Tenant Construction or Alteration Application
PA 531 AVIATION dated 6-94

Figure VII-4

PASSE-AVIATION 6-94

THE PORT AUTHORITY OF NY & NJ
One World Trade Center, New York, N.Y. 10048

TENANT CONSTRUCTION OR ALTERATION APPLICATION

For Port Authority use only

FACILITY	APP. NO.
JFKIA	
DATE 5 / 1 / 95	APPLICANT'S NAME Acme Airlines

APPLICANT MUST READ THE TERMS AND CONDITIONS PRINTED ON THE REVERSE HEREOF

The Applicant shall not commence performance of any of the said work prior to the receipt by Applicant of a copy of this application duly signed in Part Three hereof on behalf of The Port Authority of New York and New Jersey. Upon receipt thereof, the Applicant agrees to perform said work in accordance with the following "Information to be Furnished by Applicant" and to comply with and be bound by all requirements and conditions set forth below under the remarks, if any, in Part Three hereof and to the terms and conditions set forth on the reverse hereof.

Minimum Insurance Limits Unless Specified to be Greater—Bodily Injury $500,000 each person; $500,000 each occurrence; Property Damage $500,000 each accident; $500,000 aggregate.

PART ONE: Information to be furnished by Applicant (Refer to your lease or permit for required information)
Permission is hereby requested to perform the following described work on the space occupied by the Applicant

AT (FACILITY)	PUSUANT TO (LEASE, SPACE, PERMIT) NO.	LOCATION (BUILDING # OR AREA) OF SPACE TO BE ALTERED
John F. Kennedy	AYA-100	Building 100

DESCRIPTION OF WORK AND REASON
Rehabilitation and addition to Building 100 including extending bldg. footprint and providing office space for our tenant Mercury Co.

ESTIMATED PROJECT VALUE	ESTIMATED TIME TO COMPLETE (DAYS)	STARTING DATE	COMPLETION DATE
$ 10,000,000	360 days	5 / 5 / 95	5 / 1 / 96

Plans: Prints of each drawing must be submitted with copies of application. Include floor plan and show area affected by proposed work (size 8½" x 11" or larger).

TITLE OF DRAWING	DRAWING NO.	DATED
See attached index of drawings		3/1/95

NAME & ADDRESS OF CONTRACTOR (IF NOT KNOWN, SUBMIT LATER)	NAME & ADDRESS OF ENGINEER OR ARCHITECT	TELEPHONE NO. / LICENSE NO.
ABC Builders 100 First Street New York, NY 10001	John P. Jones, AIA, Architect 100 Main Street New York, NY 10001	718-300-6000 NY 34568

SEND CORRESPONDENCE TO:
(NAME & ADDRESS OF EMPLOYEE IN CHARGE OF WORK)
Ms. Jenny Adams
Director, Ground Operations
Acme Airlines, Bldg. 100
JFK Int'l Airport
TELEPHONE NO. 718-100-1000

ENGINEER OR ARCHITECT CERTIFICATION
I have supervised the preparation of plans and specifications for the entire work represented herein and hereby certify that they conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the City, town or municipality in regard to construction and maintenance of buildings and structures and in regard to hearing all the protection which would be applicable if the Port Authority were a private corporation.

APPLICANT'S NAME (AS IT APPEARS ON LEASE OR PERMIT)
Acme Airline, Inc.

BY (SIGNATURE OF AUTHORIZED REP.)	TITLE	DATE	SEAL AND SIGNATURE OF LICENSED PROF. ENGINEER OR ARCHITECT	DATE
*/s/ Peter J. Smith,	Vice President	5/1/95	*/s/ John P. Jones, AIA (seal)	3 / 1 / 95

PART TWO: MBE/WBE PROGRAM INFORMATION

A Minority/Women Business Enterprise (MBE/WBE) Plan must be submitted and accepted by the P.A. prior to approval of this application. Forms and instructions for the preparation of the MBE/WBE Plan are attached to this application. In addition, a contact person responsible for this project's MBE/WBE Program should be designated below by the tenant.

MBE/WBE Contact Person (Name and address)
Ms. Jenny Adams
Director, Ground Operations (same as above)
TELEPHONE NO. 718-100-1000

PART THREE: Prepared by Port Authority and returned to applicant
The above Application is ☐ Approved ☐ Disapproved. Subject to the following conditions:

☐ Continued on attached Rider

Please advise the undersigned in writing, when this work has been Completed.

The Port Authority of New York and New Jersey

INSPECTED BY	DATE	By	TITLE	DATE
	/ /			/ /

* Original signature

This is the primary form used by Tenants in filing for approval to construct facilities. Instructions are included on the cover and the "Terms and Conditions are outlined on the reverse of the form. The Tenant signature box in Part One (Signature Authorized Rep) must be an authorized representative thereof, or if a corporation, by a Vice President or President. Applications are not to be submitted signed by sub-Tenants or sub-users. Each page (white, yellow, and pink) must have an original signature. The A/E of Record must sign and seal in the block indicated in part One. Each page (white, yellow, and pink) must be sealed (ink seal) with an original signature. The name of the Contractor is not an initial requirement and may be furnished at a later date, but must be given prior to the Port Authority authorizing construction. The Tenant's M/WBE representative must be listed in Part II.

Sample Port Authority Acknowledgment Letter

Figure VII-5

THE PORT AUTHORITY OF NY & NJ

John F. Kennedy
International Airport
Jamaica, New York 11430
(718) 244-4444

June 8, 1995

Peter J. Smith
Vice President
Acme Airlines
Building 100
Jamaica, NY 11430

RE: **JFK Alteration Application Y-6800**
Bldg. 100 - ACME Airlines, Inc.
Rehabilitation and Addition to Building 100

Dear Mr. Smith,

We are in receipt of your submission for the above referenced project. Based on the complexity of this particular project, Port Authority review comments on this submission are due on or about July 19, 1993.

Please be reminded that regardless of the status of review comments, an *Approval to Construct* cannot be granted until this office has received and accepted your asbestos certification and an approved M/WBE Participation Plan.

If you have any questions regarding the aforementioned, please feel free to contact the Tenant Liaison Office directly at (718) 244-3542.

Very truly yours,

/s/Manager, AFD
Airport Facilities Division
Kennedy International Airport

Attachment

cc: John P. Jones, AIA

Letter issued by the Manager, Airport Facilities Division upon receipt of a Tenant's TAA.

Port Authority Tenant M/WBE Participation Plan

Figure VII-6

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
JOHN F. KENNEDY INTERNATIONAL AIRPORT
MBE/WBE PARTICIPATION PLAN

TAA No Y-6800
Tenant ACME Airline, Inc.
MBE/WBE Contact Person Jenny Adams
Telephone No. 718-100-1000

Project Title: Renovations & Additions to Building 100
Location: Building 100, JFK International Airport
Prime/General Contractor: A.B.C. Contracting
Total Construction $ Value: 10,000,000

Name, Address, Telephone No. of MBE/WBE contractor or subcontractor (including name of contact person)	MBE/WBE (Indicate MBE, WBE or both)	Description of work services to be provided (where applicable specify "supply" or "install")	Approximate $ value of contract	MBE/WBE % of total construction $ value
Trucking & Backhoe Trenching, Inc. 100 10th St. Brooklyn, NY 11206 Ms. Betty Jones	MBE	Perform excavation & backfill (contract awarded)	$ 690,000	6.9%
Fast Construction 1000 70th St. Brooklyn, NY 11234 Ms. Gail Fast	WBE	Furnish and install steel and wool piles (contract awarded)	$206,830	2.1%
AAA Electric Corp. 800 9th Ave. New York, NY 10464 Mr. Joe Smith	MBE	Furnish and install electrical work (contract awarded)	$772,800	7.3%
Structural Steel Corp. 950 Market Street Pittsburgh, PA 19000	WBE	Furnish and install structural (contract awarded)	$274,000	2.7%
TOTAL			$1,943,630	19.4%

Signature of Contact Person: /s/ Jenny Adams Date: 3/1/95

Used to submit the Tenants A/E and M/WBE Contractor Participation Plan.

THE PORT AUTHORITY OF NY & NJ

John F. Kennedy
International Airport
Jamaica, New York 11430
(718) 244-4444

January 24, 1995

Mr. Peter J. Smith
Vice President
ACME Airline, Inc.
Building 100
John F. Kennedy International Airport
Jamaica, NY 11430

RE: **JFK Alteration Application Y-6800**
Bldg. 100
Rehabilitation and Addition to Bldg 100

Dear Mr. Smith:

Port Authority staff have completed their review of the drawings and other materials submitted under cover of letter, from John P. Jones, AIA Architect, dated January 3, 1995.

The requirements listed on the attached Rider "A" have resulted from this review. Due to the nature of the requirements of Rider "A", approval of this application must be withheld at this time. If you have any questions regarding these Rider "A" requirements, please contact the Tenant Liason Office at (718) 244-3542.

In addition, please note that this application will not be approved until the Port Authority has accepted the M/WBE Plan for this project.

Two full sets plus four sets of revised drawings only, (each set to be individually wrapped or folded), including 6 sets of a formal written response to each of the requirements of Rider "A", should be submitted to my attention for the Port Authority's further review.

Very truly yours,

/s/ Manager, AFD
Airport Facilities Division
Kennedy International Airport

Attachment

cc: John P. Jones, AIA Architect

A sample letter requiring resubmission of documents as a result of critical comments (withhold comments).

RIDER "A"

ALTERATION APPLICATION Y-6800

ARCHITECTURAL

1. Drawing A-1, Ground Floor Plan:
   a) Please show on the drawing the column grid dimensions and room sizes. Also, indicate the proper scale. See NYC Building Code Section 27-157 (C26-110.2).
   b) Tenant Separation Wall Detail. Clarify all the construction details between the existing beams and the new partition. Clarify the integrity of the partition's fire resistance rating and the required fire stopping. See Code Section 27-345 (C26-504.7).

ELECTRICAL

*2. Drawing A-1, Exit Signs and Wiring. Clarify code compliance for the exit signs shown on drawing A-1, i.e., exit signs, exit light, emergency illumination fixtures, battery backup, and wiring have been approved for use in New York City. See NYC Building Code Sections 27-131 (C26-106.2); 27-381 (C26-605.1) through 27-386 (C26-606.4).

HVAC

*3. Drawing A-1. Clarify whether existing ducts and/or pipes penetrate the new fire-related wall along column line 13. Show the penetrations on the plan and provide the necessary protectives in accordance with the NYC Building Code, Section 27-343 (C26-504.5)(a) and (b).

GENERAL

4. Add the following notes to the Drawings:
   a) The Architect/Engineer of Record shall attend a preconstruction meeting to be held at the Office of the Resident Engineer for JFK of the Port Authority of NY & NJ.
   b) Prior to the scheduling of any final inspection, all Rider comments must be satisfied and the Architect/Engineer shall submit a signed and sealed statement that all materials, equipment, and installation under this Alteration Application comply with the Drawings and Specifications approved by the Port Authority, and with the New York City Building Laws and other applicable codes and requirements.
   c) The Tenant shall not occupy areas or use equipment installed under this Alteration Application, until a final inspection is held jointly with the Port Authority Resident Engineer and the Architect/Engineer, and the Port Authority indicates the work is acceptable.

Y-6800 (cont'd)

d) Within 15 days after final inspection, the Architect of Record shall submit a report to the Port Authority indicating the status of each punch list item.

e) Any construction to be left in place that is weakened or damaged shall be restored to the condition that existed prior to such damage.

f) Construction that is to be replaced after removal work shall be replaced with construction of equal design and strength.

5. List on the drawings those controlled inspections for the work hereunder, required by the New York City Building Laws.

Sample Tenant Letter responding to Rider Comments

Figure VII-12

John P. Jones, Architect
100 Main Street
New York, NY 10001

February 9, 1995

Manager, Airport Facilities Division
Building #14, Second Floor
JFK International Airport
Jamaica, NY 11430

Re: Alteration Application #Y-6800
ACME Airline, Inc.
Rehabilitation and Addition to Building #100

Response to Rider "A"

ARCHITECTURAL

COMMENT #1:

Drawing A-1, Ground Floor Plan:

a) Please show on the drawing the column grid dimensions and room sizes. Also, indicate the proper scale. See NYC Building Code Section 27-157 (C26-110.2).

b) Tenant Separation Wall Detail. Clarify all the construction details between the existing beams and the new partition. Clarify the integrity of the partition's fire resistance rating and the required fire stopping. See Code Section 27-345 (C26-504.7).

RESPONSE #1

a) Column grid and room sizes added. Plan scale added.

b) Detail revised accordingly.

Typical response letter to Rider Comments issued by the Port Authority.

ELECTRICAL

*COMMENT #2:

Drawing A-1, Exit signs and wiring. Clarify code compliance for the exit signs shown on drawing A-1, I.E., exit signs, exit light, emergency illumination fixtures, battery backup, and wiring have been approved for use in New York City. See NYC Building Code Sections 27-131 (C26-106.2); 27-381 (C26-605.1) through 27-386 (C26-606.4).

RESPONSE #2:

All exit and emergency fixtures, battery back-p and wiring are existing. Certifications were filed and approved under Alteration Application #Y-6300.

HVAC

*COMMENT #3:

Drawing A-1. Clarify whether existing ducts and/or pipes penetrate the new fire-rated wall along column line 13. Show the penetrations on the plan and provide the necessary protectives in accordance with the NYC Building Code, Section 27-343 (C26-504.5) (a) and (b).

RESPONSE #3:

There are no ducts penetrating the new fire-rated wall. Pipes penetrating the wall area are added to the plan and detail added to wall detail.

GENERAL

COMMENT #4

Add the following notes to the Drawings:

a) The Architect/Engineer of Record shall attend a preconstruction meeting to be held at the office of the Resident Engineer for JFK of the Port Authority of NY/NJ.

b) Prior to the scheduling of any final inspection, all Rider comments must be satisfied and the Architect/Engineer shall submit a signed and sealed statement certifying that all materials, equipment and installation under this Altercation Application comply with the Drawings and Specifications approved by the Port Authority, and with the New York City Building Laws and other applicable codes and regulations.

2

c) The Tenant shall not occupy areas or use equipment installed under this Alteration Application, until a final inspection is held jointly with the Port Authority Resident Engineer and the Architect/Engineer, and the Port Authority indicates the work is acceptable.

d) Within 15 days after final inspection, the Architect/Engineer shall submit a report to the Port Authority indicating the status of each punch list item.

e) Any construction to be left in place that is weakened or damaged shall be restored to the condition that existed prior to such damage.

f) Construction that is to be replaced after removal work shall be replaced with construction of equal strength and design.

RESPONSE #4:

Notes added to the drawing.

COMMENT #5:

List on the drawings those controlled inspections for the work hereunder, required by the New York City Building Laws.

RESPONSE #5:

Controlled inspection note added to include fire stopping.

END OF RESPONSE TO RIDER "A."

3

THE PORT AUTHORITY OF NY & NJ

John F. Kennedy
International Airport
Jamaica, New York 11430
(718) 244-4444

February 13, 1995

Peter J. Smith, Vice President
ACME Airline, Inc.
Building 100
John F. Kennedy International Airport
Jamaica, NY 11430

RE: JFK Alteration Application Y-6800
Building #100
Rehabilitation and Addition to Bldg. 100

Dear Mr. Smith:

Port Authority staff have completed their review of the drawings and other materials submitted under cover of letter, from John P. Jones, Architect, dated January 19, 1995. Please be advised that this application is hereby approved subject to the requirements listed on the attached Rider "A". I have attached a copy of the approved Alteration Application form.

This approval of the Alteration Application and of the plans and specification does not constitute a determination or indication by the Port Authority that ACME Airline, Inc. has complied with the applicable governmental laws, ordinances, enactments, resolutions, regulations, rules, and orders, including, but not limited to, those of the City of New York, which may pertain thereto.

Kindly contact the JFK Resident Engineers Office at (718) 244-4480 at least forty-eight hours prior to the start of work so that a pre-construction meeting may be held. At that time, you must present the following documents :

a) An insurance certificate in the amounts designated on the attached application form, including the Workmen's Compensation number.
b) A letter identifying the registered N.Y. Architect or Engineer who will be inspecting the work, and who will, when the work is ready for use, submit a certification that the work is in conformance with the plans and all laws and ordinances along with an acknowledgment letter from the A/E of his/her responsibilities.
c) A complete set of approved drawings and specifications.

Upon acceptance of these documents and review of the operational restrictions and limits of work applicable to the project, a construction permit will be issued to your contractor. No work will be permitted until that meeting has taken place.

Sample of letter authorizing the Tenant to begin construction.

-2-

Two full sets plus four sets of revised drawings only, (each set to be individually wrapped or folded), including 6 sets of a formal written response to each of the requirements of Rider "A", should be submitted to my attention for the Port Authority's further review by March 6, 1995. Failure to respond by this date may result in revocation of approval to proceed with construction.

