would be insured against under the Standard Form of Fire Insurance policy in the State of New Jersey, or any successor thereto, and the broadest form of extended coverage endorsement prescribed as of the effective date of said insurance by the rating organization having jurisdiction, including without limitation hazards and risks of flood, earthquake, windstorm, cyclone, tornado, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, and boiler and machinery hazards and risks, and, if the Port Authority so requests, also covering nuclear property losses and contamination (if said coverage regarding nuclear property losses and contamination is or becomes available).

(2) Unless otherwise directed by the Port Authority, the property damage insurance policy required by this paragraph shall name the Port Authority and the Lessee (with insurance clauses consistent with the provisions of this Agreement) as the insureds, as their respective interests may appear, and shall provide that loss, if any, shall be adjusted with and payable to the Port Authority. As to any insurance required by this paragraph, a certificate of insurance, or binders, shall be delivered by the Lessee to the Port Authority on or before the Commencement Date. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certificate of insurance. Each such policy shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving at least thirty (30) days' written advance notice thereto to the Port Authority and an endorsement to the effect that the insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the

Lessee or any other insured. Each policy of insurance shall have attached thereto an endorsement that the Port Authority will be given at least thirty (30) days' prior notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period hereof. If at any time the policy required by this paragraph shall be or become unsatisfactory to the Port Authority as to form or substance, or if the carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new and satisfactory policy in replacement.

The proceeds of insurance from coverages secured in accordance with this paragraph shall be made available to the Lessee in a timely manner and shall be applied by the Lessee strictly and solely to the repair, replacement, or rebuilding of the Premises as provided in this Agreement.

(b) The Port Authority and the Lessee hereby stipulate that neither the provisions of Title 46:8-6 and Title 46:8-7 of the Revised Statutes of New Jersey nor those of any other similar statute shall extend or apply to this Agreement.

(c) In the event of damage to or a partial or total destruction of the Premises, the Lessee shall within thirty (30) days after the occurrence commence to remove from the Premises or from the portion thereof destroyed, all damaged property (and all debris thereof) including damaged buildings and structures, and all damaged property belonging to the Lessee or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Lessee does not perform its obligation hereunder, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit or may retain the same in its own possession and sell the same at public auction, the proceeds of which shall be applied first to the expenses of removal, storage and sale, and second to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority on demand. Without limiting any term or provision of this Agreement, the Lessee shall indemnify and save harmless the Port Authority, its officers, agents, employees, contractors and subcontractors, from and against any and all claims of third persons arising out of the exercise by the Port Authority of its right to remove property as hereinabove provided including all claims for conversion, all claims for damage or destruction of property, all claims for injuries to persons (including death), and all other claims for damages, consequential or otherwise, excepting only claims that result solely from the negligent or willful acts of the Port Authority, its Commissioners, officers, employees or representatives.

(d) Notwithstanding the provisions of paragraph of (a) this Section and without otherwise limiting the generality thereof, if such damage or destruction as is described in paragraph (a) of this Section occurs during the last two years of the term of the letting of the premises and the cost of rebuilding restoration repair or replacement shall exceed ten percent (10%) of the then full replacement value of all buildings structures improvements fixtures and equipment, furnishings and physical property located thereon immediately prior to such damage or destruction, the Lessee shall have the option of either:

(1) performing all rebuilding, restoration, repairs, replacement or alterations required in accordance with the provisions of this Agreement, or

(2) terminating the letting under this Agreement in its entirety by written notice to the Port Authority given within thirty (30) days after the occurrence of such damage or destruction, provided, there shall be in force and effect the required insurance valid and subsisting and adequate to cover such damage or destruction without any defenses to the payment by the insurance carriers based upon acts or omissions of the Lessee or of any other insureds and provided further, that both at the time of the giving of notice and on the effective date thereof:

(i) The Lessee is not in default under any of the provisions of this Agreement or under notice of termination from the Port Authority, and

(ii) This Agreement and any construction, buildings, structures, improvements fixtures and equipment, furnishings and physical property located on the premises are unencumbered by any mortgage, security interest, judgments or other liens (to be evidenced by search made by title company acceptable to the Port Authority and to be furnished by the Lessee at its sole cost and expense) and free from any pending matters that might develop into additional rent unless the Lessee shall secure payment and discharge of such mortgages, security interests, judgments or other liens and the payment of such additional rent to the Port Authority in manner satisfactory to the Port Authority.

(3) In the event of termination pursuant to the provisions of this paragraph the proceeds of fire insurance boiler and pressure vessel insurance war risk insurance and rent or rental value insurance if any covering such damage as is described in paragraph (a) of this Section shall become the sole property of the Port Authority. There shall be no apportionment of any items of additional rent paid by the Lessee pursuant to the provisions of Section 19 of this Agreement covering a period of time extending beyond the date of such termination.

(4) Subject to the Lessee's removal rights and obligations as set forth elsewhere in this Agreement, upon the effective date of such termination, the Lessee shall surrender and deliver up the premises and all buildings, structures, improvements, fixtures and equipment, furnishings and other property located thereon into the possession and use of the Port Authority in the manner specified in the Section of this Agreement entitled "Surrender," subject, however, to the then physical condition and state of repair thereof. Subject to the foregoing, upon such termination, surrender and removal, the Lessee shall be released and discharged from any and all obligations under this Agreement with respect to the Premises other than those which shall have accrued prior to the date of such termination or shall mature on such date.

(5) Except as provided in this paragraph, no destruction of or damage to the whole or any part of the Premises or to any part of any buildings, structures, improvements, fixtures and equipment, furnishings or other property located thereon by fire or other casualty cause or condition shall permit the Lessee to surrender or terminate this Agreement or shall relieve the Lessee from its liability to make payment of any monies, charges, fees or rentals or additional rentals payable under this Agreement or from any of its other obligations hereunder.

Section 16. Assignment and Sublease

(a) The Lessee covenants and agrees that except as otherwise permitted by the terms of this Agreement, it will not sell, convey, transfer, assign, mortgage or pledge this Agreement or any part thereof, or any rights created thereby or the letting thereunder or any part thereof.

(b) Without otherwise limiting the provisions of paragraph (a) of this Section, the Lessee shall have the right to assign this Agreement and the letting hereunder in its entirety to a person, firm or corporation (i) which is controlled by the Lessee, (ii) which controls the Lessee, (iii) which is controlled by a person, firm or corporation which controls or is controlled by the Lessee, (iv) into which the Lessee is merged or with which the Lessee is consolidated, or (v) to which all or substantially all of the Lessee's assets are conveyed in connection with the sale of the Lessee's business, provided, that in the case of an assignment to a person, firm, or corporation described in subdivisions (iv) and (v) of this paragraph such assignment is required in connection with such merger, consolidation or conveyance, and provided further, that an assignment pursuant to this paragraph shall not be effective unless (1) the proposed assignee shall have a financial standing as of the date of the assignment which in the reasonable opinion of the Port Authority is sufficient to assure the ability of the proposed assignee to meet all of its obligations under this Agreement throughout the balance of the term of the letting hereunder and such party shall furnish to the Port Authority such additional security or guaranty as the Port Authority may reasonably deem necessary; (2) the proposed assignee shall have the same obligation as the Lessee has as to the use of the premises, which shall be in accordance with the purposes set forth in Section 6 of this Agreement, and the proposed assignee shall use the premises for no other purpose whatsoever; (3) the proposed assignee and its Chief Executive Officer, Chairman of the Board, President, Chief Operating Officer, Chief Financial Officer, and any member of its Office of the President or Presidium, if any, or any director or partner thereof and any person, firm or corporation having an outright or beneficial interest in twenty percent (20%) or more of the monies invested in the proposed assignee if the proposed assignee is a corporation or partnership, by loans thereto, stock ownership therein, or any other form of financial interest has as of the date of the proposed assignment a good reputation for integrity and financial responsibility and has not, within the prior five years, been convicted of or is not under current indictment for any crime involving corruption, bribery of a public official or body, or misuse of public funds; (4) neither the proposed assignee nor its Chief Executive Officer, Chairman of the Board, President, Chief Operating Officer, Chief Financial Officer, or any member of its Office of the President or Presidium, if any, nor any director or partner thereof nor any person, firm or corporation having an outright or beneficial interest in twenty percent (20%) or more of the monies invested in the proposed assignee, if the proposed assignee is a corporation or partnership, by loans thereto, stock ownership therein or any other form of financial interest has filed a voluntary petition in bankruptcy or has been adjudicated a bankrupt

within five years prior to the date of the proposed assignment; (5) the proposed assignee or its Chief Executive Officer, Chairman of the Board, President, Chief Operating Officer, Chief Financial Officer, or any member of its Office of the President or Presidium, if any, or any director or partner thereof or any person, firm or corporation having an outright or beneficial interest in twenty percent (20%) or more of the monies invested in the proposed assignee, if the proposed assignee is a corporation or partnership, by loans thereto, stock ownership therein, or any other form of financial interest shall not be in conflict of interest, as defined under the laws of the State of New York, with any Commissioner of the Port Authority as of the date of the proposed assignment; and (6) an Agreement of Assignment and Assumption in the form annexed hereto as Exhibit X shall have been duly executed by the Lessee and the proposed assignee and delivered to the Port Authority. The Port Authority will execute the same and deliver executed counterparts to the Lessee and the proposed assignee provided all of the conditions set forth in this paragraph have been satisfied.

(c) No assignment of this Agreement or the letting hereunder shall be effective if on the effective date of such proposed assignment (i) the Lessee is in default of any of the terms and conditions of this Agreement after the giving of a notice thereof and the expiration of any applicable period to cure, or (ii) this Agreement shall not be in full force and effect, or (iii) the Port Authority shall have served a notice of termination under Section 23 of this Agreement.

(d) In the event of an assignment to a person, firm, or corporation described in subdivisions (iv) and (v) of paragraph (b) of this Section, and upon execution by the Port Authority, the Lessee and the proposed assignee of the Agreement of Assignment and Assumption referred to in paragraph (b) of this Section, the Lessee shall be relieved of all liabilities and obligations thereafter accruing under this Agreement. Nothing contained herein shall be construed to release the Lessee under such assignment from any liabilities or obligations which shall have accrued prior to the effective date of such assignment or which shall mature on such date.

(e) With respect to a corporation, "control" as used in paragraph (b) shall mean legal and beneficial ownership by one person, firm or corporation, or a group acting in concert, of all of the issued and outstanding shares of the capital stock and voting rights of another corporation. With respect to a person or firm other than a corporation, "control" as used in paragraph (b) shall mean the power to direct the management and policies of such person or firm, whether by legal or beneficial ownership, or otherwise.

(f) The Lessee shall not sublet the Premises or any part thereof without the prior written consent of the Port Authority.

(g) If the Lessee assigns, sells, conveys, transfers, mortgages, pledges or sublets in violation of paragraphs (a) or (f) of this Section or if the Premises are occupied by any person, firm or corporation other than the Lessee, the Port Authority may collect rent from any assignee, sublessee, or anyone who claims a right to this Agreement or to the letting or who occupies the Premises, and shall apply the net amount collected to the rental herein reserved; no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (f) of this Section, nor an acceptance by the Port Authority of any such

assignee, sublessee, claimant or occupant as tenant, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained in this Agreement.

(h) The Lessee further covenants and agrees that it will not use or permit any person whatsoever to use the Premises or any portion thereof for any purpose other than as provided in Section 6 of this Agreement.

Section 17. Condemnation

(a) Definitions

(1) As used in this Section, the phrase "temporary interest," when used with reference to real property, shall mean an interest in such real property entitling the owner of such interest to the possession of such property (whether or not such interest includes or is co-extensive with an interest of the Lessee therein under this Agreement), for an indefinite term or for a term terminable at will or at sufferance or for a term measured by a war or an emergency or other contingency or for a fixed term expiring prior to the expiration date of this Lease; and the phrase "permanent interest," when used with reference to real property, shall mean an interest in such real property entitling the owner of such interest to possession thereof, other than a temporary interest as above defined, including among others a fee simple and an interest for a term of years expiring on or after the expiration of this Agreement.

(2) As used in this Section with reference to the Premises, the phrase "a material part" shall mean such part that the Lessee cannot continue to carry on the operations described in Section 6 of this Agreement, entitled "Rights of User by the Lessee" without using such part.

(b) Condemnation or Taking of a Permanent Interest in All or Any Part of the Premises

(1) If, in the event of an acquisition by condemnation or the exercise of the power of eminent domain by anybody having a superior power of eminent domain of a permanent interest in all or any part of the Premises pursuant to the terms of this Agreement (any such acquisition under this Section being hereinafter referred to as a "permanent taking"), the permanent taking covers all or a material part of the Premises, this Agreement and the letting hereunder shall terminate and expire on the earlier of (i) the date Lessee is deprived of physical possession thereof or (ii) the date of such taking; all rentals, fees and payments due under this Agreement shall be apportioned and paid by the Lessee to the date of such termination.

(2) In the event a permanent taking covers less than all or a material part of the Premises, this Agreement and the term of the letting hereunder shall be deemed terminated as to the part so taken as of the earlier of (i) the date the Lessee is deprived of

physical possession of such part or (ii) the date of such taking; and with respect to the part not taken, the letting shall continue, in full force and effect (subject to the provisions of subparagraph (3) of this paragraph), and the Lessee shall continue to pay all sums, charges and fees, including all rentals, provided to be paid by the Lessee under this Agreement without any reduction or abatement, provided, however, that the basic rental referred to in the Section of this Agreement entitled "Rentals" shall be abated as provided elsewhere in this Agreement.

(3) If any portion of the Premises shall be damaged or partially destroyed by any permanent taking of less than all or a material part thereof, and the Chief Executive Officer of the Lessee certifies to the Port Authority that on an economic or operational basis the area remaining to the Lessee is unusable for the continued operations of the Lessee as provided in Section 6 hereof, entitled "Rights of User," the Lessee shall have the right, on thirty (30) days' notice in writing given within thirty (30) days of the date of such taking, to terminate the letting as to the balance of the premises with the same effect as expiration, provided, that the Lessee shall not be under notice of default as to which the applicable period to cure has passed, or under notice of termination from the Port Authority, either on the date of the giving of the notice or on the effective date thereof. Termination by the Lessee pursuant to the provisions of this paragraph shall not relieve the Lessee of any obligations or liabilities that shall have accrued on or before the effective date of termination stated in its notice or which mature on such date. If the Lessee does not exercise such right of termination, the Lessee shall proceed with due diligence to perform any necessary demolition and to repair, replace or rebuild, at the Lessee's own cost and expense, any remaining part of the Premises so as to constitute such remaining part a complete unit of such usefulness, design and construction as to enable the Lessee to carry on therein the activities described in Section 6 of this Agreement entitled "Rights of User," unless the parties shall otherwise agree in advance. All work necessary to repair, replace and rebuild the said portions of the Premises shall be performed in full compliance with the provisions of this Agreement, including but not limited to the provisions of this Agreement entitled "Construction by the Lessee."

(c) Condemnation or Taking of A Temporary Interest in All or Any Part of the Premises

If a temporary interest in the Premises, or in any part thereof, shall be taken in condemnation or other eminent domain proceedings (such taking being hereinafter referred to as a "temporary taking"), then this Agreement shall nevertheless continue in full force and effect except to the extent the Lessee may be prevented from so doing pursuant to the terms of the order of the condemning power, and the Lessee shall continue to pay all sums, charges and fees including all rentals, if any, provided to be paid by the Lessee under this Agreement without any reduction or abatement therein, but the Lessee shall have the right to assert a claim in such proceedings to protect its interests and to determine the value of the interest so taken. If such temporary taking is of a part of the Premises only and shall damage any portion of the Premises, the Lessee at its cost and expense shall diligently repair any such damage and shall put such portion as nearly as possible in the condition

thereof immediately prior to such taking.

(d) Determination and Distribution of Award

(1) In the event of a permanent taking of all or any part of the Premises, the Port Authority and the Lessee have the right to appear in the condemnation or eminent domain proceedings and to participate in any and all hearings, trials and appeals therein, for the purpose of protecting their interests hereunder, the Port Authority in respect of the taking of the portion of the premises to which it retains title pursuant to the provisions of paragraph (m) of Section 7 of this Agreement, and as to compensation for the taking thereof, and the Lessee with respect to the pipes, piping system, railroad tracks, trade fixtures and other items of personal property installed by the Lessee for use in connection with the operations described in Section 6 of this Agreement and to which it retains title pursuant to the provisions of paragraph (m) of Section 7 of this Agreement, and as to the compensation for the taking thereof (to the extent compensable) and the net award received shall be paid as hereafter provided in this Section.

(2) Nothing contained herein shall be deemed to affect in any way any claim the Port Authority may have for the value of any portion of the Facility not included within the Premises hereunder which may be affected by any taking described in this Section or shall serve to give the Lessee any interest in any such claim.

(3) The rights of the Port Authority and the Lessee in and to the net award or awards upon any permanent taking of all or a material part of the Premises shall be determined as follows and in the following order of priority:

(i) The Port Authority shall be entitled to receive and retain an amount equal to the value of the Premises so taken, without the Lessee having the right to any share or participation therein for the value of the Lessee's leasehold interest therein that has been taken;

(ii) The Lessee shall be entitled to receive an amount equal to the value of the piping system, railroad tracks, trade fixtures and other items of personal property installed by the Lessee for use in connection with the operations described in Section 6 of this Agreement and to which it retains title pursuant to the provisions of paragraph (m) of Section 7 of this Agreement, without the Port Authority having the right to any share or participation therein.

(4) Upon a permanent taking of less than all or a material part of the premises, the award shall be made available to the Lessee for the repair or rebuilding of the buildings constructed thereon, and such portion of the award remaining after providing for the repair or rebuilding of the buildings constructed thereon shall be distributed in accordance with the provisions of subparagraph (3) of this paragraph (d), provided, however, that the sums described in subdivisions (i) and

(ii) of subparagraph (3) of this paragraph (d) shall each be multiplied by a fraction of the numerator of which shall be the number of square feet in the portion of the Premises taken pursuant to such taking and the denominator of which shall be the total number of square feet originally included therein.

(5) Upon a temporary taking of all or any portion of the Premises, and subject to the Lessee's repair obligations as set forth elsewhere in this Agreement, the Lessee shall be entitled to receive the full amount of the net award except for such portion of the award representing any period of the taking subsequent to the term of the letting hereunder which portion shall be paid to and retained solely by the Port Authority.

(e) In the event of a disagreement between the parties hereto (i) as to whether or not any taking is of a material part of the Premises (as defined in subparagraph (2) of paragraph (a) hereof), or (ii) as to the portion of any award or payment for a temporary taking which represents compensation for the expense of a restoration, after repossession by the Lessee or the Port Authority, either party hereto may, within 30 days after disagreement, serve written notice on the other setting forth that the matter in dispute shall be disposed of by arbitration in accordance with the then existing rules of the American Arbitration Association or of any successor association. Each party shall select an architect or engineer to act as arbitrator in the dispute with respect to the question of whether or not a taking is of a material part of the Premises, and an accountant or auditor in the dispute with respect to the question of what portion of the award or payment for a temporary taking of the Premises represents compensation for the expense of restoration after repossession by the Lessee or the Port Authority, and the two arbitrators thus selected shall select a third and if neither they nor the parties can agree on the third, the remaining engineer or architect shall be selected by the presiding justice of the Appellate Division, First Department, or failing that, by an officer of the American Arbitration Association. The arbitrators shall be required to render a written decision and such decision shall be binding on the Port Authority and the Lessee and both parties agree to comply therewith. Costs and expenses of said arbitration shall be borne equally by the Port Authority and the Lessee. In any such arbitration as to whether or not a taking is of a material part of the Premises the question to be submitted to the arbitrators for decisions shall be as follows:

"Can the portion of the Premises not taken be adequately restored, repaired or reconstructed so that on an economic and operational basis it will constitute a complete architectural unit of such usefulness, design and construction so as to enable it to be used for the purposes set forth in Section 6 of the Agreement of Lease?"

In any such arbitration as to what portion of the award or payment for a temporary taking of the Premises represents compensation for the expense of restoration after repossession by the Lessee or the Port Authority, the question to be submitted to the arbitrators for decision shall be as follows:

"What portion of the award given as compensation for the taking of a temporary

interest in the Premises represents compensation for the expense of restoring the building constructed thereon after reversion of possession thereof to the Lessee of the Port Authority?"

(f) In the event that all or any portion of the Premises is required by the Port Authority to comply with any present or future governmental law, rule, regulation, requirement, order or direction, the Port Authority may by notice given to the Lessee terminate the letting with respect to all or such portion of the Premises so required. Such termination shall be effective on the date specified in the notice. The Lessee hereby agrees to deliver possession of all or such portion of the Premises so required upon the effective date of such termination in the same condition as that required for the delivery of the Premises upon the date originally fixed by this Agreement for the expiration of the term of the letting. No taking by or conveyance to any governmental authority as described in paragraph (b) and (c) of this Section, nor any delivery by the Lessee nor taking by the Port Authority pursuant to this paragraph, shall be or be construed to be an eviction of the Lessee or a breach of this Agreement or be made the basis of any claim by the Lessee against the Port Authority for damages, consequential or otherwise.

Section 18. Construction by the Lessee

The Lessee shall not erect any structures, make any improvements or do any other construction work on the Premises or alter, modify or make additions, improvements or repairs to or replacements of, any structure now existing or built at any time during the letting, or install any fixtures without the prior consent of the Port Authority. In the event any construction, improvement, alteration, modification, addition, repair or replacement is made, with or without the Port Authority's consent, and unless the consent of the Port Authority shall expressly provide otherwise, the same shall immediately become the property of the Port Authority, and the Lessee shall have no right to remove the same either during the letting or at the expiration thereof unless the Port Authority, at any time prior to the expiration of the term of the letting, or any extension or renewal thereof, shall give notice to the Lessee to remove the same, or to cause the same to be changed to the satisfaction of the Port Authority, in which case the Lessee agrees to remove the same, or change it in compliance with such notice. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change, and the Lessee hereby agrees to pay the cost thereof to the Port Authority upon demand.

Section 19. Additional Rent and Charges

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Lessee has agreed to pay or reimburse the Port Authority for, or if the Port Authority is required or elects to pay any sum or sums or incurs any obligations or expense by reason of the failure, neglect or refusal of the Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement or as a result of an act or omission of the Lessee contrary to the said conditions, covenants and agreements, the Lessee shall pay to the Port Authority the sum or sums so paid or the expense so incurred, including all interest, costs, damages and penalties, and the same may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and

become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of any of the rentals set forth in this Agreement. Prior to the exercise by the Port Authority of the right described in this paragraph, the Port Authority, except in case of emergency, will give the Lessee not less than ten (10) days' prior notice specifying the obligation which the Lessee has failed or refused to perform, and except in an emergency, the Port Authority will not proceed to perform any such obligation if during the ten (10) day period following the Port Authority's notice that it will perform the said obligation the Lessee shall perform such obligation (or, if fulfillment of such obligation requires activity over period of time, shall commence to perform whatever may be required for fulfillment and shall continue such performance without interruption except for causes beyond its control). If the curing of such default requires activity over period of time and the Lessee shall have commenced the curing of such default within the ten (10) day notice period, and shall diligently continue such performance, the ten (10) day notice period shall be extended for such further period of time as such performance requires.