Very Truly yours,

/s/ Manager, AFD
Airport Facilites Division
Kennedy International Airport

Attachment

cc: John P. Jones, AIA, Architect
ABC Builders, Inc.

RIDER "A"

ALTERATION APPLICATION Y-6800

ARCHITECTURAL

1. Drawing T-1. Please verify and state with a note on the drawing that the proposed design complies with the requirements of the Federal "Americans with Disabilities Act (ADA), PL 101-336."

2. Drawing A-9, Door and Hardware Schedules:
   a) Verify and indicate in the door schedule the fire-resistance rating of the three existing corridor doors as per NYC Building Code Section 27-371 (C26-604.4) (b) and Code Table 5-3.
   b) Hardware Set 8 for the existing corridor doors. Clarify in detail the operation of the lockset L-1011, specified in Item 4-D,

3. Drawing FN-1, Finish Plan, Schedule and Notes:
   a) Submit test reports for the proposed carpeting from an independent laboratory. The laboratory shall certify that these reports are in compliance with the Code Section 27-351 (C26-504.13)(d).
   b) Submit a copy of the BS&A or MEA resolution of approval in accordance with Code Section 27-131 (C26-106.2) for the following interior finishes;
      i) Vinyl wall covering.
      ii) Ceiling tiles.
      iii) Acoustical wall panels: composite test.
      iv) Plastic laminates.

STRUCTURAL

4. Drawing A-1. Verify with calculations that the loadings in rooms marked storage, files, and file/storage do not exceed the design liveloads of the existing construction. If there is any overstress condition, submit calculations for the floor reinforcing. NYC Building Code Section 27-550.

Y-6800 (con'td)

5. Drawing A-8:

   a) Details 4 and 5. For the studs supporting soffits and fascia, indicate connection details to the existing construction.

   b) Detail 6. Indicate support details for the "fluorescent wall washer." Note that all lighting fixtures (such as those shown on drawing A-2) shall be supported according to the provisions of RS 5-16, Section 5.3.

HVAC

6. Drawings M-1 and M-2. Provide index for ventilation for each room or space as required by the NYC Building Code, Section 27-182 (C26-116.3)(a)(3). Also, indicate the percentage of outside air supplied by the existing AC units (AC-17 and AC-18).

7. Drawing M-2. Provide detail for hanging or supporting the ductwork in accordance with the code, RS 13-1, Section 2-1.1.2.3(a). Mechanical Specifications paragraph 19.0b.11 is non-complying.

8. Drawing M-2, Mechanical Specifications, paragraph 19.0A.2. Clarify whether the flexible connections specified is an approved flame retardant fabric as required by RS-13-1, Section 2.1.2.3. Submit a copy of the BS&A or MEA resolution of approval for the material.

ELECTRICAL

9. Drawing E-1, Plan Note 1. Investigate the type of fire alarm system and indicate the type of wiring (insulation) to be used, i.e., "Mini-Class E," wire having insulation types TFFN/THHN/THWN not less than 600 volts rating. See NYC Building Code, Rules 15-01(2)(iii)(B).

10. Drawing E-3, Electrical Riser Diagram. Clarify the overcurrent protection for the new 75 KVA transformer primary feeder. See NYC Electrical Code Article 27-3117-d.

11. Drawing E-3, Electrical General Notes, note 15. Indicate plenum type cable(s) by NEC designations (i.e., CMP, CL2P). See NEC Section 725-53.

FIRE PROTECTION

12. Drawing SP-1, Sprinkler Plan:

   a) Submit hydraulic calculations for review. Calculations shall be affixed with a seal and signature of the architect or engineer of record. See Code Section 27--157 (C26--110.2).

T-6800 (cont'd)

b) Specify the temperature rating of the sprinkler heads.

c) Code compliance Information. Please state with a note on the drawing that the fire protection and sprinkler work shall comply with the PANYNJ requirements and NFPA in addition to the NYC Building Codes. See PANYNJ, Tenant Construction Review Manual, Sections 2 and 12.

LEGAL

13. The Tenant Review Request form mentions that a portion of the requested work is to be performed for "Mercury Co.". Approval of this Application does not constitute , or waive, the prior required execution by the Lessee and Mercury Co. of the written Consent Agreement covering the Port Authority's consent to any subleasing of space by the Lessee to Mercury Co. Any approval will be conditioned upon and subject to prior execution of the Consent Agreement.

14. The space for the date of the signing by the licen ed professional engineer or architect has not been completed.

GENERAL

15. Place the following notes on the Drawings:

a) All suspended ceilings and suspension systems shall be in accordance with NYC Building Code. Suspension system supports shall be no more than 4'6" o.c. in either direction.

b) The Resident Engineer shall be notified for controlled inspection of the suspension system prior to the installation of the finished ceiling.

c) All work above suspended ceilings shall be performed using appropriate safeguards, such as scaffolds, shoring and the like, approved by the Architect/Engineer, to prevent any additional loading of the suspended ceiling system.

14. Indicate on the drawings, the code numbers required to be transmitted to the Police Garage (P.E.G.) and/or local alarms for any fire protection devices that are included in this work; such as:

Pull Boxes, Sprinkler Water Flow Valves, Tamper Switches, Smoke Detectors (Area/Duct), Heat Detectors, Deluge Flow Valves, Halon Systems, and other similar appurtances.

16. Alarm transmitters shall be of the type approved by the Port Authority.

Y-6800 (cont'd)

17. Indicate on the drawings, the location, make , model and manufacturer of each alarm transmitter.
18. Furnish certification to the JFK Resident Engineer of bacteriological tests for low pressure (domestic) water.
19. Specify those tests which have to be performed for the HVAC systems, plumbing systems and sprinkler systems, for acceptance in accordance with the N.Y.C. Building Laws.
20. Show details of structural supports that signs are to be fastened to and submit details of fastening of signs to structure, specifying size and materials of members, bolts and expansion anchors, and weight of each sign.

Alteration Permit Placard - PA 2714

Figure VII-14

THE PORT AUTHORITY OF NY & NJ

Alteration Permit

This certifies that the Port Authority has issued an alteration

permit Y-6800 dated February 13, 1995 to ACME Airline, Inc.

Number

covering work taking place at Building No. 100

Location

February 13, 1995

Date

Signature of the Manager, Airport Facilities Division
Port Authority of New York and New Jersey

Sample Placard to be prominently displayed at work site. Provided to Tenant at the Pre-construction Conference.

Emergency Telephone List

Figure VII-15

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

TO: CONTRACTOR
FROM: JFK RESIDENT ENGINEER'S OFFICE/TENANT CONSTRUCTION
DATE:
SUBJECT: EMERGENCY TELEPHONE NUMBERS
TAA: -

RESIDENT ENGINEER'S OFFICE (REO)

	656-4581	REO STAFF
	656-6944	REO STAFF
	656-6942	REO STAFF
	656-6942	REO STAFF
	656-4581	REO STAFF
REO (COMMON)	656-4450	

OFFICE OF ENVIRONMENTAL POLICIES & MANAGEMENT (OEPM)

FIELD ENGINEER	244-6464

POLICE	244-4333 & REO
OPERATIONS	244-3800 OR 244-4111 & REO
FIRE	244-4333 & REO
ELECTRICAL FAILURE	244-3604 & REO
WATER BREAKS	244-3620 & REO
ACCIDENTS	244-4333 & REO
POLICE (EMERGENCY)	244-4333 & REO
MECHANICAL SHOP	244-3705 & REO
POLICE DESK	244-4330

ELECTRICAL	244-3600
HVAC	244-6371
PLUMBING	244-3620
IAB	244-4172
IAB DUTY OFFICE	244-4002
POLICE	244-4346
OPERATIONS (CONST.)	244-3801
OPERATIONS, DUTY SUPR.	244-3800 OR -4111
SECURITY	244-4202
TRANSPORTATION	244-4110
IAB MAINTENANCE	244-3580 OR 244-3581

A sample list of Port Authority Emergency Telephone numbers furnished to the Tenant's Contractor at the Pre-construction meeting. Contractor to furnish a similar list to the REO.

Tenant Letter to Identify A/E

Figure VII-16

ACME Airline, Inc.
Building No. 100
John F. Kennedy International Airport
Jamaica, NY 11430

February 9, 1996

Mr. _____
Resident Engineer
JFK Resident Engineers Office
JFK Bldg. 14
JFK International Airport
Jamaica, NY 11430

Re: Building 100, John F. Kennedy International Airport
Office Redevelopment
TAA #Y-6800

Dear Mr. _____,

Please be advised that John P. Jones, AIA, NY Registration No. 34568, is the Architect of Record for the work under this Alteration Application and will be responsible for inspecting the construction hereunder.

When the work is ready for use, Mr. Jones, as Architect of Record, will submit a certification that the work is in conformance with the approved plans and all applicable codes and regulations.

Sincerely,

/s/ Peter Smith

Peter Smith
Vice President

cc: John P. Jones, AIA

A sample letter from Tenant designating the A/E to provide Construction Quality Inspectors to be filled at the Preconstruction Conference with the Resident Engineer.

A/E Acknowledgment Letter

Figure VII-17

John P. Jones, Architect
100 Main Street
New York, NY 10001

May 8, 1995

Mr. _____
Resident Engineer
JFK Resident Engineers Office
JFK Bldg. 14
JFK International Airport
Jamaica, NY 11430

Re: Building 100, John F. Kennedy International Airport
Office Redevelopment (Lobby Portion)
TAA #Y-6800

Dear Mr. _____,

Please be advised that I am the Architect of Record who has prepared all contract construction documents and will be inspecting the work under this Alteration Application and will, when the work is ready for use, submit a certification that the work is in conformance with the approved plans and all applicable codes and regulations.

Sincerely,

/s/ John P. Jones

John P. Jones, AIA
Architect
New York Registration #34568 *(seal)*

cc: Peter Smith, ACME Airlines

Letter from Tenant's A/E acknowledging responsibility for construction inspection services and the fact that a Certification will be required at completion.

Sample Port Authority Comment Letter- Outstanding Comments

Figure VII-18

THE PORT AUTHORITY OF NY & NJ

John F. Kennedy
International Airport
Jamaica, New York 11430
(718) 244-4444

May 3, 1995

Mr. Peter J. Smith
Manager, Airport & Corporate Affairs
Vice President
ACME Airline, Inc.
Building No. 100
Jamaica, NY 11430

RE: **JFK Alteration Application Y-6800**
ACME Airline, Inc.
Rehabilitation and Addition to Bldg. 100

Dear Mr. Smith:

Port Authority Staff have reviewed the drawings and other materials submitted under cover of letter from John P. Jones, AIA Architect, dated April 7, 1995. Approval has been continued subject to the resubmission and subsequent Port Authority review of materials revised in accordance with the requirements set forth in the attached Rider C.

Please submit two (2) full sets of drawings and four (4) sets of revised drawings, specifications, structural calculations, etc., (each set to be individually wrapped or folded) and formal written responses with references to how each of the requirements in Rider C has been resolved by May 24, 1995. Failure to respond by this date may result in revocation of approval to proceed with construction.

If you have any questions regarding the aforementioned, please feel free to contact Mr. Michael Tinnirello at (718) 244-3542.

Very truly yours,

/s/ Manager, AFD
Airport Facilities Division
Kennedy International Airport

Attachment

cc: John P. Jones, AIA Architect

Port Authority comment letter to previously submitted Tenant responses. Note these are not critical comments (withhold) and construction is underway, thus approval is indicated as "continuing".

RIDER "C"

ALTERATION APPLICATION Y-6800

STRUCTURAL

1. The Response to Comment 16a of Rider B is noted. Please investigate the possibility of sideways movement and stability of the light fixture that is suspended 18 feet below its support. (Modified repeat comment)
2. The response to Comment 18a of Rider B has been noted. Please verify that the existing slab was designed for the required 385 psf load (Calculation Sheet UPS-1) or submit calculations to show that the existing slab construction is not overstressed under the added loads. The bending stresses and deflection in the slab shall be considered. (Modified repeat comment)
3. Regarding the response to Comment 19-b-11 of Rider B, please indicate the magnitude of the actual reactions of the existing beams, receiving new loads and resubmit Drawing S-100 where the field probe of these beams' connections is noted. (Modified repeat comment)

HVAC

4. Drawings M-231, UTB - 3rd Floor Plan, and M-311, Fan Coil Units Schedule. Please indicate on the drawings the source and quantity of outside air provided to the offices, as per NYC Building Code Section 27-754 (C26-1306.3). (Modified repeat comment)

Port Authority Cutting and Welding Permit - PA 213/2-83

Figure VII-19

ORIG. - Facility
COPY - Contractor or Lessee
COPY - Facility File

THE PORT AUTHORITY OF NY & NJ
CUTTING AND WELDING PERMIT
FACILITY JFK International Airport
Certificate of Fitness #: 3628

NAME OF CONTRACTOR (OR LESSEE) ABC Builders	CERTIFIED WELDER: John Smith CITY: NY	YES ☐ NO ☐
ADDRESS 100 First Street	US COAST GUARD PERMIT ISSUED DATE / /	PERMIT NO.

PROPOSED WORK: ☐ BURNING ☐ WELDING ☐ CUTTING ☐ BRAZING DESCRIBE
Welding of Structural Steel

BUILDING NO. OR NAME OF SHIP: Building #100			LOCATION JFK
TYPE OF OPERATION:	TIME SCHEDULE	TO BE STARTED 8:00 A.M. 5/25/95	TO BE COMPLETED 4:00 P.M. 5/25/95

I HAVE READ THE PERMIT CONDITIONS BELOW AND AGREE TO COMPLY

/S/ PETE MASON	/S/ JOHN SMITH
(Signature of General Contractor, Lessee or Authorized Representative)	(Signature of Sub-Contractor or Authorized Representative)

APPLICANT DOES NOT FILL IN BEYOND THIS LINE

PERMIT ISSUED BY	TITLE Assistant Resident Engineer	DATE / /
SPOT CHECK OF AREA BY PA REPRESENTATIVE No PA Responsibility	TIME ☐ AM ☐ PM	DATE / /

LOCATION OF WORK AREA (Street, Lot No., or approximate geographical position)

TO REPORT A FIRE	THE NEAREST FIRM ALARM IS Fire Extinguishers

POLICE: 244-3777
656-4668 or 64668

CONDITIONS
General

1. No work shall be conducted, or equipment brought to the work area, until a permit has been issued.
2. Operations shall be restricted to the designated area.
3. Welding and cutting operations are prohibited in or near areas or equipment containing flammable vapors, dusts, or liquids, and on or in closed tanks or other containers that have held flammable liquids until all fire and explosive hazards have been eliminated as prescribed in the American Welding Society's recommended procedure for welding or cutting of containers that have held combustibles.
4. Under no circumstances whatever are welding or cutting operations to be performed in or on containers, drums, tanks, ships, barges, or other vessels containing combustibles or flammable liquids, or other substances of a similar dangerous nature.
5. The contractor's or lessee's personnel engaged in welding and cutting operations shall conform to all local municipal rules and regulations governing the licensing of same which would be applicable if the Port Authority were a private corporation. Moreover, when such work is performed at piers or wharves subject to security regulations, or aboard a ship which is moored or berthed thereat, the contractor or lessee shall receive permission from the U.S. Coast Guard, or shall hold a U.S. Coast Guard General Welding Permit.
6. During a welding operation on a pier, shed or any other structure at a marine terminal facility, the storage of extra cylinders of oxygen and gas shall be prohibited. These shall be brought to the scene of the operations only as required.
7. A sprinkler system must not be made inoperative during cutting and welding operations unless specific permission is granted by the facility manager, or his designated representative, or, in the case of a contract, the Port Authority engineer as designated by the contract. If a torch is operated within three feet of sprinklers, baffles or temporary insulating wrappings shall be used to prevent accidental sprinkler operation.
8. Combustible materials shall be removed 30 feet from operations; otherwise, combustibles shall be protected by flameproofed tarpaulins. If operations are to be conducted over a combustible floor, the floor shall be covered with flameproofed tarpaulins.

(over)

This permit is issued by the Resident Engineers' Office to individuals by specific project by individual name. See Section IV for requirements to obtain this permit.