(b) For all purposes under this Section, and in any suit, action or proceeding of any kind between the Port Authority and the Lessee, any receipt showing any payment of any sum or sums by the Port Authority for any work done or material furnished shall be prima facie evidence against the Lessee that the amount of such payment was necessary and reasonable. Should the Port Authority elect to use its operating and maintenance staff in performing any work and to charge the Lessee with the cost thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall be *prima facie* evidence against the Lessee that the amount of such charge was necessary and reasonable.

(c) The term "cost" in this Section shall mean and include: (1) Payroll costs, including contributions to the Retirement System, or the cost of participation in other pension plans or systems, insurance costs, sick-leave pay, holiday, vacation and authorized-absence pays; (2) Cost of materials and supplies used; (3) Payments to contractors; (4) Any other direct costs; and (5) 30% of the sum of the foregoing.

Section 20. Rights of Entry Reserved

(a) The Port Authority, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times to enter upon the Premises for the purpose of inspecting the same, for observing the performance by the Lessee of its obligations under this Agreement, and for the doing of any act or thing which the Port Authority may be obligated or have the right to do under this Agreement or otherwise.

(b) Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, agents, representatives, and contractors, and on behalf of furnishers of utilities and other services, shall have the right, for its own benefit, for the benefit of the Lessee, or for the benefit of others than the Lessee at the Facility, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Premises at all reasonable times to

make such repairs, replacements or alterations as the Port Authority shall deem necessary or advisable and, from time to time, to construct or install over, in or under the Premises new systems or parts thereof, and to use the Premises for access to other parts of the Facility otherwise not conveniently accessible; *provided, however* that in the exercise of such rights of access, repair, alteration or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the Premises by the Lessee.

(c) Prior to exercising any right of entry reserved to it under this Section, The Port Authority agrees, other than in the case of an emergency, to give the Lessee reasonable prior oral notice of its intention to enter the Premises.

(d) In the event that any property of the Lessee shall obstruct the access of the Port Authority, its employees, agents or contractors to any of the existing or future utility, mechanical, electrical and other systems and thus shall interfere with the inspection, maintenance or repair of any such system, the Lessee shall move such property, as directed by the Port Authority, in order that the access may be had to the system or part thereof for its inspection, maintenance or repair, and, if the Lessee shall fail so to move such property after written direction from the Port Authority to do so, the Port Authority may move it and the Lessee hereby agrees to pay the cost of such moving upon demand.

(e) Nothing in this Section shall impose, or shall be construed to impose upon the Port Authority any obligations so to construct or maintain or to make repairs, replacements, alterations or additions, or shall create any liability for any failure so to do. The Lessee is and shall be in exclusive control and possession of the Premises, and the Port Authority shall not in any event be liable for any injury or damage to any property or to any person happening on or about the Premises or for any injury or damage to the Premises or to any property of the Lessee or of any other person located therein or thereon (other than those occasioned by the acts of the Port Authority).

(f) At any time and from time to time during ordinary business hours within the three (3) months next preceding the expiration of the letting, the Port Authority, by its agents and employees, whether or not accompanied by prospective lessees, occupiers or users of the Premises, shall have the right to enter thereon for the purpose of exhibiting and viewing all parts of the same, and during such three-month period the Port Authority may place and maintain on the Premises, the usual "To Let" signs, which signs the Lessee shall permit to remain without molestation.

(g) If, during the last month of the letting, the Lessee shall have removed all or substantially all its property from the Premises, the Port Authority may immediately enter and alter, renovate and redecorate the Premises.

(h) The exercise of any or all of the foregoing rights by the Port Authority or others shall not be or be construed to be an eviction of the Lessee nor be made the grounds for any abatement of rental nor any claim or demand for damages, consequential or otherwise.

(i) Notwithstanding any provision of this Agreement and without limiting the generality of any provision of this Section, the Port Authority, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times, upon reasonable advance notice, to enter upon the Premises as is reasonably required for the purpose of the performance of work in connection with future projects that shall benefit Facility or the port, including without limitation, testing, preparation and construction work. The Port Authority shall provide an explanation in advance of the purpose of any such entry onto the Premises.

Section 21. Limitation of Rights and Privileges Granted

(a) The Premises are let to the Lessee and the Lessee takes the same subject to all the following: (i) easements, restrictions, reservations, covenants and agreements, if any, to which the Premises may be subject; rights of the public in and to any public street; (ii) rights, if any, of any enterprise, public or private, which is engaged in furnishing heating, lighting, power, telegraph, telephone, steam, or transportation services and of the municipality and State in which the Premises are located; (iii) permits, licenses, regulations and restrictions, if any, of the United States, the municipality or State in which the Premises are located, or other governmental authority. The Port Authority represents to the Lessee that the Port Authority has not granted any permits or licenses and has not imposed any regulations or restrictions that would prohibit or prevent the use of the Premises for the purposes set forth in Section 6 of this Agreement. To the best of its knowledge, the Port Authority is not aware of any permits, licenses, regulations and restrictions of the United States, the municipality or State in which the Premises is located or other governmental authority which would prohibit or prevent the use of the Premises for the purposes set forth in Section 6 of this Agreement. Nothing contained herein shall or shall be deemed to relieve the Lessee from any of its obligations under in this Agreement, including without limitation, its law compliance obligations.

(b) No greater rights or privileges with respect to the use of the Premises or any part thereof are granted or intended to be granted to the Lessee by this Agreement, or by any provision thereof, than the rights and privileges expressly and specifically granted.

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of any building or buildings or portion of any building or buildings, if any are included in the Premises (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or at such height above the present ground level of any open area included in the Premises as would impede or interfere in any manner with the air space restricted or reserved to Newark Liberty International Airport for aviation purposes (except to the extent required for the operation of the container cranes on the Premises and the movement and storage of containers). If any construction or installation is contemplated in this Agreement, the height thereof above ground shall be as determined solely by the Port Authority.

Section 22. Prohibited Acts

(a) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the drainage and sewerage system, water system, communications system, fuel system, electrical, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other systems, if any, installed or located on, under, or in the Premises.

(b) The Lessee shall not dispose of nor permit any one to dispose of any waste material (whether liquid or solid) by means of the toilets, manholes, sanitary sewers or storm sewers in the Premises or on the Facility except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority.

(c) The Lessee shall not operate any engine or any item of automotive equipment in any enclosed space on the Premises unless such space is adequately ventilated and unless such engine or item of automotive equipment is equipped with a proper spark arresting device which has been approved by the Port Authority.

(d) Unless expressly permitted to do so, the Lessee shall not install, maintain or operate, or permit the installation, maintenance or operation on the Premises of any vending-machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind whether or not included in the above categories, or of any restaurant, cafeteria, kitchen, stand or other establishment of any type for the preparation or dispensing of food, beverages, tobacco, tobacco products, or merchandise of any kind whether or not included in the above categories, or of any equipment or devices for the furnishing to the public of service of any kind including therein, without limitation thereto, telephone pay stations.

(e) The Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the Premises for the sale of merchandise of all types or for the rendering of services, provided however, that no such machine or device shall be installed except upon the request of the Lessee. This provision shall not be construed to confer upon the Lessee any right to have such machine installed except at the sole discretion of the Port Authority.

(f) The Lessee shall not overload any floor and shall repair any floor, including supporting members, and any paved area damaged by overloading. Nothing in this paragraph (f) or elsewhere in this Agreement shall be or be construed to be a representation by the Port Authority of the weight any floor will bear.

(g) The Lessee shall not fuel or defuel its automotive vehicles or other equipment in the enclosed portions of the Premises without the prior approval of the Manager of the Facility.

(h) The Lessee shall not keep or store in the Premises, explosives, inflammable liquids or solids or oxidized materials or use any cleaning materials having a harmful corrosive effect on any part of the Premises, except for those materials normally used in the operation of a

marine terminal or a vegetable oil processing facility and stored in a structure normally used for the storage of such materials and made safe for the storage thereof.

(i) The Lessee shall not use or permit the use of any truss or structural supporting member of the building or roof or any part thereof for the storage of any material or equipment, or to hoist, lift, move or support any material or equipment or other weight or load, by means of said trusses or structural supporting members.

(j) The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any hazardous substance on or from the Premises, and shall not dispose of, release or discharge or permit anyone subject to its control or authority to dispose of, release or discharge any hazardous substance at the Facility. Any hazardous substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on or from the Premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of Section 17 hereof, be completely removed, cleaned up and/or remediated by the Lessee. The obligations of the Lessee pursuant to this paragraph shall survive the expiration or termination of this Agreement.

Section 23. Termination

(a) If any one or more of the following events shall occur, that is to say:

(1) The Lessee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement or its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States or of any State thereof, or consent to the appointment of a receiver, trustee, or liquidator of all or substantially all of its property; or

(2) By order or decree of a court the Lessee shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or, if the Lessee is a corporation, by any of its stockholders, seeking its reorganization or the readjustment of its indebtedness under the federal bankruptcy laws or under any law or statute of the United States or of any State thereof; or

(3) A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Lessee and shall not be dismissed within thirty (30) days after the filing thereof; or

(4) Except as expressly permitted in subparagraph (a)(5) of this Section and in Section 16 of this Agreement, the letting or the interest of

the Lessee under this Agreement shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other person, firm or corporation; or

(5) The Lessee shall, without the prior approval of the Port Authority, become a possessor or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution, provided however, that a merger or consolidation shall not be a ground for termination if the resultant corporation meets all of the requirements of a permitted assignee set forth in paragraph (b) of Section 16; or

(6) If the Lessee is a partnership, the said partnership shall be dissolved as the result of any act or omission of its partners or any of them, or by operation of law or the order or decree of any court having jurisdiction, or for any other reason whatsoever; or

(7) By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Lessee, and such possession or control shall continue in effect for a period of fifteen (15) days; or

(8) The Lessee shall voluntarily abandon, desert or vacate the Premises or discontinue its operations at the Premises or at the Facility or, after exhausting or abandoning any right of further appeal, the Lessee shall be prevented for a period of thirty (30) days by action of any governmental agency from conducting its operations on the Premises, regardless of the fault of the Lessee; or

(9) Any lien shall be filed against the Premises because of any act or omission of the Lessee and shall not be discharged or bonded within twenty (20) days; or

(10) The Lessee shall fail duly and punctually to pay the rental or to make any other payment required under this Agreement within five (5) days after receipt of a notice of default from the Port Authority specifying that such rental or other payment has not been made; or

(11) The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Agreement, on its part to be kept, performed or observed, within ten (10) days after its receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be

required for fulfillment within ten (10) days after receipt of notice, and continues such performance without interruption except for causes beyond its control);

then, upon the occurrence of any such event or at any time thereafter during the continuance thereof, the Port Authority may by ten (10) days' written notice terminate the letting and the rights of the Lessee under this Agreement, such termination to be effective upon the date specified in such notice. Such right of termination and the exercise thereof shall be and operate as a conditional limitation.

(b) If any of the events enumerated in paragraph (a) of this Section shall occur prior to the commencement of the letting, the Lessee shall not be entitled to enter into possession of the Premises, and the Port Authority, upon the occurrence of any such event, or at any time thereafter during the continuance thereof may, by twenty-four (24) hours' notice, cancel the interest of the Lessee under this Agreement, such cancellation to be effective upon the date specified in such notice.

(c) No acceptance by the Port Authority of rentals, fees, charges or other payments in whole or in part for any period or periods after a default of any of the terms, covenants and conditions hereof to be performed, kept or observed by the Lessee shall be deemed a waiver of any right on the part of the Port Authority to terminate the letting. No waiver by the Port Authority of any default on the part of the Lessee in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Lessee shall be or be construed to be a waiver by the Port Authority of any other or subsequent default in performance of any of the said terms, covenants and conditions.

(d) The rights of termination described above shall be in addition to any other rights of termination provided in this Agreement and in addition to any rights and remedies that the Port Authority would have at law or in equity consequent upon any breach of this Agreement by the Lessee, and the exercise by the Port Authority of any right of termination shall be without prejudice to any other such rights and remedies.

Section 24. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 23 of this Agreement, have the right to re-enter the Premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or other legal proceedings, or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 25. Waiver of Redemption

The Lessee hereby waives any and all rights to recover or regain possession of the Premises and all rights of redemption, granted by or under any present or future law in the event it is evicted or dispossessed for any cause, or in the event the Port Authority obtains possession of the Premises in any lawful manner.

Section 26. Survival of the Obligations of the Lessee

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 23 of this Agreement, or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the Premises in accordance with the provisions of Section 24 of this Agreement, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Section 2 hereof, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession has taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due, or at its option and at any time may sue to recover the full deficiency (less the proper discount) for the entire unexpired term.

(b) The amount or amounts of damages for the period of time subsequent to termination or cancellation (or re-entry, regaining or resumption of possession) shall be:

(1) the amount of all unfulfilled monetary obligations of the Lessee under this Agreement, including, without limitation thereto, all sums constituting additional rental under Section 19 of this Agreement, and all sums constituting basic rental, and additional basic rental accrued prior to the effective date of termination, and the cost to and expenses of the Port Authority for fulfilling all other obligations of the Lessee which would have accrued or matured during the balance of the term or on the expiration date originally fixed or within a stated time after expiration or termination, but excluding the Lessee's required expenditure in connection with the Lessee's Construction Work as set forth in Paragraph (a) of Section 7 hereof; and

(2) an amount equal to the cost and the expenses of the Port Authority in connection with the termination, cancellation, regaining, possession and restoring and reletting the Premises, the Port Authority's legal expenses and costs, and the Port Authority costs and expenses for the care and maintenance of the Premises during any period of vacancy, and any brokerage fees and commission in connection with any reletting; and

(3) on account of the Lessee's basic and additional basic rental obligations, an amount equal to the then present value of all basic and additional basic rental payable with respect to the Premises as provided for in this Agreement for the entire term following the effective date of termination, as originally fixed in this Agreement, less the amount thereof that may have been actually paid to the Port Authority by the Lessee; and

(4) on account of the Lessee's obligation to pay Production Rental, an amount equal to the product obtained by multiplying (a) the sum of Three Dollars and No Cents ($3.00), by (b) the number of tons of processed vegetable oil produced by the Lessee at the Premises in excess of the Exemption Tonnage during each Annual Period, which tonnage of processed vegetable oil would have been produced by the Lessee during the balance of the term of the letting under this Agreement if there had been no termination or cancellation or re-entry, regaining or resumption of possession (any of the foregoing in this subparagraph (3) being called a "Termination"); and for the purpose of calculation hereunder, (i) the number of tons of processed vegetable oil shall be derived by multiplying the number of days in the balance of the Term had there been no Termination by the daily average of the tonnage of processed vegetable oil produced by the Lessee at the Premises; (ii) the daily average of the tonnage of processed vegetable oil produced by the Lessee at the Premises shall be the total of the actual tonnage of such processed vegetable oil produced by the Lessee at the Premises during the twelve months immediately preceding the Termination during which the Premises were open and in operation and in which no abatement was in effect, divided by 365; and (iii) in the event the effective date of termination shall be on other than the last day of an Annual Period, the Exemption Tonnage for the period from the day following the effective date of termination to the end of the Annual Period in which the termination shall have occurred shall be equal to the product obtained by multiplying the original Exemption Tonnage by a fraction the numeration of which shall be the number of days from the effective date of Termination to the end of such Annual period and the denominator of which shall be 365.

(c) In any action brought by the Port Authority the Lessee shall be allowed credit against its survived damages obligations equal to the amounts that the Port Authority shall have actually received from any tenant, licensee, permittee or other occupier of the Premises, or part thereof, during the period for which damages are sought and if recovery is sought for a period subsequent to the date of suit, a credit equal to the market rental value of the Premises during such period (discounted to reflect the then present value thereof). If at the time of such action the Port Authority has relet the Premises, the rental for the premises obtained through such reletting shall be deemed to be the market rental value of the Premises or be deemed to be the basis for computing such market rental value if less than the entire Premises were relet. In no event shall any credit allowed to the Lessee against its damages for any period exceed the then present value of the rental that would have been payable under this Agreement during such period if termination or cancellation had not taken place. In determining present value of rental a proper discount shall be applied.

(d) To determine the proper discount for the purposes of this Section the Prime Rate established by Citibank N.A and in effect on the first regular business day of Citibank N.A of the six-month period commencing with the Commencement Date and each of the six-month periods thereafter occurring during the term of the letting shall be used. If Citibank N.A shall cease to establish and publish Prime Rate the rate to be applied for purposes of determining the proper discount shall be the Prime Rate of the commercial bank in New York City with the greatest net worth then publishing Prime Rate, and if no such commercial bank shall establish and publish Prime Rate it shall be comparable rate as reasonably determined by the Port Authority.

Section 27. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 23 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 24 of this Agreement, may occupy the Premises or may relet the Premises and shall have the right to permit any person, firm or corporation to enter upon the Premises and use the same. Such reletting may be of part only of the Premises or of the Premises, or a part thereof, together with other space, and for a period of time the same as or different from the balance of the Term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 23 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 24 of this Agreement, have the right to repair and to make structural or other changes in the Premises, including changes which alter the character of the Premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the Premises (or portion thereof) during the balance of the Term as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the Premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender.

Section 28. Remedies to Be Nonexclusive

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to the Port Authority at law or in equity, and neither the exercise of any remedy, nor any provision in this Agreement for a remedy or an indemnity shall prevent the exercise of any other remedy.

Section 29. Surrender

(a) The Lessee covenants and agrees to yield and deliver peaceably to the Port Authority possession of the Premises on the date of the cessation of the letting, whether such cessation be by termination, expiration or otherwise, promptly and in the condition required by the provisions of paragraph (c) of Section 14 hereof regarding the condition of the Premises at the expiration or termination of the letting hereunder.

(b) Unless required for the performance by the Lessee of its obligations hereunder, the Lessee shall have the right at any time during the letting to remove from the Premises, all its pipes, piping system, railroad tracks, trade fixtures and other items of personal property installed by the Lessee for use in connection with the operations described in Section 6 of this Agreement and to which it retains title pursuant to the provisions of paragraph (m) of Section 7 of this Agreement, and on or before the expiration or earlier termination of the letting it shall remove all of the same from the Premises, repairing all damage caused by any removal. If the Lessee shall fail to remove such property on or before the termination or expiration of the letting, the Port Authority may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by the Lessee to the Port Authority, with any balance remaining to be paid to the Lessee; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Lessee shall pay such excess to the Port Authority upon demand. Without limiting any other term or provision of this Agreement, the Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents, employees and contractors from all claims of third persons arising out of the Port Authority's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise.

Section 30. Acceptance of Surrender of Lease

No agreement of surrender or to accept a surrender shall be valid unless and until the same shall have been reduced to writing and signed by the duly authorized representatives of the Port Authority and of the Lessee. Except as expressly provided in this Section, neither the doing of, nor any omission to do, any act or thing, shall be deemed an acceptance of a surrender of the letting or of this Agreement.

Section 31. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) delivered to the residence of such party, officer or representative at any time; or (iv) if

directed to the Lessee, delivered to the Premises at any time to the offices of the terminal manager; or (v) forwarded to such party, officer or representative at the office or residence address by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar courier service. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Lessee designates its office, the address of which is set forth in Page 1 of this Agreement, as their respective offices where notices and requests may be served.

(b) If any notice is mailed or delivered, the giving of such notice shall be complete upon receipt or, in the event of a refusal by the addressee, upon the first tender of the notice to the addressee or at the permitted address.

Section 32. General

(a) Wherever in this Agreement the Lessee agrees or is required to do or has the right to do, any act or thing, the following shall apply:

(1) If the Lessee is a corporation, its obligations shall be performed by it and its rights shall be exercised only by its officers and employees; or

(2) If the Lessee is a partnership, its obligations shall be performed and its rights shall be exercised by its partners and employees only; or

(3) If the Lessee is an individual, his obligations shall be performed and his rights shall be exercised by himself and his employees only;

except that the Lessee may use contractors in the performance of its obligations to maintain and repair the Premises and to supply watching and stevedoring services, including, coopering, clerking, checking, and extra labor functions at the Facility, *provided*, that if separate contractors are engaged to perform any of the foregoing services nevertheless the active management, direction, administration, executive action and overhead functions involved in the operations of the Lessee shall all be performed at all times during the letting solely by the Lessee, its officers and employees, and *provided, further*, that the Lessee shall be fully responsible to the Port Authority for the acts and omissions of such contractors and their officers, agents, representatives, employees and persons on the Premises with their consent to the same extent as if the same were the employees of the Lessee. None of the provisions of this paragraph (a) shall be taken to alter, amend or diminish any obligation of the Lessee assumed in relation to its invitees, business visitors, agents, representatives, contractors, customers, guests, or other persons, firms or corporations doing business with it or using or on or at the Premises with its consent.

(b) If more than one individual or other legal entity is the Lessee under this Agreement, each and every obligation hereof shall be the joint and several obligation of each such individual or other legal entity.

(c) Unless otherwise stated in this Agreement, in its use of the Premises the Lessee shall act only for its own account and, without limiting the generality of the foregoing, shall not act as agent, representative, factor, broker, forwarder, bailee, or consignee without legal title to the subject matter of the consignment, except to the extent necessary for exercise of the rights of user granted by this Agreement.

(d) The Lessee's representative, hereinbefore specified in this Agreement (or such substitute as the Lessee may hereafter designate in writing), shall have full authority to act for the Lessee in connection with this Agreement and any things done or to be done hereunder, and to execute on the Lessee's behalf any amendments or supplements to this Agreement or any extension thereof.

(e) The Section headings in this Agreement are inserted only as a matter of convenience and for reference, and they in no way define or limit or describe the scope or intent of any provision hereof.

(f) All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority at P. O. Box 95000-1517, Philadelphia, Pennsylvania 19195-0001, or to such other address as may be substituted therefor.

(g) This Agreement does not constitute the Lessee the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is hereby created, notwithstanding the fact that all or a portion of the rental to be paid hereunder may be determined by gross receipts from the operations of the Lessee hereunder.

(h) As used in Sections 10 and 19 hereof, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment.

(i) All designations of time herein contained shall refer to the time-system then officially in effect in the municipality wherein the Premises are located.