Port Authority Special Hot Work Permit - PA 2847-5/67

Figure VII-20

PA 2847
S-67

THE PORT OF NEW YORK AUTHORITY
SPECIAL HOT WORK PERMIT
(To be Completed in Duplicate)

Good This Date Only: 5/26/95 For Contract No. Y-6800

Exact Location of Work: Loading Bridge at Gate A-20

PRECAUTIONS - EXPLAIN IF NO				EXPLANATIONS - REFER TO ITEM BY NUMBER
YES	NO			
☐	☐	1.	Equipment drained, clean and free of all flammable liquids and gases.	
☐	☐	2	Equipment cleared of residue fuel or gas by: water flush ☐ inerted ☐ air purged ☐	
☐	☐	3.	All points were has, oil or fumes may enter examined; all valves closed.	
☐	☐	4.	Equipment or pipe properly blanked or stoppered.	
☐	☐	5.	Equipment properly opened and force ventilated.	
☐	☐	6.	Nearby catchbasins, drains and sewer openings protected.	
☐	☐	7.	Welding machine safely located and properly connected.	
☐	☐	8.	Mr. assigned as fire watch.	
☐	☐	9.	Welder and fire watch instructed as to location of nearest fire alarm box.	
☐	☐	10.	Charged hose line in position and class B fire extinguisher available.	
☐	☐	11.	Area and equipment checked for explosive mixtures by meter and declared safe for hot work.	
☐	☐	12.	Have you personally inspected surrounding areas for operating hazards, coordinated work with farm operator and received his concurrence.	
☐	☐	13.	Other special conditions - explain.	

I attest to the aforementioned, declare the proposed operation to be safe, and request authority to perform the work.

Agent for Contractor:

/s/ John Smith

John Smith
ABC Contractors

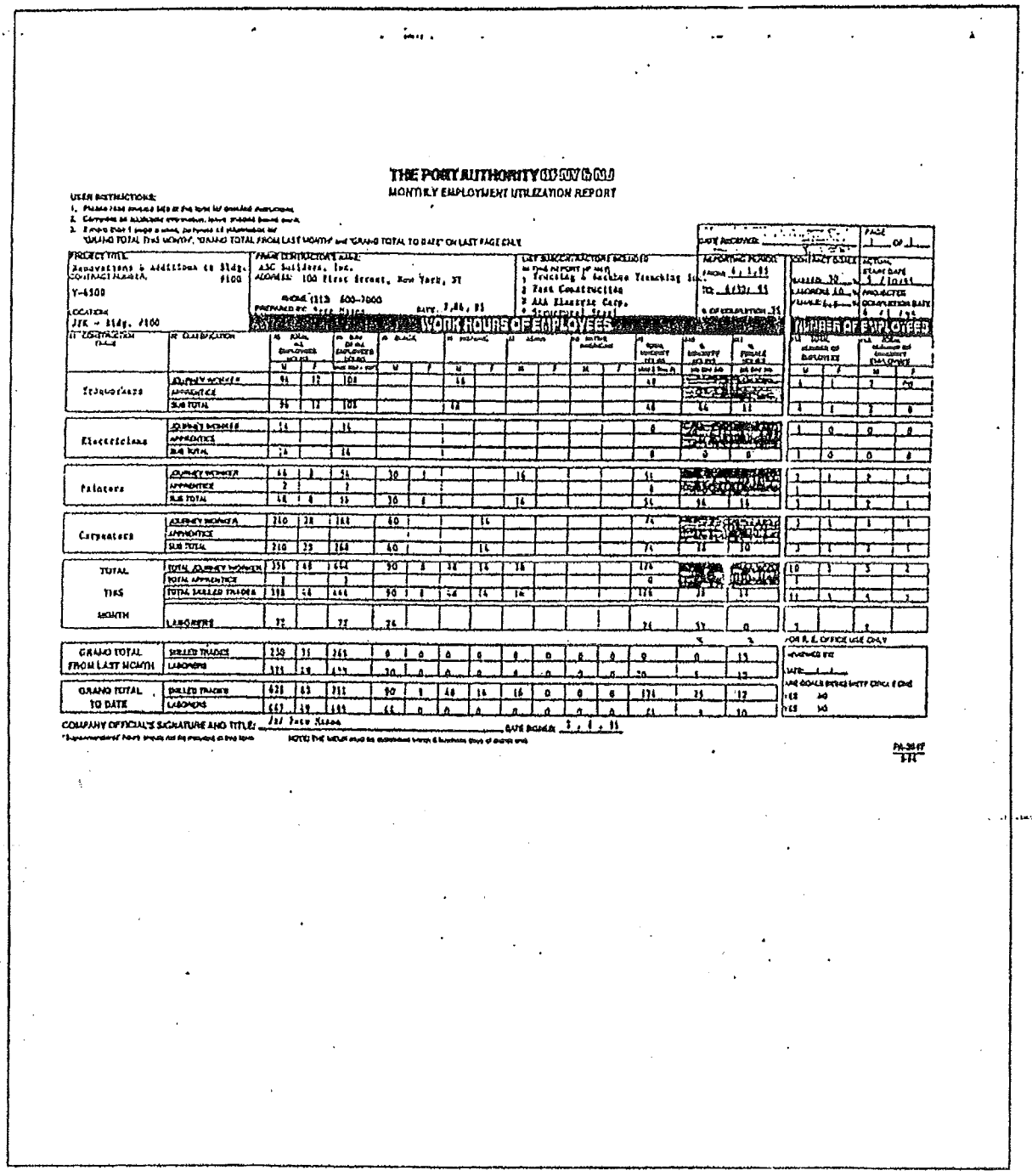
To be Filled in by Port Authority Representative

Yes	No		
☐	☐	A.	Traffic control arrangements established.
☐	☐	B.	P.E.G. notified of this welding operation and location.

Work Authorized:
PORT AUTHORITY REPRESENTATIVE
of RESIDENT ENGINEER

Port Authority Monthly Employment Utilization Report (MEUR) - PA 3647

Figure VII-21



THE PORT AUTHORITY OF NY & NJ

MONTHLY EMPLOYMENT UTILIZATION REPORT

USER INSTRUCTIONS:

1. Please read carefully before you begin to complete this form.
2. Complete all applicable information. Items marked (*) are required.
3. Enter data for 1 single month, for which all information for "GRAND TOTAL this MONTH", "GRAND TOTAL FROM LAST MONTH" and "GRAND TOTAL TO DATE" on LAST PAGE ONLY.

PROJECT TITLE: Renovations & additions to Bldg. CONTRACT NUMBER: Y-4500 #100

LOCATION: JFK - Bldg. #100

PRIME CONTRACTOR'S NAME: A&C Builders, Inc.

ADDRESS: 100 First Street, New York, NY

PHONE (212) 600-7000

PREPARED BY: Sara Miller DATE: 7/26/95

LIST SUBCONTRACTORS HERE(S) (to date REPORT OF end):

1 Trucking & Backhoe Trenching Inc.
2 Pest Construction
3 ABA Electric Corp.
4 (illegible) Steel

DATE RECEIVED:

REPORTING PERIOD: FROM 6/1/95 TO 6/30/95

% OF COMPLETION: 35

CONTRACT STATUS: ACTION: START DATE 3/10/95 PROJECTED COMPLETION DATE

PAGE 1 OF 1

CLASSIFICATION (Trade)	(*) CLASSIFICATION	WORK HOURS OF EMPLOYEES: (*) ACTUAL No. EMPLOYEES (STRAIGHT TIME) M	F	(*) ACTUAL No. OF ALL EMPLOYEES (STRAIGHT TIME) M	F	(*) BLACK M	F	(*) HISPANIC M	F	(*) ASIAN M	F	(*) NATIVE AMERICAN M	F	(*) TOTAL HOURS (STRAIGHT TIME)	(*) % MINORITY (NO DEC)	(*) % FEMALE (NO DEC)	NUMBER OF EMPLOYEES: (*) TOTAL NUMBER OF EMPLOYEES M	F	(*) ACTUAL NUMBER OF MINORITY EMPLOYEES M	F
Ironworkers	JOURNEYWORKER	96	12	108				16							48			4	1	1	2
	APPRENTICE																				
	SUB TOTAL	96	12	108				16							48	44	11	4	1	1	2
Electricians	JOURNEYWORKER	16		16				1							8			1	0	0	0
	APPRENTICE																				
	SUB TOTAL	16		16				1							8	0	0	1	0	0	0
Painters	JOURNEYWORKER	46	2	48	30	1				16					52			2	1	2	1
	APPRENTICE	2		2											1			1			
	SUB TOTAL	48	2	50	30	1				16					53	36	11	3	1	2	1
Carpenters	JOURNEYWORKER	210	28	238	60			16							76			3	1	1	1
	APPRENTICE																				
	SUB TOTAL	210	28	238	60			16							76	28	10	3	1	1	1
TOTAL THIS MONTH	TOTAL JOURNEYWORKER	358	42	412	90	1	16	16	16						176			10	3	3	2
	TOTAL APPRENTICE	2		2											1			1			
	TOTAL SKILLED TRADES	360	42	414	90	1	16	16	16						176	33	11	11	3	3	2
	LABORERS	72		72	24										24	33	0	3		2	
GRAND TOTAL FROM LAST MONTH	SKILLED TRADES	230	31	261	0	0	0	0	0	0	0	0	0	0	0		13				
	LABORERS	115	14	129	30	0	0	0	0	0	0	0	0	0	5		13				
GRAND TOTAL TO DATE	SKILLED TRADES	628	83	711	90	1	16	16	16	0	0	0	0	0	176	25	12				
	LABORERS	667	39	699	66	0	0	0	0	0	0	0	0	0	29	3	10				

FOR P. A. OFFICE USE ONLY: APPROVED BY: DATE: ARE GOALS BEING MET? CIRCLE ONE: YES NO YES NO

COMPANY OFFICIAL'S SIGNATURE AND TITLE: Jay Pace Klaus DATE SIGNED: 7/6/95

*Supervisors' hours should not be included on this form. NOTE: THE MEUR shall be submitted within 5 business days of month end.

PA-3647 (11/95)

Used by Tenant's Contractor to report labor force data. Instructions for completion are on the reverse of the form. Trade Descriptions shall be reported for only the categories listed in Figure VII-22.

MEUR Trade Description Categories

Figure VII-22

CONSTRUCTION TRADE DESCRIPTION
Asbestos Workers (Insulators)
Boilermakers
Bricklayers (Tile, Terrazzo Layer, Grinder)
Carpenters (Millwright)
Cement Masons
Dock Builders
Electrician
Elevator Constructors
Glaziers (Door/Window)
Iron Workers (Ornamental)
Iron Workers (Structural)
Laborers (Mason Tenders, Helpers)
Metal Lathers
Operating Engineers
Painters
Plasterers (Tapers)
Plumbing (Sprinklers)
Roofers
Scaffold Erectors
Steamfitters
Surveyors
Teamsters (Drivers)
All Other (Sheet Metal, Security, etc.)

CLASSIFICATION DESCRIPTION
Supervisor
Journey Worker
Apprentice
Laborers

Trade description categories to be used in filling out the Monthly Employment Utilization Report (MEUR)

Figure VII-23

EWR/LGA/JFK STATEMENT OF M/W/DBE PAYMENTS TO SUBCONTRACTORS/LESSORS/MATERIALMEN M/WBE PARTICIPATION REPORT

TAA NO. OR PROJECT: TAA-Y6800 REPORTING PERIOD: 6/1/95 to 6/30/95

PROJECT TITLE: Renovations and Additions to Bldg. #100

TENANT NAME: Acme Airlines, Inc.

TENANT ADDRESS: Bldg. #100 JFK International Airport
Jamaica, NY 11430

	CONTRACT AWARD	AMOUNT PAID		INDICATE M/W/DBE
		THIS PERIOD	TO DATE	
PRIME CONTRACTOR				
ABC Builders Inc.	9,850,000.	20,100.	48,560.	None
SUBCONTRACTOR				
Clear View Storefront	18,100.	2,700.	12,700.	WBE
161 Peterson Avenue				
Brooklyn, NY				
Johnny Jones, Inc.	3,500.	3,150.	3,150.	MBE
100 Jamaica Avenue				
Queens, NY				
XYZ Corporation	14,530	12,420	12,420	MBE
2000 Western Parkway				
Brooklyn, NY				
A&Z Carting	500.	0	150.	WBE
60 30th Avenue				
New York, NY				
TOTAL SUBCONTRACTORS' AMOUNT	36,630.	18,270.	28,420.	
LESSORS/MATERIALMEN				
AAA Electric Supply Co.	7,500.	1,000.	4,000.	MBE
Best Building Supply Co.	3,255.	0	3,000.	MBE
TOTAL LESSORS/MATERIALMEN AMOUNTS	10,755.	1,000.	7,000.	

PREPARED BY: */s/ Pete Mason* DATE: 7/6/95
Pete Mason

Form to be submitted by the Tenant's contractor monthly throughout the construction period.

Sample Tenant Contractor's Certificate of Insurance

Figure VII-24

ACORD. CERTIFICATE OF INSURANCE

HAVE DATE (MM/DD/YY) Date (1)

PRODUCER

Name of Agency (2)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER A Insurance Company Name (4)

COMPANY LETTER B (add for each line per letters

COMPANY LETTER C located to the far left column below)

COMPANY LETTER D

COMPANY LETTER E

INSURED

Contractor's Name and Address (3)

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A (5)	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE / OCCUR OWNER'S & CONTRACTOR'S PROT.	Policy # (6)	(7) Date	(8) Date	GENERAL AGGREGATE	$ 3,000,000 (9
					PRODUCTS-COMP/OP AGG.	$ 3,000,000
					PERSONAL & ADV. INJURY	$
					EACH OCCURRENCE	$ 3,000,000
					FIRE DAMAGE (Any one fire)	$
					MED. EXPENSE (Any one person)	$
B (5)	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY	Policy # (6)	(7) Date	(8) Date	COMBINED SINGLE LIMIT	$ 3,000,000 (9
					BODILY INJURY (Per person)	$
					BODILY INJURY (Per accident)	$
					PROPERTY DAMAGE	$
	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE	$
					AGGREGATE	$
					STATUTORY LIMITS	
C (5)	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY	Policy # (6)	(7) Date	(8) Date	EACH ACCIDENT	$
					DISEASE-POLICY LIMIT	$
					DISEASE-EACH EMPLOYEE	$
	OTHER					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

(10) The Port Authority of New York & New Jersey and Tenant (x) are included as additional insured. T.A.A. # (y) This agreement includes aeronautical exposures. (12)

CERTIFICATE HOLDER (11)

Port Authority of New York and New Jersey (include address)

CANCELLATION (13)

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

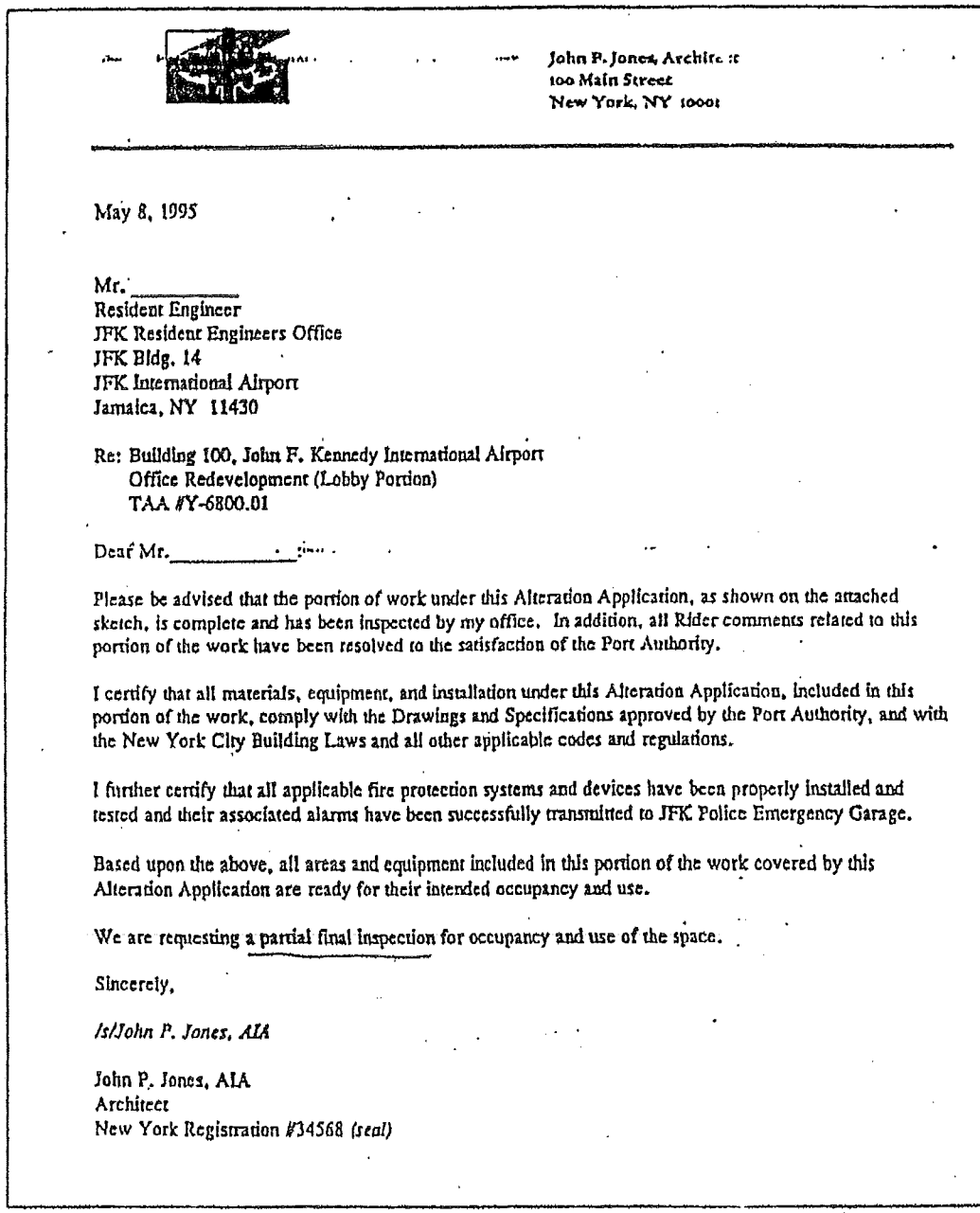
AUTHORIZED REPRESENTATIVE

ACORD 25-S (7/90) PAGE 1 OF (14) ©ACORD CORPORATION 1990

Used by Tenant's Contractor to show construction insurance coverages. There are 14 entries that must be completed by the Tenant and/or its Contractor.