(j) The rights of the Port Authority in the Facility are those acquired by it pursuant to the Basic Lease, hereinafter defined in this Agreement, and no greater rights are granted or intended to be granted to the Lessee hereunder than the Port Authority has power hereunder to grant under the Basic Lease. The letting shall in any event terminate simultaneously

with the termination or expiration of the Basic Lease. The Port Authority covenants that during the term of the letting under this Agreement it will not take any action which would amount to or have the effect of cancelling surrendering or terminating the Basic Lease prior to the date specified in the Basic Lease for the expiration thereof insofar as such cancellation, surrender, or termination would in any manner deprive the Lessee of any of the rights, licenses or privileges granted to the Lessee under this Agreement. Nothing contained herein shall prevent the Port Authority from entering into an agreement with the City of Newark pursuant to which the Basic Lease is surrendered cancelled or terminated provided that the City of Newark at the time of such agreement assumes the obligations of the Port Authority under this Agreement. No such cancellation termination or surrender shall be deemed waiver by the Lessee of any of its rights, licenses or privileges under this Agreement.

(k) As used in this Agreement, "Facility," "Port Newark" or "marine terminal" shall mean the land and Premises in the City of Newark, in the County of Essex and State of New Jersey, which are easterly of the right-of-way of the Central Railroad of New Jersey and are shown upon the exhibit attached to the Basic Lease and marked "Exhibit A" (thereto), as contained within the limits of a line of crosses appearing on the said Exhibit A and marked (by means of the legend) "Boundary of Terminal Area in City of Newark," and lands contiguous thereto within the County of Essex which may have been heretofore or may hereafter be acquired by the Port Authority to use for marine terminal purposes.

(l) "Basic Lease" shall mean that agreement of lease respecting marine and air terminals entered into with the Port Authority by the City of Newark (New Jersey) under date of October 22, 1947, and recorded in the Office of the Register of the County of Essex on October 30, 1947, in Book E-110 of Deeds, on pages 242 et seq. as the said agreement of lease has heretofore been or from time to time hereafter may be supplemented and amended.

(m) "City Channel" or "Port Newark Channel" shall mean the area at Port Newark bounded (i) on the south by the south or Channel bulkhead as such bulkhead may be shown on Exhibit A annexed to the Basic Lease and as from time to time actually existing, westward to the west bulkhead as so shown and existing, and by the line of the Channel or south bulkhead extended eastward to the point of its intersection with the U.S Pierhead Line as approved by the Secretary of the Army under date of August 8, 1949; (ii) on the west by the west bulkhead as from time to time actually existing; (iii) on the north by the north bulkhead as from time to time actually existing and by the line of the easterly portion of the north bulkhead as extended parallel to the line of the Channel bulkhead as shown on Exhibit A annexed to the Basic Lease, eastward to the point of its intersection with the U.S Pierhead Line approved by the Secretary of the Army under date of August 8, 1949 as heretofore set forth; and (v) on the east by a straight line drawn from the point of intersection of the U.S Pierhead Line with the north bulkhead line as extended to the point of intersection of the U.S Pierhead Line with the Channel bulkhead line as extended.

(n) As used in this Agreement, "letting" shall include any extension of the letting under this Agreement, whether made by agreement or by operation of law, and "Manager of the Facility" or "Manager" shall mean the person or persons from time to time designated by

the Port Authority to exercise the powers and functions vested in the said Manager or in the Superintendent of the Facility by this Agreement; but until further notice from the Port Authority to the Lessee, it shall mean the Manager (or the Acting Manager) Port Authority Marine Terminals-New Jersey for the time being, or his duly designated representative or representatives.

(o) No designation in this Agreement of any area as a street, highway, roadway or other comparable characterization, whether or not by name, shall be or be deemed to be an admission, recognition or acknowledgement of public or private rights in the area so designated, or as a dedication for or a consent to any public or private use of the same. All use in this Agreement of names and designations in connection with such areas is merely for the purpose of fixing geographical locations.

(p) So long as the Lessee shall pay all rentals provided for in this Agreement and shall observe and perform all the terms, covenants and conditions on the Lessee's part to be observed and performed under this Agreement, the Lessee may peaceably and quietly enjoy the Premises, during the term of the letting, without hindrance or molestation by anyone claiming by, through or under the Port Authority, subject, nevertheless, to the terms, covenants and conditions of this Agreement, it being understood that the Port Authority's liability hereunder shall obtain only so long as it remains the owner of the Premises.

(q) This Agreement and the letting hereunder are and shall be subject and subordinate to all mortgages which may now or hereafter affect the Premises or the Facility, and to all renewals, modifications, consolidations, replacements and extensions thereof, and although the provisions of this Section shall be deemed to be self-operating and effective for all purposes without any further instrument on the part of the Lessee, the Lessee shall execute on demand and without expense to the Port Authority such further instruments confirmatory of the provisions of this Section as the Port Authority may request.

(r) Without in any way limiting the obligations of the Lessee as elsewhere stated in this Agreement, the Lessee shall be liable to the Port Authority for any damage done to the Facility or to any part thereof, or to any property of the Port Authority thereon through any act or omission of those in charge of any one or more highway or other vehicles, or other transportation equipment while the same are at, coming to or leaving the Premises, except for damages to the Facility (other than the Premises) caused by any one or more of such highway or other vehicles, or other transportation equipment as may be coming to or leaving the Premises without previous knowledge on the part of the Lessee.

(s) In the event that obstruction lights are now or in the future shall be installed on the Premises, the Lessee agrees to furnish the Port Authority without charge, electricity for energizing such obstruction lights daily for a period commencing thirty (30) minutes before sunset and ending thirty (30) minutes after sunrise (as sunset and sunrise may vary from day to day throughout the year) and for such other periods as may be directed or requested by the Control Tower of Newark Airport.

(t) The Lessee recognizes that because of the proximity of the Premises to Newark International Airport, height restrictions exist and may from time to time be changed in such manner as to become more restrictive. The Lessee and all persons, firms and corporations using the Premises, or any portion thereof, with the express or implied consent of the Lessee, shall at all times obey such height restrictions as may be posted from time to time or otherwise communicated to the Lessee by the Port Authority, whether or not through the Manager of the Facility, provided however that any future height restriction that may be imposed which is inconsistent with the buildings and structures constructed and installed by the Lessee shall not be applicable to the Lessee.

Section 33. Premises

(a) The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the Premises or the suitability thereof for the operations permitted on the Premises by this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the Premises as existing and has found the same to be suitable and satisfactory for the operations of the Lessee contemplated and permitted under this Agreement. Without limiting any obligation of the Lessee to commence operations under this Agreement at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the Premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the operations of the Lessee, so that there is possibility of injury or damage to life or property, and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition.

(b) The Port Authority shall not be liable to the Lessee for injury or death to any person or persons whomsoever, or for damage to any property whatsoever at any time in the Premises or elsewhere at the Facility, including but not limited to any such injury, death or damage from falling material, water, rain, hail, snow, gas, steam, or electricity, whether the same may leak into, or flow from any part of the Facility or from any other place or quarter.

Section 34. Force Majeure

(a) The Port Authority shall not be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including, without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type (whether affecting the Port Authority, its contractors, or subcontractors). Further, the Port Authority shall not be liable unless the failure, delay or interruption shall result from failure on the part of the Port Authority to use reasonable care to prevent or reasonable efforts to cure such failure, delay or interruption.

(b) The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port

Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency.

(c) No abatement, diminution of reduction of the rent or other charges payable by the Lessee, shall be claimed by or allowed to the Lessee for any inconvenience, interruption, cessation or loss of business or other loss caused, directly or indirectly, by any present or future law, rule, requirement, order, direction, ordinance or regulation of the United States of America, or of the state, county or city government, or of any other municipal, governmental or lawful authority whatsoever, or by priorities, rationing or curtailment of labor or materials, or by war or any matter or thing resulting therefrom, or by any other cause or causes beyond the control of the Port Authority, nor shall this Agreement be affected by any such causes.

Section 35. Brokerage

The Lessee represents and warrants that no broker has been concerned in the negotiation of this Agreement and that there is no broker who is or may be entitled to be paid a commission in connection therewith. The Lessee shall indemnify and save harmless the Port Authority of and from any and every claim for commission or brokerage made by any and all persons, firms or corporations whatsoever for services in connection with the negotiation and execution of this Agreement.

Section 36. Non-Liability of Individuals

Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent, or employee thereof, shall be charged personally by the Lessee with any liability, or held liable to the Lessee under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach, or attempted or alleged breach, thereof.

Section 37. Services

(a) The Port Authority shall be under no obligation to supply the Lessee with any services provided by utility companies and other service providers, including but not limited to water, gas, electricity, sewer service, heat, steam, air-conditioning, telephone, telegraph, cable, or electrical guard or watch service. The Port Authority agrees that except in cases of emergency it will not take any action which would have the effect of precluding the Lessee from obtaining utilities, including but not limited to water gas electricity sewer service heat, steam, air-conditioning, telephone, telegraph, cable or electrical guard or watch service supplied by others. Nothing contained herein shall or shall be deemed to prevent the Port Authority from discontinuing temporarily the supply of services to the Lessee by third parties when the Port Authority, acting in non-arbitrary and non-capricious manner, deems it necessary or desirable in order to make repairs, alterations, changes or improvements at the Facility. If the Port Authority exercises its right to discontinue temporarily the supply of services to the Lessee by others, it will act with reasonable promptitude to make the necessary or desired repairs, alterations, changes and improvements referred to herein. Whenever feasible, and other than in cases of emergency,

the Port Authority shall give the Lessee prior notice before interrupting the supply of services supplied to the Lessee by others.

(b) The Lessee shall promptly pay all water-bills covering its own consumption, including but not limited to water delivered and sold by the Lessee to vessels berthing at the Premises. In the event that any such water-bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

(c) The Lessee agrees to heat the enclosed portions of the Premises to a sufficient temperature, or to bleed pipes, so that the plumbing, fire-protection and sprinkler system, if any, will not be damaged by reason of low temperatures.

(d) If any federal, state, municipal or other governmental body, authority or agency, or any public utility or other entity providing any service, assesses, levies, imposes, makes or increases any charge, fee, rent or assessment on the Port Authority, for any service, system or utility now or in the future supplied to or available at the Premises or to any tenant, lessee, occupant or user thereof, or to the structures or buildings, which, or a portion or portions of which, are included in the Premises, the Lessee shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Lessee, pay, in accordance with any such notice, such charge, fee, rent or assessment or such increase thereof (or the portion thereof allocated by the Port Authority to the Premises or to the operations of the Lessee under this Agreement) either directly to the governmental body, authority or agency, or to the public utility or other entity, or directly to the Port Authority, as such notice may direct. All such payments shall constitute items of additional rental.

(e) No failure, delay or interruption in any service or services, whether such service or services shall be supplied by the Port Authority or by others, shall relieve or be construed to relieve the Lessee of any of its obligations hereunder, or shall be or be construed to be an eviction of the Lessee, or shall constitute grounds for any diminution or abatement of the rental or rentals payable under this Agreement, or grounds for any claim by the Lessee for damages, consequential, or otherwise. Notwithstanding the provisions of this paragraph, and without otherwise limiting the generality thereof, in the event that any failure to supply any service that the Port Authority has agreed or may hereafter agree to supply to the Lessee (whether or not excused pursuant to the provisions of Section 34 of this Agreement) renders the Premises any portion of the premises unusable by the Lessee so that the Lessee's operations under Section 6 of this Agreement cannot reasonably be conducted therein for period of ten (10) consecutive days, and such failure of service is not the result of the fault of the Lessee, its officers, employees, agents or contractors, then, thereafter, while such unusable condition shall continue, the Lessee shall be entitled to an abatement of the rentals payable under this Agreement as to the portion of the Premises rendered unusable.

(f) Without in any wise affecting the obligations of the Lessee elsewhere stated in this Agreement, the Lessee shall, subject to the provisions of Section 14 of this Agreement, provide, maintain and keep in good order, condition and repair any and all meters (to be located as designated by the Port Authority, other governmental authority or utility), ship-filling lines and other water-using equipment and facilities.

Section 38. Affirmative Action

(a) The Lessee shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and shall undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal employment opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selections for training or retraining, including apprenticeship and on-the-job training.

(b) It is hereby agreed that the Lessee, in connection with its continuing operation, maintenance and repair of the Premises, or any portion thereof, and in connection with every award or agreement for concessions or consumer services at the Premises, shall throughout the term of the letting hereunder commit itself to and use good faith efforts to implement an extensive program of Affirmative Action, including specific affirmative action steps to be taken by the Lessee, to ensure maximum opportunities for employment and contracting by minorities and women. In meeting the said commitment the Lessee agrees to submit its said extensive Affirmative Action program, including the specific affirmative action steps to be taken by the Lessee to meet its aforesaid commitment, within sixty (60) days after the commencement of the term of the letting hereof to the Port Authority for its review and approval. The Lessee shall incorporate in its said program such revisions and changes as the Port Authority and the Lessee may agree upon from time to time. The Lessee throughout the term of the letting hereunder shall document its efforts in implementing the said program, shall keep the Port Authority fully advised of the Lessee's progress in implementing the said program and shall supply to the Port Authority such information, data and documentation with respect thereto as the Port Authority may from time to time and at any time request, including but not limited to annual reports. The obligations imposed on the Lessee under this paragraph shall not be construed to impose any greater requirements on the Lessee than those which may be imposed on the Lessee under applicable law.

(c) "Minority" as used herein shall include: (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (2) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(d) In the implementation of this Section the Port Authority may consider compliance by the Lessee with the provisions of any federal, state or local law concerning affirmative action equal employment opportunity which are at least equal to the requirements of this Section, as effectuating the provisions of this Section. If the Port Authority determines that by virtue of such compliance with the provisions of any such federal, state or local law that the provisions hereof duplicate or conflict with such law the Port Authority may waive the applicability of the provisions of this Section to the extent that such duplication or conflict exists.

(e) Nothing herein provided shall be construed as a limitation upon the application of any laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

(f) Nothing in this Section shall grant or be deemed to grant to the Lessee the right to make any agreement or award for concessions or consumer services at the Facility.

Section 39. Right of Termination

(a) Subject to the provisions of paragraph (b) of this Section, the Port Authority shall have the right to terminate the term of the letting under this Agreement, without cause, which termination shall be effective at any time from and after December 31, 2023, upon at least five (5) years' prior written notice to the Lessee. Termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date, except that the Lessee shall be relieved of any obligation to complete the improvements or expend not less than Fourteen Million Dollars ($14,000.000.00) on the Lessee's Construction Work under paragraph (a) of Section 7 of this Agreement. Termination under the provisions of this paragraph shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the term of the letting under the Lease as herein amended.

(b) The right of termination set forth above in paragraph (a) shall no longer be valid or have any further force or effect throughout the balance of the term of the letting under this Agreement if the Lessee, not later than December 31, 2013, or such longer period of time as is provided under paragraph (a) of Section 7 of this Agreement, fully completes, substantially in accordance with the provisions of Section 7 of this Agreement, the capital improvements described in said Section and expends not less than Fourteen Million Dollars and No Cents ($14,000,000.00) on the Lessee's Construction Work. In the event the Lessee shall have timely completed the Lessee's Construction Work in accordance with the provisions of paragraph (a) of Section 7 of this Agreement, and shall have expended the full amount set forth above in performing the Lessee's Construction Work, the Port Authority, upon Lessee's request, shall confirm in writing that the right of termination set forth in paragraph (a), above, is thereby no longer valid or of any force or effect.

(c) (A) In the event the Lessee does not expend the aforesaid amount in the course of performing the Lessee's Construction Work or does not complete the Lessee's Construction

Work in accordance with the requirements of Section 7 of this Agreement, the right of termination set forth in paragraph (a) remains available to the Port Authority, and the following terms shall have the meanings set forth below:

(1) "Qualifying Cost" shall mean an amount equal to the reasonable cost of those components of the Lessee's Construction Work actually installed by the Lessee during the course of its performance of the Lessee's Construction Work. To the extent permitted by sound accounting practice, the sum of the following items of cost incurred by the Lessee in performing the Lessee's Construction Work shall constitute the reasonable cost thereof for the purposes of this paragraph:

(i) The Lessee's payments to contractors for the performance of the Lessee's Construction Work;

(ii) The Lessee's payments for supplies and materials for the performance of the Lessee's Construction Work;

(iii) The Lessee's payments for all necessary permits and governmental authorizations for the performance of the Lessee's Construction Work;

(iv) The Lessee's payments of premiums for performance bonds, if obtained by the Lessee, and for the insurance the Lessee is required to maintain in effect in accordance with the provisions of subparagraphs (i) and (j) of paragraph 7 hereof with respect to and during the period of construction of the Lessee's Construction Work only;

(v) The Lessee's payments for engineering services, consulting services, surveys and construction management fees in connection with the Lessee's Construction Work;

(vi) The Lessee's payments for architectural, planning and design services in connection with the Lessee's Construction Work;

(vii) The sum of the costs accepted under items (iv), (v) and (vi) of this subparagraph shall not exceed 20% of the sum of the costs approved under items (i) and (ii) of this subparagraph; if in fact there is any such excess, such excess shall not be a part of the cost incurred by the Lessee in the performance of the Lessee's Construction Work for the purposes of this paragraph.

No payment or payments on account of administrative or other overhead costs and no payment to employees of the Lessee shall be included in the cost of the Lessee's Construction Work whether or not allocated to the cost of the work by the Lessee's own accounting practices. No payment to a firm or corporation wholly or partially owned by or in common ownership with the Lessee shall be included in the cost of the Lessee's Construction Work;

(2) "Unamortized Investment of the Lessee in the Lessee's Construction Work" shall mean the unallocated Qualifying Cost of the Lessee's investment as

calculated on a straight-line basis according to generally accepted accounting principles (GAAP, as set by the Financial Accounting Standards Board or any successor entity).

(B) In the event that the Port Authority shall terminate the term of the letting under the provisions of this Section, the Port Authority shall pay to the Lessee on account of the Lessee's Construction Work performed in accordance with the provisions of Section 7 hereof one hundred percent (100%) of the Unamortized Investment of the Lessee in the Lessee's Construction Work.

(C) Any payment required under this paragraph shall not be or be deemed prerequisite to the exercise of the Port Authority's right of termination under this Section, and any such payment shall be conditioned upon the Lessee's having delivered possession of the premises to the Port Authority. On the payment by the Port Authority of the Unamortized Investment of the Lessee in the Lessee's Construction Work, all equipment, fixtures and improvements in the premises constituting any part of the Lessee's Construction Work and all interest of the Lessee therein which have not already become the property of the Port Authority shall be and become the property of the Port Authority and the Lessee shall execute any and all instruments necessary to transfer title and any such interest.

(D) Notwithstanding any other provision of this paragraph (c), in ascertaining the amount that the Port Authority shall be obligated to pay to the Lessee under this paragraph, such amount shall be diminished by the amount of any portion of the Unamortized Investment of the Lessee in the Lessee's Construction Work attributable to any equipment, fixtures or improvements that are secured by liens, mortgages, security interests, or other encumbrances and less any other amounts whatsoever due from the Lessee to the Port Authority under the Lease as herein amended. In addition, the Port Authority shall have the right to perform an audit of the Qualifying Cost of the Lessee's Construction Work prior to making any payment to the Lessee under this paragraph, with the Port Authority to have all of the rights of audit as are set forth in subparagraph (E) of this paragraph. In no event whatsoever shall the Qualifying Cost of the Lessee's Construction Work include any expenses, outlays or charges whatsoever by or for the account of the Lessee for or in connection with any equipment, fixtures or improvements constituting any part of the Lessee's Construction Work unless said equipment, fixtures and/or improvements are actually and completely installed in and/or made to the premises and remain intact and/or therein.

(E) The Lessee shall maintain in accordance with accepted accounting practice during the extended term of the letting under the Lease as herein amended and for three years thereafter records and books of account recording all transactions in any way connected with or reflecting upon any payment to be made by the Port Authority to the Lessee under this paragraph; and which records and books of account shall be kept at all times within the Port of New York District, as defined in the Port Compact of 1921 authorized by C. 154 Laws of N.Y. 1921 and C. 151 Laws of N.J. 1921, approved by Public Resolution No. 17 of the 67th Congress; First Session, and permit, in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those

performed by the Lessee, anywhere in the Port of New York District.

(F) Nothing set forth in this paragraph shall limit in any way the right of the Port Authority to require the removal of any improvements, fixtures, trade fixtures or equipment from the Premises as set forth in Section 29 hereof.

Section 40. Security

(a) The Lessee acknowledges that the Lessee has previously delivered to the Port Authority a letter of credit in the amount of Two Hundred Thirty Thousand Dollars and No cents ($230,000.00) (the "Security Deposit") to secure the Lessee's obligations under other certain agreements with the Port Authority, namely, that certain: (i) Agreement of Lease bearing Port Authority Lease No. LNS-114, dated as of July 26, 1988 (in this Section 40, "LNS-114"); (ii) Agreement of Lease bearing Port Authority Lease No. LPN-232, dated as of September 1, 1996 (in this Section 40, "LPN-232"); and (iii) Space Permit bearing Port Authority Permit Number MNS-309, dated as of February 20, 2009 ("MNS-309"), now expired.

(b) The Lessee agrees that the Security Deposit shall also secure the Lessee's obligations under this Agreement, as more specifically provided in that certain Security Agreement, dated as of February 20, 2009 and bearing Port Authority Agreement Number PCX-006, entered into between the Lessee and the Port Authority, which Security Agreement shall remain valid and in full force and effect in accordance with its terms throughout the term under this Agreement notwithstanding that LNS-114 and LPN-232 are to be surrendered by the Lessee by means of separate Surrender Agreements of even date herewith, and further notwithstanding that MNS-309 has heretofore expired pursuant to its terms.

Section 41. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time there for by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges

payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals as set forth in this Agreement. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section of this Agreement entitled "Termination" (Section 23) or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 42. Sustainable Design

The Lessee agrees that in the performance of any work that is subject to the section of this Agreement entitled "Construction by the Lessee," it will comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

Section 43. Port Authority Costs Following Termination

Without limiting the generality of any provision of this Agreement, in the event the Port Authority exercises its right of termination under the provisions of the Section of this Agreement entitled "Termination" (Section 23), the Lessee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such termination, including without limitation any re-entry, regaining or resumption of possession, the collection of all amounts due to the Port Authority, the restoration of the Premises (on failure of the Lessee to have it restored), the preparation of the Premises for use and occupancy by a succeeding lessee, the care and maintenance of the Premises during any period of non-use of the Premises; the foregoing shall include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the Premises and putting the Premises in order.