A/E Certification Letter - Partial Completion

Figure VII-25



John P. Jones, Architect
100 Main Street
New York, NY 10001

May 8, 1995

Mr. _____
Resident Engineer
JFK Resident Engineers Office
JFK Bldg. 14
JFK International Airport
Jamaica, NY 11430

Re: Building 100, John F. Kennedy International Airport
Office Redevelopment (Lobby Portion)
TAA #Y-6800.01

Dear Mr. _____:

Please be advised that the portion of work under this Alteration Application, as shown on the attached sketch, is complete and has been inspected by my office. In addition, all Rider comments related to this portion of the work have been resolved to the satisfaction of the Port Authority.

I certify that all materials, equipment, and installation under this Alteration Application, included in this portion of the work, comply with the Drawings and Specifications approved by the Port Authority, and with the New York City Building Laws and all other applicable codes and regulations.

I further certify that all applicable fire protection systems and devices have been properly installed and tested and their associated alarms have been successfully transmitted to JFK Police Emergency Garage.

Based upon the above, all areas and equipment included in this portion of the work covered by this Alteration Application are ready for their intended occupancy and use.

We are requesting a partial final inspection for occupancy and use of the space.

Sincerely,

/s/John P. Jones, AIA

John P. Jones, AIA
Architect
New York Registration #34568 *(seal)*

A sample letter to be filed with the Resident Engineer by the Tenant's A/E if a partial occupancy is desired by the Tenant, and if approved by the REO.

A/E Certification Letter - Full Completion

Figure VII-26

John P. Jones, Architect
100 Main Street
New York, NY 10001

May 8, 1995

Mr. _____
Resident Engineer
JFK Resident Engineers Office
JFK Bldg. 14
JFK International Airport
Jamaica, NY 11430

Re: Building 100, John F. Kennedy International Airport
Office Redevelopment (Lobby Portion)
TAA #Y-6800.01

Dear Mr._____:

Please be advised that the work under this Alteration Application is complete and has been inspected by my office. In addition, all Rider comments have been resolved to the satisfaction of the Port Authority.

I certify that all materials, equipment and installation under this Alteration Application comply with the Drawings and Specifications approved by the Port Authority, and with the New York City Building Laws and all other applicable codes and regulations.

I further certify that all applicable fire protection systems and devices have been properly installed and tested and their associated alarms have been successfully transmitted to the JFK Police Emergency Garage.

We are requesting a final inspection for occupancy and use of the area hereunder.

Sincerely,

/s/ John P. Jones

John P. Jones, AIA
Architect
New York Registration #34568 *(seal)*

A sample letter to be filed with the Resident Engineer by the Tenant's A/E at completion of all construction.

Exhibit C
Disadvantaged Business Enterprise Provisions

Exhibit D

PERCENTAGE RENT RATES

AMOUNT OF ANNUAL GROSS RECEIPTS	PERCENTAGE RENT RATES
$0 and greater	Ex. 2.a.

Exhibit E
FORM OF PORT AUTHORITY TENANT ALTERATION APPLICATION

TENANT CONSTRUCTION OR ALT[illegible]ION APPLICATION EXHIBIT E

APPLICANT MUST READ THE TERMS AND CONDITIONS PRINTED ON THE REVERSE HEREOF

The Applicant shall not commence performance of any of the said work prior to the receipt by Applicant of a copy of this application duly signed in Part Two hereof on behalf of The Port Authority of New York and New Jersey. Upon receipt thereof, the Applicant agrees to perform said work in accordance with the following "Information to be Furnished by Applicant" and to comply with and be bound by all requirements and conditions set forth below under the remarks, if any, in Part Two hereof and the terms and conditions set forth on the reverse hereof.

Minimum Insurance Limits Unless Specified to be Greater -- Bodily Injury $500,000 each person; $500,000 each occurrence; Property Damage $500,000 each accident; $500,000 aggregate.

PART ONE: Information to be furnished by Applicant (Refer to your lease or permit for required information)

Permission is hereby requested to perform the following described work on the space occupied by the Applicant

AT (FACILITY)	PURSUANT TO (LEASE, SPACE PERMIT) NO.	LOCATION (BUILDING # OR AREA) OF SPACE TO BE ALTERED

DESCRIPTION OF WORK AND REASON

ESTIMATED COST OF WORK $	ESTIMATED TIME TO COMPLETE (DAYS)	STARTING DATE / /	COMPLETION DATE / /

Plans: Prints of each drawing must be submitted with copies of application. Include floor plan and show area affected by proposed work (size 8½" x 11" or larger).

TITLE OF DRAWING	DRAWING NO.	DATED

NAME & ADDRESS OF CONTRACTOR (IF NOT KNOWN, SUBMIT LATER)	NAME & ADDRESS OF ENGINEER OR ARCHITECT	TELEPHONE NO. / LICENSE NO.

SEND CORRESPONDENCE TO:
ME & ADDRESS OF EMPLOYEE IN CHARGE OF WORK)

TELEPHONE NO.

APPLICANT'S NAME (AS IT APPEARS ON LEASE OR PERMIT)

BY (SIGNATURE OF AUTHORIZED REP.)	TITLE	DATE / /

ENGINEER OR ARCHITECT CERTIFICATION

I have supervised the preparation of plans and specifications for the entire work represented herein and hereby certify that they conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the City, town or municipality in regard to construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation.

SIGNATURE OF LICENSED PROF. ENGINEER OR ARCHITECT	DATE / /

PART TWO: Prepared by Port Authority and returned to applicant

The above Application is ☐ Approved ☐ Disapproved. Subject to the following conditions:

☐ Continued on Rider "A" attached

lease advise the undersigned in writing, when this work has been Completed.

The Port Authority of New York and New Jersey

SPECTED BY	DATE / /

BY	
TITLE	DATE / /

TERMS AND CONDITIONS

1. In the performance of the work covered hereunder the Applicant shall, unless otherwise directed in writing by the Port Authority, conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the city, town or municipality in which the Facility is located in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation. The Applicant's obligations to comply with the above governmental requirements is for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

2. The Applicant shall comply also with such federal, state and municipal laws, statutes, orders and regulations, if any, as may be legally applicable to the work or the performance thereof or its employees therein. The Applicant shall consult with the Facility Manager with respect to the applicability of any and all laws, statutes, enactments, ordinances, resolutions and regulations and as to the procedure to be followed before taking any other action with respect thereto, and shall follow the instructions and procedure prescribed by said Facility Manager with respect thereto.

3. The Applicant shall also observe and obey (and compel its officers, employees, agents and contractors to observe and obey) the rules and regulations of the Port Authority now in effect which are applicable to the performance of the work, and such further applicable rules and regulations which may from time to time during the said performance 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.

4. The Applicant shall procure and maintain bodily injury and property damage liability insurance in its own name in at least the limits specified in the preamble to this Application and Workmen's Compensation insurance; or if the work is to be done by an independent contractor, the Applicant shall require such contractor to procure and maintain such insurance in the contractor's name. A certificate evidencing such insurance shall be furnished to the Port Authority Facility Manager prior to the commencement of the work.

5. The Applicant shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees, against and from (a) the risk of injuries (including wrongful death) or damage direct or consequential, to it or them or to its or their property, arising out of or in connection with the performance of the work, and (b) the risk of claims and demands by third persons, arising or alleged to arise out of the performance of the work, whether such risks arise out of acts or omissions of the Applicant, its contractors, the Port Authority, or otherwise.

6. The Applicant shall pay all claims lawfully made against it by 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 all contractors and subcontractors to pay all such claims lawfully made against them.

7. Only first-class materials and workmanship shall be used in the performance of the work, which shall be done in accordance with the drawings described in Part I of this Application and to the satisfaction and subject to the inspection of the Facility Manager; the Applicant shall re-do or replace at its own expense any work not approved by him.

8. The Applicant shall notify the Facility Manager not less than two days prior to the commencement of the work, and shall complete the same within the number of days specified in Part I of this Application; and upon completion shall notify the Facility Manager.

9. In the performance of the work, (a) the Applicant shall not do or permit to be done any act affecting the operation of any existing plumbing, heating, fire-protection, fire-alarm, sewerage, drainage, water supply, electrical, sprinkler, ventilating, refrigerating, fuel or communication system at the Facility, or other such service system thereat, including all pipes, cubes, lines, mains, wires, conduits, equipment and fixtures, except with the express written approval of the Facility Manager or the Port Authority resident engineer; (b) the Applicant shall obtain a Port Authority permit from the Facility Manager prior to any cutting or welding and shall comply with the conditions which form a part of said permit, a sample of which may be examined in the office of the Facility Manager.

10. (a) Prior to the commencement of the work and throughout the performance thereof, the Applicant shall erect and maintain at its own expense in or about the space such barriers, shields and other suitable protective devices for the protection of the public others and their property as in the opinion of the Facility Manager may be necessary or desirable for the purpose. The work l be performed in such manner as will cause the minimum inconvenience to members of the public and others at the Facility. ing the performance of the work, the Applicant shall not permit the accumulation in or about the space of any debris, rubbish or ter of any sort resulting from such performance, and shall make such arrangements for the frequent removal thereof from the Facility, by means of facilities to be furnished by the Applicant, as may in the opinion of the Facility Manager be necessary to prevent such accumulation.

(b) In the performance of the work covered by this permit, the Applicant shall not employ any contractor nor shall the Applicant or any of its contractors employ any persons or use or have any equipment or materials or allow any condition to exist if any such shall, or in the opinion of the Port Authority, may cause or be conducive to any labor troubles at the Facility which interfere, or in the opinion of the Port Authority, are likely to interfere with the operation of the Facility by the Port Authority or with the operations of others at the Facility or with the progress of other construction work thereat. The determinations of the Port Authority shall be conclusive on the Applicant and, upon notice from the Port Authority, the Applicant shall immediately remove such contractor or withdraw or cause its contractors to withdraw from the Facility the persons, equipment or materials specified in the notice and replace them with unobjectionable contractors, persons, equipment and materials and the Applicant shall or shall cause its contractor to immediately rectify any condition specified in the notice. In the event of failure by the Applicant or any of its contractors to immediately comply with the requirements of this paragraph (whether or not such failure is due to the Applicant's fault) the Port Authority shall have the right to suspend this permit and the permission thereby granted, without prior notice; when the labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority, by notice to the Permittee, shall reinstate this permit 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.

(c) Not withstanding the approval of this permit by the Port Authority, the Applicant shall not perform or permit to be performed any work hereunder, the performance of which or the subsequent use or occupancy of which will (1) invalidate or conflict with any insurance covering the Facility or any part thereof, or in any property located therein or thereon, or (2) increase the rate of any fire insurance, extended coverage, rental insurance or other insurance on the Facility, or any part thereof or upon any property located therein or thereon. The Applicant shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders, directions and standards of the National Board of Fire Underwriters as interpreted by the New York Fire Insurance Rating Organization as to work performed in New York State, or as interpreted by the Fire Insurance Rating Organization of New Jersey as to work performed in New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the performance of the work or to the completed work (including use or operation thereof) and the Applicant shall make any and all structural and non-structural improvements, alterations or repairs of the work that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction. If because of the work done or by reason of any failure on the part of the Applicant to comply with the provisions of this paragraph any such insurance shall at any time be limited, cancelled or invalidated, then the Applicant shall immediately remove the work; or if the rate of premium for any such insurance shall be higher than it otherwise would be, then the Applicant shall pay to the Port Authority on demand that part of all premiums which shall have been charged because of such work or by reason of such failure by the Applicant. The Applicant shall furnish to the Port Authority evidence of approval of the work by the insurance authority having jurisdiction.

11. Title to any installation, improvement, alteration, modification, addition, repair or replacement resulting from work done pursuant hereto shall immediately upon completion vest in the Port Authority (or in the Port Authority's lessor, if any and if the agreement between such lessor and the Port Authority so provides) without execution of any further instrument. The Applicant shall not remove or change the same unless the Port Authority, on or prior to the expiration or termination of the lease or permit described in Part I of this Application or within sixty (60) days after such expiration or termination, shall give notice to the Applicant requiring removal or restoration, in which case the Applicant (on or prior to the expiration or termination date or, if the notice is given after such date, then immediately after receipt of the notice) shall complete the removal of all of the same (or as much thereof as may be required by the notice) and the restoration (to the extent required by the notice) of the space affected by the work to the same condition as it was in prior to the commencement of the said work. If the Applicant shall fail to comply with such notice, the Port Authority may effect the removal and restoration and the Applicant shall pay the cost thereof to the Port Authority upon demand.

12. A certificate of completion shall be issued to the Applicant by the Facility Manager upon request of the Applicant on completion of the work hereunder in accordance with the Terms and Conditions hereof and inspection thereof by the Facility Manager. Issuance of such certificate shall not preclude the Port Authority from showing that Applicant has failed to comply with his obligations hereunder nor shall it release Applicant from such obligations.

Exhibit G
Affirmative Action Policy

EXHIBIT G

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 _____of Port Authority Agreement No.____ (herein called the "Lease") with _____ (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 circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which

assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at lease as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security

number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor

associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority 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

Exhibit H

Terminal Rules

Concessionaire covenants and agrees that it shall conform with each of the following rules and regulations and each modification, revision, deletion, or addition thereto made by the Sublandlord, in the exercise of the reasonable judgment of the Sublandlord, and shall cause similar conformance by its employees, agents, contractors, and all others over whom Concessionaire has any right to control or direct while in the Airport. Notwithstanding the foregoing, in the event there is an inconsistency or conflict between any one or more of the Terminal Rules and Laws, then the Laws shall control and prevail. Sublandlord shall not be responsible to Concessionaire for the non-compliance by any Concessionaire with the Terminal Rules.

1. Concessionaire shall not place, construct, or maintain on the store front of the Concessionaire Premises, the doors, the exterior walls, the Common Areas or any portion thereof any signs, advertisements, names, insignias, trademarks, descriptive materials, or similar items without Sublandlord's prior written consent. All signs, promotional material and displays within the Concessionaire Premises must, at all times, be attractively displayed and professionally produced. Sublandlord, at Concessionaire's expense, as Additional Rent, may remove any sign placed, constructed or maintained that does not comply with the provisions hereof. Further, Concessionaire shall not, without Sublandlord's prior written consent, place, construct or maintain in or for the Concessionaire Premises any search lights, flashing lights, loud speakers, phonographs, or other similar visual or audio media which may be heard or otherwise experienced outside the Concessionaire Premises.

2. Concessionaire shall not, by itself, or through any officer, salesperson, employee, agent or otherwise solicit business in the vestibules, entrances, elevator lobbies, corridors, hallways or elevators of the Terminal.

3. Concessionaire shall not use or permit the use in the Concessionaire Premises of anything that may be dangerous to life or limb. Concessionaire shall not in any manner deface or injure the Airport any part thereof, or overload the floors of the Concessionaire Premises. Concessionaire shall not do anything or permit anything to be done in the Concessionaire Premises in any way tending to create a nuisance, or tending to disturb any other Concessionaire in the Terminal.

4. Concessionaire, at its sole cost and expense, shall provide exterminating service for the Concessionaire Premises, which services shall be performed as needed, and in all events, upon demand by the Sublandlord or Port Authority. If the Concessionaire Premises are used for the sale of food or beverages, the Concessionaire shall be responsible for the safe, clean, timely and orderly removal of all grease and other by-products generated from or in the Concessionaire Premises. The foregoing removal shall be conducted in a manner and at such times as are necessary and, in all events, at such time and from time-to-time, as directed by the Sublandlord or the Port Authority. No animal of any kind, other than those assisting physically challenged persons, shall be brought into or kept in or about the Concessionaire Premises.