Section 44. Double Rent For Holdover

Unless otherwise notified by the Port Authority in writing at least ninety (90) days prior to the expiration or earlier termination of the term of this Agreement, in the event that the Lessee remains in possession of the Premises after the expiration or earlier termination of the term of this Agreement (which period subsequent to expiration or termination is hereinafter called the "Holdover Period"), in addition to any damages to which the Port Authority may be entitled or other remedies that the Port Authority may have by law, the Lessee shall pay to the Port Authority a rental for and during the Holdover Period at the rate of twice the rate of the basic rental payable under this Agreement at the time of such expiration or earlier termination. Nothing herein contained shall be deemed to give the Lessee any right to remain in possession of the Premises after the expiration or earlier termination of the term of this Agreement.

Section 45. Audit Fee

In the event that upon conducting an examination and audit under the provisions of this Agreement (and as it may be hereinafter amended), the Port Authority determines that unpaid amounts are due to the Port Authority by the Lessee (the "Audit Findings"), the Lessee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Lessee under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of this Agreement with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals to be paid. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate this Agreement or (ii) any obligations of the Lessee under this Agreement.

Section 46. Waiver of Jury Trial

The Lessee hereby waives its right to trial by jury in any action that may hereafter be instituted by the Port Authority against the Lessee in respect of the letting and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Agreement. The Lessee specifically agrees that it shall not interpose any claims as counterclaims in any action for non-payment of rent or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

Section 47. Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute the agreement of the parties.

Section 48. Environmental Responsibilities

(a) As used in this Agreement, the following terms shall have the meanings set forth below:

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about or under the Premises of any Hazardous Substance whose presence occurred during the Term, which, for purposes of this Section, shall include periods prior to the letting under this Agreement during which the Lessee was in occupation of the Premises or resulted from any act or omission of the Lessee or others during the Term, and/or (ii) the disposal, release or threatened release of any Hazardous

Substance from the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Lessee's use and occupancy of the Premises or a migration of a Hazardous Substance from the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and/or (iv) any personal injury, including wrongful death, property damage and/or natural resource damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements pertaining to any such Hazardous Substance, the Premises and/or the activities thereon.

(2) "Environmental Requirement" and "Environmental Requirements" shall mean all applicable present and future laws, statutes, enactments, governmental resolutions, regulations, rules, ordinances, codes, licenses, permits, orders, governmental approvals, plans, authorizations, requirements and similar items of all Governmental Authorities and all applicable judicial, administrative and regulatory decrees, judgments and orders relating to the protection of human health or the environment, the foregoing to include, without limitation:

(i) All requirements pertaining to reporting, licensing, permitting, investigation, remediation and mitigation of the emissions, discharges, releases or threatened releases of Hazardous Substances into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances; and

(ii) All requirements pertaining to the protection of the health and safety of employees or the public.

(3) "Hazardous Substance" and "Hazardous Substances" shall mean and include, without limitation, any pollutant, contaminant, toxic or hazardous waste, dangerous substance, potentially dangerous substance, noxious substance, toxic substance, flammable, explosive or radioactive material, urea formaldehyde foam insulation, asbestos, polychlorinated byphenyls ("PCBs"), chemicals known to cause cancer or reproductive toxicity, petroleum and petroleum products and other substances which have been or in the future shall be declared to be hazardous or toxic, or the regulation or removal of which have been or in the future shall be required, or the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transfer, handling or ownership of which have been or in the future shall be restricted, prohibited, regulated or penalized by any Environmental Requirement.

(4) "Governmental Authority" and "Governmental Authorities" shall mean all governmental agencies, authorities, departments, commissions, boards, bureaus or instrumentalities of the United States, states and political subdivisions thereof, except that it shall not be construed to include The Port Authority of New York and New Jersey, the lessor under this Agreement.

(b) Without limiting the generality of any of the other terms and provisions of this Agreement, the Lessee hereby expressly agrees to assume all responsibility for, and any and

all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the Premises from and after the commencement of the Term, including without limitation all Environmental Requirements and all Environmental Damages and, except for Environmental Damages arising from the sole negligent acts of the Port Authority, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, agents and employees from and against all such risks and responsibilities and all Environmental Damages and Environmental Requirements (including, without limitation, all fines, penalties, payments in lieu of penalties, and reasonable legal expenses incurred by the Port Authority in connection therewith). If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in this Agreement, the Lessee shall at its sole cost and expense and in accordance with and subject to the provisions of the Section of this Agreement entitled "Maintenance and Repair," upon notice from the Port Authority, promptly take all reasonable or required actions to completely remove and remediate: (1) any Hazardous Substance present on, about or under the Premises whose presence occurred during the Term or resulted from any act or omission of the Lessee or others during the Term, (2) any Hazardous Substance disposed of or released from the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and (3) any Hazardous Substance present on, about or under other property at the Facility or elsewhere whose presence resulted from the Lessee's use and occupancy of the Premises or which migrated from the Premises to such other property during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Port Authority, not to be arbitrarily or capriciously exercised, are necessary to mitigate Environmental Damages, including, but not limited to, the investigation of the environmental condition of the area to be remediated, the preparation of feasibility studies, reports and remedial plans, and the performance of any cleanup, remediation, mitigation, containment, operation, maintenance, monitoring or restoration work; the standard for any of the foregoing shall be that which requires compliance with the laws of the United States or the State of New Jersey, which does not require any restriction on the commercially reasonable use of the Premises or such other property. The Lessee agrees that with respect to any of its obligations set forth above in this paragraph it will not make any claim against the Port Authority and/or the City of Newark for contribution under any Environmental Requirement, unless any independent action on the part of the Port Authority was performed in a grossly negligent, reckless or willful manner and resulted in Environmental Damage or aggravated any pre-existing Environmental Damage. Any actions required under this paragraph shall be performed in a good, safe and workmanlike manner and shall minimize any impact on activities off the Premises. The Lessee shall promptly provide to the Port Authority all copies of test results and reports generated in connection with such actions. Promptly upon completion of

such investigation and remediation, unless directed otherwise by a Governmental Authority, the Lessee shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the remediated property.

(d) Without limiting any other of the Lessee's obligations under this Agreement, the Lessee shall provide the Manager of the Facility at the cost and expense of the Lessee with such information, documentation, records, correspondence, notices, reports, test results, and certifications and any other information as the Port Authority shall request in connection with any Environmental Requirements or Environmental Damages, and as may be necessary for the preparation of any application, registration, statement, certification, notice, non-applicability affidavit, communication, negative declaration, clean-up plan or other information, documentation or communication required by the Environmental Requirements and the Lessee shall promptly swear to, sign or otherwise fully execute the same. The Lessee agrees that any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Lessee and at the Lessee's cost and expense. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a Governmental Authority at the same time such are provided to a Governmental Authority and by a Governmental Authority to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

(e) Notwithstanding any other provision of this paragraph, all of the Lessee's obligations, undertakings and responsibilities under this paragraph shall apply to any Environmental Damage involving any Hazardous Substance whose presence on, about or under the Premises occurred prior to the commencement of the Term if any clean-up, remediation or other response action, or indemnification or other action under this paragraph is required with respect to such Environmental Damage as a result of (1) any violation by the Lessee or the Lessee's Representative, as hereinafter defined, of any Environmental Requirements pertaining to such Hazardous Substance, the Premises and/or the activities thereon, or any failure by the Lessee or the Lessee's Representative to observe and comply with any non-arbitrary, non-capricious and lawful Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the Premises, including without limitation those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities, or construction guidelines which have been or may be established by the Port Authority for the Facility and that are submitted to the Lessee in a timely manner, and/or (2) any negligent act or omission by the Lessee or the Lessee's Representative with respect to such Hazardous Substance. For purposes of this paragraph, "Lessee's Representative" shall mean its officers, employees, agents, representatives, contractors, customers, guests, invitees, or other persons who are doing business with the Lessee or are on the Premises with the Lessee's consent.

(f) Without limiting the Port Authority's remedies that it may have under this Agreement or at law or in equity, the Port Authority shall have the right during the term of the letting under this Agreement and subsequent to the termination or expiration thereof to such equitable relief, including restraining injunctions and declaratory judgments, as may be required

to enforce compliance by the Lessee with its environmental obligations under this paragraph. In the event the Lessee fails to comply with or perform any of its obligations hereunder, the Port Authority at any time during the term of the letting under this Agreement and subsequent to the termination or expiration thereof may elect (but shall not be required) to perform such obligations and the Lessee shall pay to the Port Authority upon demand its reasonable and lawful costs thereof, including all overhead costs as determined by the Port Authority.

(g) Notwithstanding any other provision of this paragraph, and without limiting the generality of subparagraph (e) of this paragraph, the Lessee's obligations, undertakings and responsibilities under this paragraph shall not apply to any Environmental Damage involving any Hazardous Substance which migrated or shall migrate onto the Premises during the Term (hereinafter called the "Migrated Hazardous Substance"), except that such obligations, undertakings and responsibilities under this paragraph shall apply to any Environmental Damage involving any Migrated Hazardous Substance if any clean-up, remediation or other response action, or indemnification or other action under this paragraph is required with respect to such Environmental Damage as a result of (1) any violation by the Lessee or the Lessee's Representative of any Environmental Requirements pertaining to such Migrated Hazardous Substance, the Premises and/or the activities thereon, or any failure by the Lessee or the Lessee's Representative to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the Premises, including without limitation those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities, or construction guidelines which have been or may be established by the Port Authority for the Facility and submitted to the Lessee, and/or (2) any act or omission of the Lessee or the Lessee's Representative with respect to any obligation of the Lessee regarding such Migrated Hazardous Substance.

(h) The Lessee agrees that in any legal action or proceeding in which the Port Authority and the Lessee are opposing parties the Lessee shall have the burden of proof, as hereinafter defined, as to any and all issues of fact with respect to: (1) whether the presence of any Hazardous Substance on, about or under the Premises occurred prior or subsequent to the commencement of the Term; (2) whether any Hazardous Substance disposed of or released from the Premises or which migrated from the Premises came to be present on, about or under the Premises prior or subsequent to the commencement of the Term; and (3) whether the Lessee exacerbated any pre-existing environmental condition so as to cause a Hazardous Substance to first become regulated during the Term. For purposes of this paragraph, "burden of proof" shall mean both the legal burden of going forward with the evidence and the legal burden of establishing the truth of any fact by a preponderance of the evidence.

(i) Without limiting the generality of any other term or provision of this Agreement, the obligations of the Lessee under this paragraph shall survive the expiration or termination of this Agreement.

Section 49. Entire Agreement

The within Agreement consists of pages number 1 through 68, together with Exhibits A, A-1, B and X, Schedules A, B and E, and Standard Endorsement No. L 24.4. It constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended, except by written instrument duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

IN WITNESS WHEREOF, the Port Authority and the Lessee have executed this Agreement as of the date first above written.

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By _____

(Title) RICHARD M. LARRABEE
DIRECTOR, PORT COMMERCE DEPT.

(Seal)

WITNESS:

Secretary

AARHUSKARLSHAMN USA INC.