5. The portion of the Common Areas, if any, immediately adjoining the Concessionaire Premises shall be kept clean and free from Concessionaire's dirt and rubbish by Concessionaire to the reasonable satisfaction of Sublandlord. Concessionaire shall not encumber or obstruct the corridors or stairways of the Terminal with furniture, equipment, boxes, crates, floor mats, merchandise, goods or

otherwise. In the event of a violation, Sublandlord may move such objects into the Concessionaire Premises or to any other suitable location.

6. All employees of the Concessionaire and other parties performing services for the Concessionaire while in the Concessionaire Premises shall, at all time, be properly attired for presentation to the public and may be required to wear name-tags or other form(s) of identification while in the Concessionaire Premises, or in other locations at the Airport. The foregoing identification may be in addition to any other identification required by the Port Authority.

7. The delivery or shipping of merchandise, supplies, and fixtures to and from the Concessionaire Premises shall be subject to such rules and regulations as in the reasonable judgment of Sublandlord are necessary for the proper operation of the Terminal.

8. Concessionaire acknowledges that all locks and similar devices on and to the Concessionaire Premises are to be keyed or otherwise within the control from or by a master key or other device within the possession and control of the Sublandlord. At no time during the Term, shall the Concessionaire have the right to place any locks or similar devices on or to any portion of the interior or exterior of the Concessionaire Premises without each being capable of being opened by the master key or other controlling device of the Sublandlord. To the extent that the Concessionaire shall desire to install, within the Concessionaire Premises any combination or other form of locks, no such equipment may be installed without first obtaining the prior written consent and approval of the Sublandlord, and providing to Sublandlord the key, combination, or other means of opening same at any time.

9. Landlord, Sublandlord and the Port Authority and their respective agents shall have the right to enter the Concessionaire Premises for the purpose of making repairs, alterations, or additions which Sublandlord shall deem necessary and take all materials into and upon said Concessionaire Premises that may be required to make such repairs, improvements additions or alterations, without in any way being deemed or held guilty of an eviction of Concessionaire and the Rent reserved herein shall in no wise abate while said repairs, alterations or additions are being made. Concessionaire shall not be entitled to maintain a setoff or counterclaim for damages by reason of loss or interruption to the business of Concessionaire because of the prosecution of any such work.

10. Sublandlord reserves the right, to make such other and further reasonable rules and regulations as in its judgment may, from time to time, be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other further rules and regulations shall be binding upon the parties with the same force and effect as if they had been inserted herein at the time of the execution hereof.

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE LESSEE AND
THESUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Agreement No. AYD-770
Lease No. AYB-876
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of July 16, 2007 (the "Effective Date"), by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), BRITISH AIRWAYS PLC (hereinafter called the "Lessee") and XPRESSPA JFK TERMINAL 7, LLC (hereinafter called the "Sublessee"), a limited liability company organized and existing under the laws of the State of New York with an office and place of business at 7150 E. 58th Street, Seventh Floor, New York, New York, 10155, whose representative is Mr. Moreton Binn.

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have heretofore entered into an agreement of lease dated as of January 4, 1988 and identified by Port Authority Agreement No. AYB-876 (which agreement, as the same has been or may hereafter be supplemented and amended, is hereinafter called the "Lease") pursuant to which the Lessee hired and took from the Port Authority certain premises at John F. Kennedy International Airport (herein called the "Airport") all as more particularly described in the Lease (said premises being hereinafter referred to as the "Premises");

WHEREAS, the applicable provisions of the Lease require, and the Sublease Agreement provides, that the Sublease shall be subject and subordinate to the Lease as the same may be amended, supplemented or extended and, further, that it shall not take effect without the prior written consent of the Port Authority thereto embodied in an instrument signed by the Port Authority;

WHEREAS, the Lessee has requested the consent of the Port Authority to the attached proposed concessionaire sublease agreement made as of July 16, 2007 between the Lessee and the Sublessee (hereinafter called the "Sublease") covering portions of the premises under the Lease (such portions being hereinafter collectively referred to as the "Space");

NOW, THEREFORE, for and in consideration of the covenants and mutual

agreements herein contained, the Port Authority, the Lessee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Lessee or the Sublessee, on the earliest to occur of the day preceding the date of expiration or earlier termination of the Lease, the effective date of any revocation of this Consent Agreement pursuant to Paragraph 8 hereof, or such earlier date as the Lessee and the Sublessee may agree upon subject to the terms and provisions hereof. Notwithstanding the foregoing, however, no termination of the Sublease shall diminish, limit, alter, affect, modify or impair the obligations, liabilities, or responsibilities of the Lessee under the Lease or release or relieve the Lessee from the same or from any of the terms, provisions, covenants and conditions of the Lease on its part to be kept, performed or observed. The Sublessee shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Lessee shall at any time be in default of its obligations under the Lease, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent Agreement but all such payments shall be credited against the obligations of the Lessee or of the Sublessee, as the Port Authority may determine for each payment or part thereof.

4. (a) Neither this Consent, nor anything contained herein nor the consent granted hereunder shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Lessee under the Lease, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Lease nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Lessee under the Lease, nor shall the same affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Lessee under the Lease nor constitute or be deemed to constitute a release of the Lessee from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent Agreement nor anything contained herein nor the consent granted hereunder shall constitute an agreement between the Port Authority and the Lessee that the provisions of the Sublease shall apply and pertain as between the Lessee and the Port Authority, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or

inconsistency between the provisions of this Consent Agreement and those of the Sublease, this Consent Agreement shall be controlling. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent Agreement or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Lease as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Lessee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease (in whole or in part) the Space or any part thereof, be deemed to imply or infer that Port Authority consent or approval thereto pursuant to the Lease will be given or that Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) (i) The Sublessee acknowledges and agrees that it shall pay directly to the Port Authority fifty percent (50%) of the Base Rent and Additional Rent, as such terms are defined in the Sublease.

(iii) Notwithstanding anything to the contrary stated in Section 13.1 (a) of the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority. Nor shall the Port Authority grant any rent abatements which are not consistent with the Port Authority's general practices and/or policies with regard to rent abatement.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Lease.

6. The Sublease shall not be changed, modified, discharged, renewed or

extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

7. The granting of the consent hereunder by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease or other agreement (by the Lessee or by the Sublessee) with respect to the use or occupancy of the Space or any other portion or area of the Premises under the Lease, or to any assignment of the Lease or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

8. (a) The Port Authority shall have the right to revoke this Consent Agreement at any time without cause on thirty (30) days' notice to the Sublessee, which notice shall be jointly subscribed by the Port Authority and the Lessee, as to any one or more of the Spaces at the Premises at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby.

(b) In the event the Port Authority exercises it right to revoke this Consent Agreement for any reason other than "without cause", the Sublessee 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 including, without limitation, any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent Agreement including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent Agreement.

9. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent Agreement and the Sublease or the use and occupancy of the Space thereunder.

10. The Lessee and the Sublessee hereby represent and covenant to the Port Authority that they have complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Lessee and the Sublessee under the Sublease or its or their use and/or occupancy of the Space or the Premises. The obligation of the Lessee and the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

11. (a) If the Sublessee shall fail to pay any amount required under this Consent Agreement 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 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent Agreement. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent Agreement, including without limitation under Paragraph 8 hereof or (ii) any obligations of the Sublessee under this Consent Agreement. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent Agreement shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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. Nothing in this paragraph 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 Consent Agreement, including, without limitation, the Port Authority's rights to revoke this Consent Agreement or (ii) any obligations of the Sublessee under this Consent Agreement.

12. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees and also others on the Space covered by the Sublease or at the Premises or on the Airport with the consent of the Sublessee.

13. It is hereby acknowledged and agreed by the Lessee and the Sublessee that the Port Authority has no obligation under the Lease, this Consent Agreement or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Premises, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Lease or upon revocation of this Consent Agreement with or without cause (in accordance with the terms of Paragraph 8 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said capital investment.

14. (a) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent Agreement and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements as if it were the Lessee under the Lease. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Agreement by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Lessee under the Lease and the Lessee shall also be severally responsible therefor including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

15. (a) In addition to the insurance required to be maintained by the Lessee under the Lease, the Sublessee in its own name as insured and including the Port Authority and the Lessee as additional insureds shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or the Lessee, or both, and with respect to any claim or action against the Port Authority or the Lessee, or both, by the Sublessee as though the Port Authority and the Lessee were the named insureds thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority and the Lessee thereunder as additional insureds. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under subparagraph (a) above.

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium

thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

16. Without limiting the generality of the provisions of this Consent Agreement, the terms, provisions, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Lease or this Consent Agreement then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Lease.

17. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

18. (a) Nothing contained in this Consent Agreement nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Lease. Neither a partnership nor any joint venture is hereby, or by the Sublease, created or implied notwithstanding the provisions of Article II of the Sublease.

(b) Without limiting the generality and notwithstanding the provisions of paragraph 4 (a) herein, the Sublessee and the Lessee further acknowledge and expressly agree that the Port Authority shall have the right to enforce the Sublease Agreement directly against the Sublessee, including but not limited to all insurance provisions thereof.

19. Nothing contained in this Consent Agreement or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Lessee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Lease and an approved Alteration Application which the Lessee shall prepare and submit to the Port Authority.

20. (a) The Sublessee shall deliver to the Port Authority, as initial security for all obligations under this Consent Agreement, 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 District, in favor of the Port Authority in the amount of Twenty Two Thousand Five Hundred Dollars and No Cents ($22,500.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective letting under this Consent Agreement 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. Upon notice of cancellation of a letter of credit, the Sublessee 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 cash or bonds 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. Failure to provide such a letter of credit at any time during the effective letting, 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 Consent Agreement on the part of the Sublessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Sublessee made thereafter, the Port Authority will return the security deposit, if any, thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of this paragraph. The Sublessee 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 permission under this Consent Agreement and fulfillment of the obligations of the Sublessee hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Sublessee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(b) The Sublessee hereby certifies that its Federal Tax Identification Number is Ex. 1/4 the purposes of subparagraph (a) above.

21. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Lessee and their respective offices shall be as set forth in the Lease. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent Agreement as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent Agreement as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

22. The Lessee specifically agrees, as part of its obligation to comply with all applicable laws, governmental rules, regulations and orders during the term of this Consent, that it shall comply with 49 CFR Part 26 (Participation by Disadvantaged Business Enterprises in the Department of Transportation Financial Assistance Programs) and 49 CFR Part 23 (Participation by Disadvantaged Business Enterprises in Airport Concessions), as the same may be amended

from time to time. In addition, the Port Authority may from time to time, by notice to the Sublessee, provide to the Sublessee specific provisions which it determines may be required by the afore-stated Part 26 and/or Part 23, to be attached to and form a part of this Agreement. Such specific provisions, from the effective date of such notice, shall be deemed to constitute an integral part of this Consent Agreement.

23. Basic Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent Agreement is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Consent Agreement for more than one (1) month in advance (excluding security and other deposits required under this Consent Agreement);

(iii) With respect to this Consent Agreement, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent Agreement, which shall provide the Port Authority with the right to revoke this Consent Agreement and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent Agreement.

24. Without in any way limiting the provisions hereof, unless otherwise notified by the Port Authority in writing, in the event the Sublessee shall continue to perform the operations permitted under this Consent Agreement and/or the Sublease, after the expiration, revocation or termination of the term granted under this Consent Agreement or the Sublease, as such effective term may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Consent Agreement or other remedies the Port Authority may have by law or otherwise, the Sublessee 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 Sublessee shall cease to perform the operations at the Airport under the Sublease, equal to twice the sum of the monthly amount due to the Port Authority under the Sublease. Nothing herein contained shall give, or be deemed to give, the Sublessee any right to continue to perform the privilege granted under this Consent Agreement at the Airport after the expiration, revocation or termination of the term granted under this Consent Agreement and/or Sublease. The Sublessee acknowledges that the failure of the Sublessee to cease to perform the operations at the Airport from and after the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Sublessee 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 Sublessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

25. The Lessee waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Sublessee in respect of the Premises 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 Consent Agreement. The Sublessee and Lessee specifically agree not to interpose any claims as counterclaims in any summary proceeding for possession or in any action for non-payment of rents, fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

26. Notwithstanding anything to the contrary stated in the Sublease, Section 6.4 shall be, and be deemed, deleted in its entirely and the following Section 6.4 shall be substituted in lieu thereof:

"Section 6.4 Operation and Maintenance Fee ("O&M Fee").

Concessionaire shall pay to Sublandlord an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of concessionaires in the operation of the concession space within the Terminal ("O&M Costs"). O&M Costs include, but are not limited to: trash removal; operations, maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage charges; and all other direct costs and expenses properly chargeable to the operation, maintenance or repair of such systems and services.

Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Weighted Floor Area of the Concessionaire Premises, as that term is herein defined, and the denominator shall be the sum of the weighted floor areas leased and occupied by Concessionaires to which O&M Costs are allocated by Sublandlord. The calculation of the amount of costs and expenses incurred by Sublandlord in connection with the operation of the concession space within the Terminal, which shall be an allocation which is derived from the total costs and expenses incurred by Sublandlord in connection with the Terminal as a whole, shall be determined by the Sublandlord in good faith, in a consistent manner from year-to-year, and, in addition, in a manner capable of substantiation. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount Concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the

amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid. For purposes of this Sublease, the Weighted Floor Area of the Concessionaire Premises is 100% of the Floor Area of the Concessionaire Premises."

27. This Consent Agreement and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

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

IN WITNESS WHEREOF, the Port Authority, the Lessee and the Sublessee have executed these presents.

ATTEST:

Secretary

Director

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

(Title) Asst. Director, Contracts

(Seal)

ATTEST:

~~Secretary~~ General Counsel, Americas

BRITISH AIRWAYS PLC

By

(Title) Senior Vice President

(Corporate Seal) Business Management Americas

ATTEST:

~~Secretary~~

Senior V.P./General Counsel

XPRESSPA JFK TERMINAL 7, LLC

By

(Title) Morton Binn ~~Member~~/Manager

(Corporate Seal)

APPROVED FOR TRANSMITTAL	
FORM	TERMS
MJ	SB

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Form - All-Purpose Ack. N.Y. (rev 1/4/2000)

For the Port Authority of NY & NJ

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 20TH day of OCTOBER in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared LISA SCULLY, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Gail E. Mitchell
(notarial seal and stamp) GAIL E. MITCHELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MI6026210
Qualified in Queens County
My Commission Expires June 14, 2011

For British Airways Plc

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

On the 13th day of March in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Neil Evans, personally known to me or proved to me on the basis of satisfactory evidence to be the Sen. VP, Bus. Man. 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

JAMES B. BLANEY
Notary Public, State of New York
No. 02BL4919572
Qualified in New York County
Commission Expires 09/14/2010

For XpresSpa JFK Terminal 7, LLC

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

On the 15th day of April in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Moreton Binn, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

Matthew S. Podell

MATTHEW S. PODELL
Notary Public, State of New York
No. 02PO6057294
Qualified in New York County
Commission Expires April 16, 2011

CONCESSIONAIRE SUBLEASE

BETWEEN

BRITISH AIRWAYS PLC

AS

SUBLANDLORD

AND

XPRESSPA JFK TERMINAL 7, LLC

AS

CONCESSIONAIRE

FOR

A PORTION OF TERMINAL 7 IN JOHN F. KENNEDY INTERNATIONAL AIRPORT

Concessionaire Premises: That portion of the Premises subleased to the Concessionaire and depicted on Exhibit A, comprised of the following Spaces:

XpresSpa Full Service Spa R 13

Concessionaire Sublease: This Sublease, which shall be void *ab initio* and of no force and effect unless and until such time as the Concessionaire, Sublandlord, and the Port Authority have executed a consent agreement in the form of a so-called "Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, which issuance is within the sole and absolute discretion of the Port Authority.

Concessionaires: All third-parties to whom the Sublandlord subleases or licenses portions of the Premises.

CPI: The twelve (12) month average of the Consumer Price Index [U.S.-All Items in Commodity Groups-New York Area Only, Urban Wage Earners and Clerical Workers of the U.S. Department of Labor 1982-84=100].

Default Rate: A rate of interest being the lesser of (a) the Prime Rate, plus four percent (4%); and (b) the highest rate then allowed under the usury laws of the State of New York.

Delivery Date: As it applies to any portion of the Concessionaire Premises, the date on which possession of said portion of the Concessionaire Premises is delivered to Concessionaire by British Airways.

Delivery Service: Federal Express or similar nationally recognized overnight courier service.

Disadvantaged Business Enterprise or **DBE:** An individual or entity meeting the requirements of a disadvantaged business enterprise as defined in US Department of Transportation Regulations Title 49, Code of Federal Regulations, Part 23, and certified as an ACDBE by the Port Authority.

Enplanement or **Enplaned Passenger**: Any local originating, connecting or through passenger that boards a flight from the Terminal, excluding passengers who have disembarked and reboarded for the purpose of continuing their journey on the same aircraft with the same flight number.

Event of Default: Certain failures by the Concessionaire, as more fully set forth in Section 13.1.

Expiration Date: October 31, 2015, unless sooner terminated in accordance with the provisions of this Sublease, as amended.

Federal Aviation Administration or **FAA:** The United States Federal Aviation Administration, and any successor agency, office or department thereof.

Floor Area of Concessionaire Premises: R 13 -- 1,317 sq. ft.

Food Court Common Areas: That portion of the Common Areas primarily intended for (a) public circulation to and from certain food and beverage Concessionaires and (b) a public seating area containing tables and chairs for use by passengers, employees and other visitors to the Terminal to consume purchases from said food and beverage Concessionaires, as further depicted in Exhibit A.

GAAP: Generally Accepted Accounting Principles.

Governmental Authority or Governmental Authorities: The United States of America, the

States of New York and New Jersey, any political subdivision of either and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, or any quasi-governmental authority (to the extent the rulings of such quasi-governmental authority have the force of law), including the Port Authority, now existing or hereafter created, having jurisdiction over the Airport or any portion thereof.

Gross Receipts: As that term is defined in Section 2.1(b)(iv), below.

Initial Build Out Costs: The aggregate of the so-called hard and soft costs incurred by the Concessionaire in connection with the development, design, construction, furnishing, fixturing and equipping of the Concessionaire Premises.

Initial Improvements: that work to be undertaken by Concessionaire in any portion of the Concessionaire Premises, following the Delivery Date of said portion of the Concessionaire Premises, as further described in Section 1.2(b) below.

Laws: All present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any applicable fire rating bureau or other body exercising similar functions, affecting the Airport or any portion thereof.

Master Lease: That certain Agreement of Lease dated as of January 4, 1988 between the Sublandlord as the Lessee therein and The Port Authority of New York and New Jersey, and all amendments, supplements and revisions thereof, whether heretofore or hereafter made (collectively "Supplements") and known as Lease No. AYB-876.

Minimum Annual Guaranteed Rent: Ex. 2.a. subject to the adjustment, as set forth in Section 2.1(a) for space R13, below.

Minimum Annual Guaranteed Rent Commencement Date: The first to occur of the (a) date upon which the Concessionaire Premises are initially opened for business to the public; or (b) 122nd day following Substantial Completion, as that term is hereinafter defined, but in no case later than 90 days after the date of the Port Authority's preconstruction meeting.

Monthly Statement: A statement from and certified, as being true, accurate and complete by the Concessionaire to the Sublandlord and the Port Authority stating the amount of Gross Receipts from Concessionaire for the previous calendar month, and such other information as Sublandlord may reasonably request, each such statement to identify each location operated by Concessionaire within the Premises, irrespective of whether or not all such locations (if more than one) are operated under one or more Concessionaire Subleases.

Percentage Rent: That portion of the Gross Receipts of the Concessionaire to be paid as a component of Rent by the Concessionaire to the Sublandlord or Port Authority, as the case may be.

Percentage Rent Rates: Those rates identified as such in Exhibit D.

Permitted Operations: Provision of spa treatments such as massage, facial, and other similar offerings, as well as sale of related products, as further described in Exhibit I. It is further provided that the foregoing are subject, in all events, to the limitations set forth in Section 5.1 hereof.

Plans and Specifications: The plans and specifications approved by Sublandlord and the Port Authority, by which the Concessionaire will (a) design; (b) furnish; (c) fixture; and (d) equip the Concessionaire Premises. All plans and specifications must comply with the Port Authority's Tenant Alteration Application process, a copy of said form of said Application is attached hereto as Exhibit E.

Port Authority: The Port Authority of New York and New Jersey, a body corporate and politic as established by compact between the States of New Jersey and New York with the consent of the Congress of the United States of America.

Port Authority Consent: A written consent agreement in the form of a so-called "Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, or amendments thereto, which issuance is within the sole and absolute discretion of the Port Authority.

Port Authority Percentage Rent: An amount equal to Ex. 2.a. of the Percentage Rent.

Premises: Those portions of the Terminal which are, from time-to-time, designated as such by the Sublandlord, but in no event shall it consist of less than the aggregate of (a) the Concessionaire Premises; (b) all other portions of the Terminal subleased to other concessionaires; and (c) and the Food Court Common Areas.

Prime Rate: That which is published, from time to time, in the Wall Street Journal as being the prime rate.

Protected Parties: All officers, directors, employees, agents and shareholders of the Sublandlord and its successors and assigns.

Records: Those records and books or account recording all transactions of the Concessionaire at, through, or in anyway connected with the Concessionaire Premises.

Rent: The collective term for Minimum Annual Guaranteed Rent, Percentage Rent and Additional Rent.

Sublandlord Percentage Rent: An amount equal to : Ex. 2.a. of the Percentage Rent.

Sublandlord's Work: That work to be done by or on behalf of the Sublandlord as more fully set forth in Exhibit B.

Substantial Completion: That stage in the process of the Sublandlord's Work when such is sufficiently complete, as reasonably determined by Sublandlord, so that the Concessionaire may beneficially occupy the Concessionaire Premises for its intended use,

Term: The period beginning on the Commencement Date and ending on the Expiration Date, unless sooner terminated pursuant to the terms of this Sublease.

Terminal: That portion of the Airport currently and commonly known as Terminal 7 or the British Airways Terminal.

Transportation Security Administration or **TSA**: The United States Transportation Security Administration, and any successor agency, office or department thereof

Notice Address:

Sublandlord:

75-20 Astoria Boulevard
Jackson Heights, New York 11370
Attention: Steve Clark, Senior Vice President, Customer Service

With a copy to:
James B. Blaney
Senior Counsel, Americas
75-20 Astoria Boulevard
Jackson Heights, New York 11370

Port Authority:

Manager of Central Business
Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003

With copy to:
Chief, Leases Division
Port Authority of New York and New Jersey
Law Department
225 Park Avenue South
New York, New York 10003

Concessionaire:

Moreton Binn
XpresSpa JFK Terminal 7, LLC
150 E. 58th Street
New York, New York

With a copy to:

Muchnick Golieb & Golieb, P.C.
200 Park Avenue
Suite 1700
New York, New York 10003
Attn: John A. Golieb, Esq.

Exhibits:

A. Depiction of Concessionaire's Premises
B. Description of Sublandlord's Work
C. Disadvantaged Business Enterprise Provisions
D. Percentage Rent Rates
E. Form of Port Authority Tenant Alteration Application
F. Form of Guaranty
G. Affirmative Action Policy
H. Standards of Operation
I. Permitted Retail Operations

ARTICLE I
GRANT AND TERM

Section 1.1 GRANT AND PREMISES

(a) Sublandlord, in consideration of the Rent to be paid and the covenants to be performed by Concessionaire, does hereby, demise and lease unto Concessionaire, and Concessionaire hereby rents and hires from Sublandlord, the Concessionaire Premises for the uses and purposes hereinafter set forth, subject, at all times, to the terms and conditions of the Master Lease and the Port Authority Consent, provided however, this Sublease shall be void ab initio until receipt of the executed Port Authority Consent.

(b) The foregoing grant and demise to Concessionaire includes the non-exclusive right of the Concessionaire and its officers, shareholders, partners, members, contractors, agents, employees and invitees and others acting by, through or under the Concessionaire to use the Airport, pursuant to the terms of the Master Lease, including, but not limited to, Section 6, thereof, in common with all others permitted to use the Airport by the Port Authority.

Section 1.2 DELIVERY OF PREMISES; WORK OF SUBLANDLORD AND CONCESSIONAIRE.

(a) Sublandlord will perform or cause to be performed, the Sublandlord's Work, if any, as more fully set forth in Exhibit B. Concessionaire, by its execution of this Sublease, represents, warrants and agrees that Sublandlord has no obligation, duty and has made no agreement with Concessionaire to do or cause to be done any other work in or to the Concessionaire Premises except as expressly set forth herein.

(b) Concessionaire covenants and agrees that, to the extent not required to be completed by the Sublandlord, it shall (i) undertake, at no cost to the Sublandlord or Port Authority, improvement of the Concessionaire Premises, which improvement shall include the (1) design; (2) furnishings and fixtures; (3) leasehold improvements and; (4) equipping of the Concessionaire Premises (said work herein referred to as the "Initial Improvements"), and shall expend for said Initial Improvements an amount not less than $300,000.00, and Concessionaire will provide to Sublandlord such documentation as is reasonably required to evidence and support such expenditure. Subject to delays beyond Concessionaire's control, Concessionaire shall cause the Initial Improvements to proceed diligently to completion in accordance with the Plans and Specifications. Concessionaire agrees to complete the Initial Improvements within 3 months of the Date of Delivery, except as such date may be extended by Sublandlord. Concessionaire covenants that it will, at all times, conform with all Laws, the Master Lease and the Tenant Alteration Application process of the Port Authority. Sublandlord will take reasonable steps to assist Concessionaire to secure all necessary Port Authority approvals.

ARTICLE II
RENTAL

Section 2.1 **BASE RENT**

For each calendar year, Concessionaire shall pay to Sublandlord and Port Authority, or such other party or parties as the Concessionaire is from time-to-time notified in writing, as Base Rent, an amount equal to the greater of the (1) Minimum Annual Guaranteed Rent, without regard to any waiver or abatement as set forth herein and (2) Percentage Rent. All payments of Base Rent shall be due and payable without prior demand or notice.

(a) MINIMUM ANNUAL GUARANTEED RENT.

(i) Calculation of Minimum Annual Guaranteed Rent

(A) Minimum Annual Guaranteed Rent shall be due and be paid in twelve (12) equal monthly installments, in advance, on the first day of the first month following the Minimum Annual Guaranteed Rent Commencement Date.

(B) Notwithstanding anything herein contained to the contrary, in the event the Concessionaire does not initially open for business on or before the Minimum Annual Guaranteed Rent Commencement Date, then, for the period commencing on the Minimum Annual Guaranteed Rent Commencement Date, until the date such Concessionaire initially opens for business ("Stub Period"), Concessionaire shall pay to Sublandlord, as liquidated damages, and not as a penalty, an amount equal to the Minimum Annual Guaranteed Rent for such Concessionaire Premises ("Stub Rent") prorated, on a daily basis, and paid, in advance, on the first day of the first calendar month following the Stub Period. Upon the initial opening for business by such Concessionaire, the Minimum Annual Guaranteed Rent shall thereafter begin to accrue in accordance with the terms of this Sublease and be paid in accordance withthe terms set forth herein.

(ii) Concessionaire acknowledges and agrees that, of the Minimum Annual Guaranteed Rent, Ex. 2.a. thereof is due and payable by Concessionaire to the Port Authority, on a monthly basis ("Port Authority Minimum Annual Guaranteed Rent"). Therefore, Port Authority Minimum Annual Guaranteed Rent shall be paid, directly to the Port Authority, in equal monthly installments, on the first day of the month following the Minimum Annual Guaranteed Rent Commencement Date, and the Minimum Annual Guaranteed Rent for the first calendar year shall be prorated on a per diem basis. Subsequent to the Minimum Annual Guaranteed Rent Commencement Date, the Concessionaire shall deliver to the Sublandlord a statement confirming the Minimum Annual Guaranteed Rent Commencement Date.

(iii) During each calendar year that an amount equal to Ex. 2.a. of the Percentage Rent therefore shall exceed the Minimum Annual Guaranteed Rent for the same calendar year, then the Minimum Annual Guaranteed Rent for the next succeeding calendar year shall be an amount equal to said Ex. 2.a. f the Percentage Rent.

(b) PERCENTAGE RENT.

(i) Percentage Rent from Concessionaire shall be equal to the product of the Percentage Rent Rates applicable to the merchandise sold or services offered by the Concessionaire within the Concessionaire Premises, multiplied by the Gross Receipts.

(ii) Commencing with the second (2nd) month of the Term, Percentage Rent shall be paid by Concessionaire to Sublandlord, as to the Sublandlord Percentage Rent, and the Port Authority, as to the Port Authority Percentage Rent, without prior notice or demand, within fifteen (15) days after the end of each month of the Term ("Percentage Rent Payment Date"); provided however, in no event shall either the Sublandlord Percentage Rent or Port Authority Percentage Rent be less than the amount due to the Sublandlord or Port Authority, as the case may be, as Minimum Annual Guaranteed Rent.

(iii) If, for any calendar year or partial calendar year, as the case may be, the total amount of monthly installments of Percentage Rent for such period is less than the total amount of Percentage Rent required to be paid for said period, Concessionaire shall pay to the Sublandlord or the Port Authority, or both, as the case may be, the amount of such deficiency together with the delivery of the Annual Statement. If, at the end of any calendar year or partial calendar year, as the case may be, the total amount of Percentage Rent paid by Concessionaire for such period was in excess of amount of Percentage Rent required to be paid hereunder for said period, then such excess shall be deemed to be prepaid Percentage Rent and shall be applied as a credit against Percentage Rent thereafter becoming due and payable by Concessionaire to Sublandlord or Port Authority, or both, as the case may be, until such credit is exhausted. This obligation shall survive the expiration or sooner termination of this Sublease. In the event the Percentage Rent paid in the final Sublease year exceeds the amounts owed to Sublandlord hereunder, such excess sum will be promptly repaid to Concessionaire following conclusion of the Sublease term.

(iv) The term Gross Receipts, for each calendar year or partial calendar year, shall mean and include all monies paid or payable to Concessionaire for sales made and, services rendered at or from the Concessionaire Premises, regardless of (A) when during a calendar year sales are made and (B) where the order is filled or from where it is shipped, if the order was taken at the Concessionaire Premises, provided however the following shall be excluded, or, if included, may be deducted therefrom: (1) taxes imposed by law which are separately stated to and paid by a customer and directly payable to the taxing authority by the Concessionaire; (2) receipts of Concessionaire which arise from its operations, if any, under any other agreement with the Port Authority and which are subject to a percentage rental or fee under that agreement; (3) refunds for merchandise returned by customers; (4) the amount of gratuities paid or given by patrons or customers to employees of Concessionaire or others employed at or serving at any of the facilities being operated by Concessionaire; (5) bona fide transfers of merchandise to or from the Concessionaire Premises to any other stores or warehouses of Concessionaire; (6) sales of Concessionaire's fixtures and store equipment not in the ordinary course of such Concessionaire's business; (7) returns to shippers, suppliers or manufacturers; and (8) insurance proceeds received from the settlement of claims for loss of or damages to merchandise, fixtures and other personal property of the Concessionaire other than the proceeds of business interruption insurance. During all time periods for which Gross Receipts are computed, in the event the foregoing definition produces a negative number, Gross Receipts shall be deemed to equal zero. The full amount of any payments received by Concessionaire from any third party as consideration for (i) promotions, (ii) advertising, or (iii) the prominent display of merchandise and/or the placement of promotional

material in the Concessionaire Premises from a supplier of goods (such latter promotional considerations commonly referred to as "Retail Display Allowance") shall be included in the Gross Receipts for the year within which such payment was earned, irrespective of when received. The amount of Gross Receipts shall be determined and based upon the amount that Concessionaire reports to Sublandlord and the Port Authority as the Gross Receipts for each such reporting period, as adjusted, thereafter after examination of Concessionaire's books and record and/or Audit by either or both of the Sublandlord and the Port Authority. Except as otherwise provided for herein, if any charge for any of the products or services provided hereunder is not assessed, charged or collected, irrespective of the reason therefore, the proper amount of such charge shall, nevertheless, be included in Gross Receipts. Further, no deduction shall be made from Gross Receipts by reason of any credit loss, charge or deduction that may be incurred by reason of the acceptance or use of credit cards or other credit or charge arrangements.

Section 2.2 **ADDITIONAL RENT.**

Additional Rent, if any, shall be paid within ten (10) days after receipt of a bill therefore.

Section 2.3 **LATE CHARGE, DEFAULT RATE, LOCATION FOR PAYMENTS**

(a) Unless specifically stated otherwise in this Sublease, Rent shall be due and payable as indicated herein. The parties hereby agree that late payment by Concessionaire of any Rent may cause Sublandlord to incur certain costs and expenses not contemplated under this Sublease; the exact amount of which costs are extremely difficult to determine. In the event Concessionaire fails to pay any Rent to Sublandlord on or before the 5th day after same is due to Sublandlord, then Concessionaire shall pay to Sublandlord a late charge of five percent (5%) of the amount not so paid as damages for the failure to make prompt payment. In the event Concessionaire pays said late charge, but fails to pay contemporaneously therewith all unpaid amounts of Rent then due to Sublandlord and payable, Sublandlord's acceptance of this late charge shall not constitute a waiver of Concessionaire's failure with respect to Concessionaire's nonpayment or prevent Sublandlord from exercising all other rights and remedies available to Sublandlord.