By _____

(Title) President

Port Authority Use Only:	
Approval as to Terms:	Approval as to Form:

STATE OF New York)
) ss.
COUNTY OF New York)

On the 4TH day of March in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard M. Larrabee , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), the person or corporation upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

LUCY AMBROSINO
NOTARY PUBLIC, STATE OF NEW YORK
No. 01AM6101070
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES NOV. 3, 2011

STATE OF New Jersey)
) ss.
COUNTY OF Essex)

On the 22ND day of December in the year 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Jean-Marc Rotsaert , personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), the person or corporation upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

SUSAN M. DELGROSSO
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 9/26/2011

EXHIBIT B

The Lessee's Construction Work shall include the following:

- Procuring and installing a Multi-Stock Deodorizer unit
- Improving the current Loading facility
- Building a tank farm consisting of compartmentalized tanks
- Installation of the civil works
- Installation of appropriate Infrastructure, Pipe work, Automation, Gas, Steam and Electrical supply, etc.
- Erecting appropriate buildings to house the deodorizer and ancillary equipment

FORM EWT -- Assignment, all Facilities
82773

EXHIBIT X
ASSIGNMENT OF LEASE
WITH ASSUMPTION AND CONSENT **(Lease No.)**

THIS AGREEMENT made as of , 20 by **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter called the "Port Authority"), a body corporate and politic created by Compact between the States of New York and New Jersey, with the consent of the Congress of the United States of America, having an office for the transaction of business at One World Trade Center, in the Borough of Manhattan, in the City, County and State of New York, and

(hereinafter called the "Assignor"),
a corporation organized and existing under the laws of the State of , with an office for the transaction of business at

an individual, residing at

a partnership, consisting of

and

(hereinafter called the "Assignee"),
a corporation organized and existing under the laws of the State of with an office for the transaction of business at

an individual, residing at

a partnership, consisting of

the representative of which is

WITNESSETH, THAT:

WHEREAS, the Assignor desires to assign to the Assignee that certain Agreement of Lease dated as of , 20 , made by and between The Port Authority and the Assignor, and hereinafter, as the same has been heretofore amended and extended, called "the Lease"; covering premises at ;

WHEREAS, the Port Authority is willing to consent to such assignment on certain terms, provisions, covenants and conditions:

NOW, THEREFORE, in consideration of the covenants and mutual promises herein contained, the Port Authority, the Assignor and the Assignee hereby agree as follows:

1. The Assignor does hereby assign, transfer and set over to the Assignee, heirs, executors, administrators and successors to and their own proper use, benefit and behoof forever, the Lease, to have and to hold the same unto the Assignee, heirs, executors, administrators and successors from the day of , , for and during all the rest, residue, and remainder of the term of the letting under the Lease, subject nevertheless to all the terms, provisions, covenants and conditions therein contained; and the Assignor does hereby assign, transfer and set over unto the Assignee, heirs, executors, administrators and successors, all right, title and interest of the Assignor in and to a certain deposit (whether of cash or bonds) in the amount of made by the Assignor with the Port Authority, as security for the performance of the terms, provisions, covenants and conditions of the Lease, but subject to the provisions of the Lease and to any claim or right to the said deposit or any part thereof heretofore or hereafter made or to be made on the part of the Port Authority.

2. The Port Authority hereby consents to the foregoing assignment. Notwithstanding anything herein to the contrary, the granting of such consent by the Port Authority shall not be, or be deemed to operate as, a waiver of the requirement for consent or consents to each and every subsequent assignment by the Assignee or by any subsequent assignee, nor shall the Assignor be relieved of liability under the terms, provisions, covenants and conditions of the Lease by reason of this consent of the Port Authority or of one or more other consents to one or more other assignments thereof.

3. Except as provided in Section 16(d) of the Lease The Assignor agrees that this assignment of the Lease and this consent of the Port Authority thereto shall not in any way whatsoever affect or impair the liability of the Assignor to perform all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, of the Lease on the part of the Lessee or tenant thereunder to be performed, and that the Assignor shall continue fully liable for the performance of all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, on the part of the Lessee or tenant thereunder to be performed.

4. except as provided in Section 16(d) of the Lease The Assignee does hereby assume the performance of and does hereby agree to perform, observe and be subject to, all the terms, provisions, covenants and conditions, including without limitation thereto the obligation to pay rent, contained in the Lease, which were or are to be performed or observed by or are applicable to the Lessee thereunder, as though the Assignee were the original signatory to the Lease. Without limiting the foregoing, as an inducement to the Port Authority to consent to this assignment, the Assignee hereby covenants and agrees that the Assignee will use the premises solely for the purpose set forth in Section of the Lease. The execution of this instrument by the Port Authority does not constitute a representation by it that the Assignor has performed or fulfilled every obligation required by the Lease; and as to such matters the Assignee agrees to rely solely upon the representations of the Assignor.

5. Neither the Commissioners of the Port Authority nor any of them, nor any officer, agent or employee thereof, shall be charged personally by the Assignor or by the Assignee with any liability or held liable to either of them under any term or provision of this Agreement, or because of its execution or attempted execution, or because of any breach or attempted or alleged breach thereof.

6. The liability of the Assignor hereunder shall in no way be affected by:

(a) The release or discharge of the Assignee in any creditor's, receivership, bankruptcy or other similar proceeding; or

(b) The impairment, limitation or other modification of the liability of the Assignee or its estate in bankruptcy, or of any remedy for the enforcement of the Assignee's said liability under the Lease, resulting from the operation of any present or future provision of the Federal bankruptcy laws or any other statute or from the decision of any court having jurisdiction over the Assignee or its estate; or

(c) The rejection or disaffirmance of the Lease in any creditor's, receivership, bankruptcy or other similar proceeding; or

(d) Any disability or any defense of the Assignee.

[Intentionally Blank]

IN WITNESS WHEREOF, the Port Authority, the Assignor and the Assignee have executed these presents as of the date first hereinabove set forth.

ASSIGNOR:

_____

ATTEST: By_____

(Title)_____

(Seal)

ASSIGNEE:

_____

ATTEST: By_____

(Title)_____

(Seal)

WITNESS:

_____(L.S.)

WITNESS:

_____(L.S.)

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

ATTEST: By_____

(Title)_____

(Seal)

AARHUSKARLSHAMN USA, INC.
LEASE NO. LPN-301
SCHEDULE A

Premises: 290,127 sq.ft.
Base Rent 2014: $992,234.40

DATE	2.0% MIN
January 1, 2015	$ 1,012,079.09
January 1, 2016	$ 1,031,923.78
January 1, 2017	$ 1,051,768.46
January 1, 2018	$ 1,071,613.15
January 1, 2019	$ 1,091,457.84
January 1, 2020	$ 1,111,302.53
January 1, 2021	$ 1,131,147.22
January 1, 2022	$ 1,150,991.90
January 1, 2023	$ 1,170,836.59
January 1, 2024	$ 1,190,681.28
January 1, 2025	$ 1,210,525.97
January 1, 2026	$ 1,230,370.66
January 1, 2027	$ 1,250,215.34
January 1, 2028	$ 1,270,060.03
January 1, 2029	$ 1,289,904.72
January 1, 2030	$ 1,309,749.41

AARHUSKARLSHAMN USA, INC.
LEASE NO. LPN-301
SCHEDULE B

Premises: 290,127 sq.ft.
Base Rent 2014: $992,234.40

DATE	5.0% MAX
January 1, 2015	$ 1,041,846.12
January 1, 2016	$ 1,091,457.84
January 1, 2017	$ 1,141,069.56
January 1, 2018	$ 1,190,681.28
January 1, 2019	$ 1,240,293.00
January 1, 2020	$ 1,289,904.72
January 1, 2021	$ 1,339,516.44
January 1, 2022	$ 1,389,128.16
January 1, 2023	$ 1,438,739.88
January 1, 2024	$ 1,488,351.60
January 1, 2025	$ 1,537,963.32
January 1, 2026	$ 1,587,575.04
January 1, 2027	$ 1,637,186.76
January 1, 2028	$ 1,686,798.48
January 1, 2029	$ 1,736,410.20
January 1, 2030	$ 1,786,021.92

SCHEDULE E

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY---MINORITY BUSINESS ENTERPRISES ---WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS

Part I. Affirmative Action Guidelines - Equal Employment Opportunity

I. As a matter of policy the Port Authority hereby requires the Lessee and the Lessee shall require the Contractor, as hereinafter defined, to comply with the provisions set forth hereinafter in this Schedule E and in Section 7 of Port Authority Agreement No LPN-301 (herein called the "Lease") with Aarhuskarlshamn USA, Inc. (herein and in the Lease called the "Lessee"). The provisions set forth in this Part I are similar to the conditions for bidding on federal government contract adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

The Lessee as well as each bidder, contractor and subcontractor of the Lessee and each subcontractor of a contractor at any tier of construction (herein collectively referred to as "the Contractor") must fully comply with the following conditions set forth herein as to each construction trade to be used on the construction work or any portion thereof (said conditions being herein called "Bid Conditions"). The Lessee hereby commits itself to the goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions. The Lessee shall likewise require the Contractor to commit itself to the said goals for minority and female utilization set forth below and all other requirements, terms and conditions of the Bid Conditions by submitting a properly signed bid.

II. The Lessee and the Contractor shall each appoint an executive of its company to assume the responsibility for the implementation of the requirements, terms and conditions of the following Bid Conditions:

(a) The goals for minority and female participation expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work are as follows:

(1) Minority participation

Minority, except laborers	30%
Minority, laborers	40%

(2) Female participation

Female, except laborers	6.9%
Female, laborers	6.9%

These goals are applicable to all the Contractor's construction work performed in and for the premises.

The Contractor's specific affirmative action obligations required herein of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make good faith efforts to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract. Compliance with the goals will be measured against the total work hours performed.

(b) The Contractor shall provide written notification to the Lessee and the Lessee shall provide written notification to the Manager of the Office of Business and Job Opportunity of the Port Authority within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

(c) As used in these specifications:

(1) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941:

(2) "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal

affiliations through membership and participation or community identification).

(d) Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the construction work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 those provisions which include the applicable goals for minority and female participation.

(e) The Contractor shall implement the specific affirmative action standards provided in subparagraphs (1) through (16) of Paragraph (h) hereof. The goals set forth above are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the premises. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

(f) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations hereunder.

(g) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(h) The Contractor shall take specific affirmative actions to ensure equal employment opportunity ("EEO").

The evaluation of the Contractor's compliance with these provisions shall be based upon its good faith efforts to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

(1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each Phase of the construction project. The Contractor, shall specifically ensure that all foremen, superintendents, and other supervisory personnel at the premises are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at the premises.

(2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

(3) Maintain a current file of the names, addresses and telephone number of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

(4) Provide immediate written notification to the Lessee when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and training programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (2) above.

(6) Disseminate the Contractor's EEO Policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the Contractor's newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the Contractor's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

(7) Review, at least every six months the Contractor's EEO policy and affirmative action obligations hereunder with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decision including specific review of these items with on-premises supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at the premises. A written record shall be made and maintained identifying the time and place of these

meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

(9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations and to State-certified minority referral agencies serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the premises and in areas of a Contractor's workforce.

(11) Tests and other selecting requirements shall comply with 41 CFR Part 60-3.

(12) Conduct, at least every six months, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

(13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations hereunder are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

(15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including

shall be final and binding.

The Port Authority has compiled a list of the firms that the Port Authority has determined satisfy the criteria for MBE and WBE certification. This list may be supplemented and revised from time to time by the Port Authority. Such list shall be made available to the Contractor upon request. The Port Authority makes no representation as the financial responsibility or such, firms, their technical competence to perform, or any other performance-related qualifications.

Only MBE's and WBE's certified by the Port Authority will count toward the MBE and WBE goals.

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WBE goals. However, expenditures to MBE or WBE manufacturer's (i.e. suppliers that produce goods from raw materials or substantially alter them before resale) are counted dollar for dollar.

For the Port Authority

Initialled:

For the Lessee