(b) Late Charges

(i) Any amount due from Concessionaire to Sublandlord which is not paid when due (including, without limitation, amounts due as reimbursement to Sublandlord for costs incurred in performing obligations of the Concessionaire) shall bear interest at the Default Rate from the date due until paid (such interest hereinafter referred to as "Interest Charges"), unless otherwise specifically provided herein, but the payment of such Interest Charges shall not excuse or cure any failure or default under this Sublease. Interest Charges shall not accrue with respect to disputed items being contested in good faith by Concessionaire; however, Interest Charges shall accrue on any disputed item not paid within five (5) days from the date of resolution computed from the date of resolution.

(ii) If Concessionaire should fail to pay any amount required under this Sublease or the Port Authority Consent to the Port Authority, including without limitation any payment of any Rent, 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 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 (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. Each late charge shall be payable immediately upon demand made at any time therefore 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 this subsection with respect to such unpaid amount. Nothing herein is intended to, or shall be deemed to affect, alter, modify or diminish in any way any rights of the Port Authority under this Sublease or the Part Authority Consent, as the case may be. In the event that any late charge imposed pursuant to this subsection shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable hereunder shall be payable instead at such legal maximum.

(c) Rent and all other sums payable by Concessionaire shall be paid in currency of the United States or other customary commercial manner at the Address for Payments to Sublandlord or Port Authority, as the case may be, or such other place as either or all may designate, from time to time, without any deductions or offsets, except as otherwise specifically permitted in this Sublease.

ARTICLE III
RECORDS AND BOOKS OF ACCOUNT, AUDIT

Section 3.1 **RECORDS**

a) Concessionaire covenants and agrees to maintain all Records in accordance with GAAP during the Term, and for two full calendar years after the expiration or earlier termination of the Term or the Port Authority Consent ("Records Term"). The Records shall be kept at all times within the Port of New York District. Without implying any limitations on the rights of the Port Authority, but in addition thereto, if any Records are maintained outside of the Port of New York District, but within the continental United States, the Port Authority or the Sublandlord, in their respective discretion, both, may (i) require that such Records be produced within the Port of New York District; or (ii) examine such Records at the location at which they have been maintained and in such event, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or both, as the case may be, when billed, all travel and related expenses, as determined by the Port Authority and the Sublandlord, for the Port Authority's and Sublandlord's auditors and other representatives, employees and officers in connection with such examination and audit, or, if any such Records have been maintained outside the continental United States, then, in addition to the costs set forth in (ii), above, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or all, as the case may be, when billed, all other costs of the examinations and audits of such Records, including, without limitation, salaries, benefits, travel costs and related expenses, overhead costs and fees and charges of third-party auditors retained by

the Port Authority or the Sublandlord, or both, as the case may be, for the purpose of conducting such examinations and audits. The foregoing auditing costs, expenses and amounts due to the (i) Port Authority shall be deemed fees and charges under the Port Authority Consent, payable to the Port Authority with the same force and effect as all other fees and charges payable thereunder; or (ii) Sublandlord, as Additional Rent, and be payable upon demand therefore.

b) Notwithstanding anything contained in this Sublease to the contrary, for purposes of this Sublease, Records shall exclude any books and records relating to any other locations owned or occupied by Concessionaire located off the Airport or any other business operations of Concessionaire, provided however, that this exclusion shall neither bind nor apply to the Port Authority and its right to inspect and Audit as herein provided. The Port Authority shall also be entitled to examine and audit the books and records of account of any company or entity which is owned or controlled by Concessionaire, or which owns or controls Concessionaire, or which is under common control with the Concessionaire, if said company performs services similar to those performed by the Concessionaire, and the Concessionaire shall make available such books and records to the Port Authority for such purposes to the same extent as would be required pursuant to paragraph (c) of this section.

c) Concessionaire shall permit during the Records Term, (i) the examination and audit of the Records by the officers, employees and representatives of either or both of the Sublandlord and Port Authority ("Audit"). Concessionaire shall make available to the Port Authority within the Port of New York District for examination and Audit pursuant hereto all of the Records; (ii) the inspection by the officers, employees and representatives of either or both of the Port Authority and Sublandlord of any equipment used by Concessionaire including, but not limited to sales registration and tracking devices such as cash registers, sales slips, invoicing machines and any other equipment or devices for recording orders taken, or services rendered, as may be appropriate to Concessionaire's business and necessary or desirable to keep accurate records of Gross Receipts.

d) In the event Concessionaire shall fail to maintain, keep or make available for examination and Audit the Records in the manner and at the times or location as provided herein then, in addition to all and without limiting any other rights and remedies of the Sublandlord or the Port Authority, either or both may:

(i) Estimate the Gross Receipts of the Concessionaire on any basis that the Port Authority or the Sublandlord, in their respective sole discretion, shall deem appropriate, such estimation to be final and binding on the Concessionaire (but not on the remaining party having the benefit of this provision) and Concessionaire's Percentage Rent based thereon to be payable to the party conducting the Audit; or

(ii) If any such Records have been maintained outside of the Port of New York District, then the Port Authority or the Sublandlord, or all, may, in the exercise of the sole discretion of either, may require, on ten (10) days notice to Concessionaire, that such Records to be produced and made available within the Port of New York District for the Port Authority's or Sublandlord's, or both, auditors and other representatives, employees and officers in connection with such examination and Audit.

Section 3.2 **REPORTS BY CONCESSIONAIRE**

(a) Concessionaire shall furnish to Sublandlord and the Port Authority (i) the Monthly Statement by the Percentage Rent Payment Date, for the preceding month; and (ii) the Annual Statement on or before April 1st of each calendar year, for the preceding calendar year.

(b) Concessionaire shall timely provide to the Sublandlord and the Port Authority a Monthly Statement and Annual Statement together with all other documents, Records and materials requested or required to be delivered by Concessionaire to the Port Authority or Sublandlord.

Section 3.3 **SUBLANDLORD AUDIT ADJUSTMENTS; COSTS**

If any Audit conducted by the Sublandlord of the Concessionaire discloses that the Gross Receipts as previously reported for the period audited were understated and additional Percentage Rent is due, then the Concessionaire shall be required to pay to (i) Sublandlord the additional Percentage Rent due thereto for the period audited within five (5) days after receipt of a statement therefore (together with a copy of the results of the Audit indicating the understatement); and (ii) within five (5) days of an invoice therefore, all costs of each such Audit.

ARTICLE IV
INITIAL CONDITION OF CONCESSIONAIRE PREMISES

Section 4.1 **ACCEPTANCE**

(a) Upon Substantial Completion, Concessionaire shall accept the Concessionaire Premises in their then-current condition, subject to such work as may be necessary to complete the work, if any, to be done by the Sublandlord, which work shall be completed by Sublandlord as soon as is reasonably possible.

(b) Concessionaire, by the acceptance of the tender of delivery by Sublandlord of the Concessionaire Premises at the date of execution hereof, shall be deemed the unequivocal representation, warranty and agreement by the Concessionaire that (a) Substantial Completion of the Sublandlord's Work has occurred; (b) Concessionaire has, subject to full completion of Sublandlord's Work, accepted the Concessionaire Premises in all respects; and (c) Sublandlord has no obligation, duty or has made any agreement to do or cause to be done any other work in or to the Concessionaire Premises except to the extent otherwise set forth in this Sublease.

(c) Sublandlord makes no warranty, either express or implied, as to the condition of the Concessionaire Premises or the suitability of the Concessionaire Premises for Concessionaire's purposes or needs. If during the construction of Improvements, latent defects are discovered, Sublandlord and Concessionaire shall negotiate in good faith with respect to the costs for which each shall be responsible.

Section 4.2 **CHANGES TO PREMISES**

(a) The Initial Improvements with respect to each portion of the Concessionaire Premises shall be made only in accordance with the provisions of Exhibits B and E.

(b) Changes, if any, made to the Concessionaire Premises from and after the completion of the Initial Improvements shall be made only in accordance with the Plans and Specifications and, in all events, in compliance with the Port Authority's Tenant Alteration Application process, which process must be complied with, in addition to, and not in lieu of, the provisions of this Section 4.2.

(c) Full and complete plans and specifications for all work, facilities, improvements and finishes, and the time required to complete same ("Plans and Specifications"), shall be first reviewed and approved in writing by Sublandlord and then submitted and approved by the Port Authority before any work or construction is commenced. Approval of Sublandlord shall include architectural and aesthetic matters and Sublandlord reserves the right to reject any layout or design proposal submitted and to require Concessionaire to resubmit any such layout or design proposal until it meets Sublandlord's approval.

(d) All improvements, furniture, fixtures, equipment and finishes, including the plans and specifications thereof, constructed or installed by Concessionaire, its subtenants, agents or contractors shall conform in all respects to applicable Laws including, but not limited to, the Americans with Disabilities Act of 1990, as amended. Any approvals given by Sublandlord shall not constitute a representation or warranty as to such conformity; responsibility therefore shall at all times remain with Concessionaire.

(e) All designs, colors, materials and construction shall be furnished as set forth in the Plans and Specifications. Concessionaire acknowledges that Sublandlord, or its designee, may from time to time inspect the progress of the work for conformance to the Plans and Specifications. In the event Sublandlord, or its designee, determines, in their sole judgment, there is a material deviation from the Plans and Specifications, Concessionaire agrees, upon notice from Sublandlord, to promptly effect repairs or modifications to the improvements so as to conform to the Plans and Specifications. Concessionaire acknowledges and agrees that the any improvements to the Concessionaire Premises are subject to the inspection and acceptance of Sublandlord and the Port Authority.

Section 4.3 **CHANGES TO THE TERMINAL**

Concessionaire acknowledges that it is aware that Sublandlord and the Port Authority each have the right, without compensation, or reimbursement to Concessionaire, or abatement of Rent, to make alterations to the Terminal, including any modifications of the Common Areas and, in connection with such alterations, may erect temporary scaffolds and other temporary aids to construction on the exterior of the Concessionaire Premises, and to install, maintain, use, repair and replace within the Concessionaire Premises pipes, ducts, conduits, wires and all other mechanical equipment serving other parts of the Terminal or Airport. Sublandlord will not unreasonably interfere with Concessionaire's business in the event of any changes pursuant to this provision.

ARTICLE V
CONDUCT OF BUSINESS BY CONCESSIONAIRE

Section 5.1 **PERMITTED OPERATIONS**

(a) Concessionaire shall use the Concessionaire Premises only for the purpose of conducting the Permitted Operations and for no other use or purpose, without first obtaining the prior written consent of the Sublandlord and the Port Authority, as set forth in the Port Authority Consent. If any governmental license or permit shall be required for the proper and lawful conduct of any business or other activity conducted in the Concessionaire Premises, then Concessionaire shall duly procure and thereafter maintain each such license or permit and submit the same for inspection by Sublandlord or the Port Authority upon request therefore by Sublandlord and Port Authority, as the case may be.

(b) Notwithstanding the foregoing, the Permitted Operations shall exclude any operation that:

(i) Materially interferes with the reasonable use, by third-parties, of the Common Areas;

(ii) Hinders emergency personnel (including, but not limited to police, fire and rescue personnel);

(iii) Constitutes a condition hazardous to the safety or health of the general public; or

(iv) Is contrary to rules, regulations, policies or directives of the Port Authority.

(c) In addition to the uses excluded by (b), above, Concessionaire agrees that it may not receive any revenues or profits with respect to any of the following uses, operations or installations which the Port Authority has reserved to itself and its designees exclusively in the Terminal: VIP lounges, airline clubs, monorail facilities, if any, advertising (including, without limitation, static display, broadcast and other), pay telephones, rental of cellular phones intended for use solely within the Airport, facsimile transmission machines and other public communication services, concierge services (i.e., a center or location which offers a variety of services for passengers, including, but not limited to hotel reservations, sale of entertainment events tickets and lottery tickets, luggage storage and delivery, sightseeing tours, business services and provision of touring information), ground transportation, including vehicle rentals, hotel and other lodging reservations, vending machines dispensing anything, including but not limited to, catalog and electronic sales, (save and except for those owned and operated by Concessionaire within the Concessionaire Premises selling goods and services by Concessionaire from the Concessionaire Premises), other than products specifically permitted to be sold in the Concessionaire Premises pursuant to this Sublease and, if approved by the Port Authority, on-airport baggage carts or other on-airport baggage-moving devices, electronic amusements, and public service airport operation information, messages and announcements.

(d) Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sales a full and complete stock of merchandise consistent with

only the Permitted Operations as more fully set forth in the Terminal Rules (Exhibit H). Upon request, Concessionaire must promptly provide Sublandlord, or its designee, with a complete list of all merchandise and prices. Concessionaire understands that its rights hereunder are nonexclusive and agrees that Sublandlord has the right to grant privileges under separate agreements for other concession services that may or may not be similar to the privileges granted herein to Concessionaire. In the event of a dispute between Concessionaire and any other lessee, licensee or concessionaire as to the respective rights of the respective lessees, licensees or concessionaires, Sublandlord shall determine the rights of each lessee, licensee or concessionaire and Concessionaire agrees to be bound by such decision.

Section 5.2 **OPERATION OF BUSINESS**

(a) Concessionaire agrees and covenants to be open for business and diligently conduct its business (1) in a commercially reasonable manner, fully staffed with personnel that have been trained and are qualified for the positions held and duties to be discharged; (2) on such days and during such hours as determined from time to time by the Sublandlord; and (3) in accordance with the rules and regulations promulgated from time to time by the Sublandlord to regulate the use, occupancy and operation of the Concessionaires in the Premises, all of the foregoing being the "Standards of Operation" as more fully set forth in Exhibit H.

(b) Concessionaire shall promptly comply with all present and future Laws of all Governmental Authorities and shall neither (i) do or permit anything to be done in or about the Concessionaire Premises which will violate any Laws; nor (ii) cause or knowingly permit anything to occur in the Concessionaire Premises which constitutes a violation or breach of the Master Lease or cause Sublandlord to be in breach or violation of said Master Lease.

(c) Concessionaire shall maintain a street pricing policy whereby certain goods, services, food or beverages, shall be subject to the restrictions and policies of the Port Authority.

(d) Concessionaire covenants and agrees to (1) assist and support all efforts of the Sublandlord and others to provide deliveries from the public access areas of the Terminal to and from the Premises and the Concessionaire Premises to and from the secure areas of the Terminal; and (2) coordinate with Sublandlord and others in matters essential to the efficient operation of the Premises and the Terminal.

(e) Sublandlord's Right to Monitor Performance

(i) Concessionaire shall maintain and operate the concessions granted hereunder in an orderly, proper and first-class manner which, in the sole judgment of Sublandlord, does not annoy, disturb or offend others at the Terminal. Sublandlord shall have the right to raise reasonable objections to the condition of the Concessionaire Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, the appearance and performance of service personnel and to require any such conditions or practices objectionable to Sublandlord to be remedied by Concessionaire. If requested by Concessionaire, Sublandlord shall reduce its objections to writing and provide Concessionaire an opportunity to reply to the objections, such

reply to be given consideration by Sublandlord.

(ii) Concessionaire hereby acknowledges and agrees that Sublandlord shall have the right, at its cost, to audit, review, monitor, inspect or test all Concessionaire's operations at any time through the use of its own direct review, the use of third parties and/or other means that do not unduly interfere with Concessionaire's operations. Concessionaire acknowledges that such audits and reviews will be conducted by Sublandlord, or its designee, and hereby agrees to cooperate with any such performance audit. Said performance audits may include minimum objective standards in the areas of (1) product quality, (2) customer service and (3) cleanliness and maintenance. If Concessionaire fails to meet minimum standards in any of these areas, Sublandlord may, at its reasonable discretion, assess liquidated damages as set forth herein.

(iii) Repeated violations and deficiencies in performance by Concessionaire, or its permitted sublessees, may be cause, at Sublandlord's sole discretion, to terminate this Sublease.

(f) Failure to Comply with Standards of Operation

(i) Concessionaire acknowledges Sublandlord's desire to provide the public and air traveler with the level and quality of service as described herein. Accordingly, Sublandlord has established a series of fees, as set forth in Table 1 of this Section 5.02(g), that it may assess, in its sole discretion, for various violations of this Sublease, as amended, as additional Marketing Fee (as said term is defined herein). Concessionaire and Sublandlord agree that the fees set forth herein are reasonable, and Concessionaire further agrees to pay to Sublandlord such fees in accordance with the rates or in the amounts specified herein upon written demand by Sublandlord. Concessionaire further acknowledges such fees are not exclusive remedies and Sublandlord may pursue other remedies, as allowed for in this Sublease, as amended, at its sole discretion.

(ii) Multiple Violations. Except for violations of requirements regarding operating hours, health code violations, and delivery and vendor access infraction, which shall accrue immediately and without notice upon violation, other fees shall not be assessed unless the violation continues for more than three (3) calendar days after Sublandlord has given to Concessionaire written notice of the violation; provided, however, after Sublandlord has given Concessionaire notice of a violation of the same operating requirement more than twice during any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, the fee shall be immediately assessed with no opportunity to cure. Further, after two (2) violations of the same operating requirement within any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, Sublandlord reserves the right, in its sole discretion, to deem said repeated violations a default hereunder and to seek any other remedies available to it under this Sublease, as amended, including, but not limited to, termination of this Sublease.

Table 1
Performance Standard Fines

Infraction	Fee Schedule
Required merchandise not available	
Premises unclean, trash not picked up	
Signage policy infraction	
Pricing policy infraction (following one notices)	
Late Market Basket Survey	
Delivery and vendor access infractions	
Operating Hours infraction (any locations)	
Inadequate Staffing (per location)	
Health Code Violations (per location) Scores below 90% Scores below 80% Scores below 70%	
Performance Audit Scores (per location) Scores below 90% Scores below 80% Scores below 70%	

(g) Marketing Costs Recovery. Upon request by Sublandlord, but not earlier than the Minimum Annual Guaranteed Rent Commencement Date, Concessionaire shall pay to Sublandlord, as Additional Rent during each calendar year, a marketing costs recovery fee ("Marketing Fee") in the amount of $2,500.00, as reimbursement of Concessionaire's share of the costs of advertising, promotion and employee training programs conducted by Sublandlord, or its designees, relating to the concession program in the Terminal. At the beginning of each calendar year after the Minimum Annual Guaranteed Rent Commencement Date, the Marketing Fee shall be increased in proportion to the increase in CPI during the prior calendar year.

(h) In addition to its general obligation to comply with applicable Laws, Concessionaire

specifically agrees to comply with all Port Authority, Transportation Security Administration, Federal Aviation Administration and Sublandlord security directives, rules and regulations, in effect as of the Commencement Date or as may be modified or enacted from time to time throughout the Term. Concessionaire understands and agrees that fines and/or penalties may be assessed by the TSA or FAA for Concessionaire's noncompliance with the provisions of 49 CFR Parts 1540 and 1542 entitled "Airport Security" or by other agencies for noncompliance with regulations applicable to Concessionaire's operations. In the event the Port Authority or Sublandlord shall be subject to any fine or penalty by reason of any violation at the Terminal of any such rule, regulation or standard, the Port Authority or Sublandlord may conduct an investigation and make a determination as to the identity of the party responsible for the violation. If it is determined by the Port Authority or Sublandlord that Concessionaire, or any party for which Concessionaire is liable under this Sublease, as amended, is responsible for all or part of the fine or penalty, the Concessionaire shall pay said amount of the fine or penalty.

Section 5.3 **HAZARDOUS MATERIALS**

(a) For the purposes of this Sublease, the following terms shall have the following meanings: (i) the term "Hazardous Materials" shall mean: (A) any materials or substances that, whether by its nature or use, are subject to regulation under any Environmental Requirement, or (B) any materials, substances or wastes which are toxic, ignitable, explosive, corrosive or reactive, or (C) asbestos, or (D) petroleum and petroleum-based products, or (E) formaldehyde, or (F) polychlorinated biphenyls (PCB's), or (G) freon and other chlorofluorocarbons or (H) such other materials as are designated in a notice from Sublandlord to Concessionaire (whether such notice is provided before or after Concessionaire first commences to use any such materials and; (ii) the term "Environmental Requirement" shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), all as presently in effect and as the same may hereafter be amended, any regulation pursuant thereto, or any other present or future law, ordinance, rule, regulation, order or directive addressing environmental, health or safety issues of or by any Governmental Authority.

(b) Both Concessionaire and Sublandlord acknowledge that one or more Governmental Authorities may require that employees of each and others be made aware of the conditions within which they are being asked to work and, in an effort to disclose such conditions to said employees, Sublandlord hereby (i) represents to Concessionaire that, other than those Hazardous Materials to which Sublandlord has notified Concessionaire in writing, there are no Hazardous Materials in the Terminal; and (ii) agrees that, if any Hazardous Materials are generated, manufactured, sold, transported or located at, on, in, under or about the Terminal, other than as a result of an act or omission of the Concessionaire, then Sublandlord shall at no cost, expense or liability to Concessionaire, to (1) cleanup and take whatever corrective action of any kind required under any Environmental Requirement; and (2) indemnify and hold harmless the Concessionaire from all losses, costs, expenses and liabilities therefrom, provided however the foregoing prohibition concerning Hazardous Materials shall not prevent the use of regular consumer products which contain amounts of such Hazardous Materials that are not prohibited by any law applicable thereto.

(c) Concessionaire covenants and agrees that by, through or under it (i) no Hazardous Materials will be generated, manufactured, sold, transported or located at, on, in, under or about the Concessionaire Premises; (ii) no Hazardous Material will be generated, manufactured, sold, transported or located at, in, on, under or about the Concessionaire Premises in a manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement and (iii) no Hazardous Materials will be transported, released, emitted, sold, discharged, leached, dumped or disposed of from the Concessionaire Premises onto or into the Common Areas.

(d) Concessionaire covenants and agrees that it shall (i) notify the Port Authority and Sublandlord promptly in the event of any spill or other release of any Hazardous Materials at, in, on, under or about the Concessionaire Premises which spill or release is required to be reported to a Governmental Authority under any Environmental Requirement; (ii) promptly forward to the Port Authority and Sublandlord copies of any notices it receives relating to the alleged violations of any Environmental Requirement; (iii) promptly pay when due any fine or assessment as a result of its acts or omissions or those of any party acting under its control or direction; and (iv) defend, indemnify, and hold harmless the Sublandlord and the Port Authority and their respective affiliates, subsidiaries, partners, members, management company, successors and assigns, and the employees, agents, officers, directors and Commissioners of any of them from and against any and all loss, claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) directly or indirectly arising out of, or in any way related to (1) any breach by it or any party acting under its control or direction of any of the provisions of this Section 5.03; (2) the presence, use, generation, transportation, disposal, spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Materials which are at, in, on, under, about, from or affecting the Concessionaire Premises, including, but without limitation any damage or injury resulting from any such Hazardous Materials to or affecting the Concessionaire Premises or any soil, water, air, vegetation, buildings, personal property, persons or animals; (3) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Materials; or (4) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Materials. The obligations set forth in this Section 5.3 shall survive the expiration or sooner termination of the Sublease.

ARTICLE VI
COMMON AREAS

Section 6.1 DEFINITION OF COMMON AREAS

For the purpose of this Sublease, the term "Common Areas" shall mean, all portions of the interior of the Terminal, save and except for those portions included within each of the Concessionaire Premises, intended to be used and used by either (a) the public or (b) the Sublandlord or Concessionaires in the course of receiving and making deliveries to the Premises. The Common Areas shall include but are not limited to: (i) ticketing areas and facilities, gate

seating areas, hallways, elevators, escalators, stairs, restrooms and comfort stations, service areas, passageways and other public areas, amenities, facilities and improvements in the Terminal; and (ii) those areas within the Terminal as may be provided by either the Sublandlord or the Port Authority, from time to time for the convenience and use by the public or the Sublandlord or Concessionaires.

Section 6.2 **USE OF COMMON AREAS**

Upon payment of the Rent and the performance and observance of all terms and conditions in this Sublease to be performed and observed by the Concessionaire, the right to possession of the Concessionaire Premises shall also include the non-exclusive right to the use of the Common Areas with all others for whose convenience and use both the Common Areas have been or may hereafter be provided by the Port Authority or the Sublandlord, or both, subject however, to such rules and regulations for the use thereof as may be prescribed from time to time by either or both of the Sublandlord and the Port Authority.

Section 6.3 **OPERATION AND MAINTENANCE; TERMINAL AND COMMON AREAS**

Sublandlord agrees, at no cost to Concessionaire, to keep all portions of the Terminal in good order and repair, and in full compliance with all Laws, including but not limited to all HVAC equipment, plumbing (including sewage systems), electrical, fire protection (including any sprinkler systems in the Terminal) and other systems and facilities servicing the Terminal, foundations, and the structural soundness of the floors and exterior walls in good order, repair and condition provided however the provisions of this section shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of the Sublandlord shall be controlled by either Article XI or XII, respectively, of the Master Lease and further provided that Sublandlord shall have the obligation to maintain or cause to be maintained the cleanliness and orderliness of the Food Court Common Areas, but such limited obligations shall not impose any obligation on the part of the Concessionaire to repair, restore, refurbish, correct, install, or in any other manner make any changes, alterations, improvements or the like to any portion of said Food Court Common Areas. The foregoing obligations of the Sublandlord shall include, but are not limited to, the responsibility and liability for the repair, maintenance, replacement and restoration of all systems servicing the Premises or all portions thereof, save and except for, and to the extent of, those systems installed within any of the Concessionaire Premises, by the Concessionaire to the extent that such system services only the Concessionaire Premises.

Section 6.4 **OPERATIONS AND MAINTENANCE FEE**

Concessionaire shall pay to Sublandlord, as Additional Rent, an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of Concessionaire in the operation of the Terminal ("O&M Costs"). O&M Costs include, but are not limited to: trash removal; operation, maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage charges; and all other direct costs and expenses

properly chargeable to the operation, maintenance or repair of such systems and services.

Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Floor Area of the Concessionaire Premises and the denominator shall be the sum of the weighted floor areas leased and occupied by concessionaires to which O&M Costs are allocated by Sublandlord in the exercise of its business judgment. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M Costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount Concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to he paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid.

ARTICLE VII
MAINTENANCE OF-PREMISES

(a) Concessionaire shall keep the Concessionaire Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Concessionaire. Any liens will be treated in the same manner as liens pursuant to the Master Lease.

(b) Concessionaire shall cause the Concessionaire Premises to be, at all times, in a first-class condition, relative to the appearance thereof as of the date the Concessionaire initially opened for business in the Concessionaire Premises. Concessionaire covenants and agrees that it shall refurbish and renovate the Concessionaire Premises (in accordance with the terms of this Sublease and the Tenant Alteration Application) no later than October 31, 2012. The scope and

extent of necessary refurbishment and renovation for each portion of the Concessionaire Premises shall be jointly determined by Sublandlord and Concessionaire.

ARTICLE VIII
INSURANCE AND INDEMNITY

Section 8.1 CONCESSIONAIRE'S INSURANCE

Concessionaire shall obtain and keep in full force and effect (i) an "all risk" insurance policy for its property at the Concessionaire Premises in an amount equal to one hundred percent (100%) of the replacement value thereof, and (ii) a policy of commercial general liability (including premises, operations, product liability, liquor liability and automobile liability, if vehicles will be used on the airs side portions of the Airport) on an occurrence basis, (with a broad form contractual liability endorsement under the general liability policy). Such policies shall provide that Concessionaire is named as the insured and Sublandlord and the Port Authority shall be added as additional insureds, as their respective interests may appear with respect to the insurance required to be carried pursuant to (i) above. Such policy described in (ii) above shall include a provision under which the insurer agrees to insure Concessionaire with respect to any cost, expense and liability arising out of, or based upon, any and all claims, accidents, injuries and damages for which Concessionaire is required to indemnify Sublandlord or the Port Authority under the provisions of this Sublease. In addition, such policy shall contain a provision that (a) no act or omission of the Port Authority, Sublandlord or Concessionaire shall affect or limit the obligation of the insurer to pay the amount of any loss sustained and (b) the policy shall be non-cancelable with respect to either Sublandlord or the Port Authority unless thirty (30) days' prior written notice shall have been given to all of the Sublandlord and the Port Authority in the manner set forth in this Sublease for notices, which notice shall contain the policy number and the names of the insured and additional insureds. In addition, upon receipt by Concessionaire of any notice of cancellation or any other notice from the insurance carrier which may materially adversely affect the terms and substance (but not the amounts) of the coverage of the insureds under such policy of insurance, Concessionaire shall promptly deliver to Sublandlord and the Port Authority a copy of such notice. The minimum amounts of liability under the policy of insurance required to be carried pursuant to (ii) above shall be a combined single limit with respect to each occurrence in an amount of $2,000,000 for injury (or death) to persons and damage to property, which amount shall be increased from time to time after the second (2nd) calendar year (but not more frequently than once per year) to that amount of insurance which is then being customarily carried by tenants of first-class retail developments in the New York/New Jersey metropolitan area. All insurance required to be carried by Concessionaire pursuant to the terms of this Sublease shall be effected under valid and enforceable policies issued by reputable and independent insurers permitted to do business in the State of New Jersey and New York and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of having a general policyholder rating of "A" and a financial rating of at least "XI". In the event of vehicles being used under this Sublease, above-referenced auto liability insurance shall be in limits of no less than $5,000,000 combined single limit per accident for bodily injury and property damage. The policy(ies) of insurance required to be carried pursuant to (ii) above will include the following statement:

"Further, unless otherwise agreed by the Port Authority, the liability policy shall be specifically endorsed, to prohibit the insurance carrier from raising any defenses involving in any way the jurisdiction of the tribunal, 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 without obtaining express advance written permission from the General Counsel of the Port Authority."

Concessionaire and all officers and employees of Concessionaire who may handle or are responsible for the handling of receipts and disbursements shall be covered by insurance in an amount not less than Five Hundred Thousand Dollars ($500,000) for employee dishonesty coverage against any and all loss, theft, embezzlement or other fraudulent acts on the part of Concessionaire or Concessionaire's employees, and not less than One Hundred Thousand Dollars ($100,000) for money and securities on or off premises, transit and depositors forgery coverage, indemnifying the Sublandlord and Port Authority, as co-obligees, against any and all loss, theft, embezzlement or other fraudulent acts of the part of Concessionaire or Concessionaire's employees.

Section 8.2 **CERTIFICATES**

On or prior to the date hereof, Concessionaire shall deliver to the Sublandlord and the Port Authority certificates of insurance, including evidence of waivers of subrogation required pursuant to this Sublease, required to be carried by the Concessionaire. Evidence of each renewal or replacement of a policy shall be similarly delivered not less than ten (10) days prior to the expiration of each such policy.

Section 8.3 **COVENANT TO HOLD HARMLESS**

Concessionaire and Sublandlord covenant, each to the other, to defend and indemnify the other and their respective directors, officers, partners, shareholders, representatives, management company, agents and employees, and save them harmless (except to the extent of loss or damage resulting from the negligence of party that would otherwise be so indemnified) from and against any and all claims, actions, demands, judgments, awards, fines, mechanics' liens or other liens, losses, damages, liability and expense, including attorneys' fees and court costs, in connection with all losses, including loss of life, personal injury and/or damage to property, arising from or out of any occurrence, upon or at the Premises, as to the Sublandlord, or the Concessionaire Premises as to the Concessionaire, or arising from or out of Concessionaire or Sublandlord's, as the case may be, failure to comply with any provision of this Sublease. In case either Sublandlord or Concessionaire or any other party so indemnified hereunder shall be made a party to any litigation commenced by or against either the Sublandlord or the Concessionaire (and not litigation commenced by or against one against the other), then the Concessionaire or Sublandlord, as the case may be, shall defend, indemnify, protect and save the other harmless and shall pay, as the same becomes due and payable, all costs, expenses and reasonable attorneys' fees and court costs incurred or paid by them in connection with such litigation. The provisions of this section shall survive the expiration, termination or earlier cancellation of this Sublease for any claims, suits, demands, actions, liabilities, loss or damage which occur prior to the expiration, termination or earlier cancellation of this Sublease.

Section 8.4 **WAIVER OF RIGHT OF RECOVERY – INDEMNIFICATION.**

(a) Except as otherwise provided in this Sublease, neither Sublandlord nor Concessionaire shall be liable to the other or the other's insurance company (by way of subrogation or otherwise) for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the non-gross negligence of Sublandlord or the Concessionaire or their respective agents or employees.

(b) Concessionaire covenants and agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives (collectively the "Port Indemnitees") from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal 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 default of the Concessionaire in performing or observing any term or provision in this Sublease, or out of the use and occupancy of the Concessionaire Premises, and its officers, employees and persons who are doing business with Concessionaire, or out of any of the operations, acts or omissions of the Concessionaire, or out of the acts or omissions of others in the Concessionaire Premises with the Concessionaire consent. The foregoing indemnity shall also include claims and demands of the City of New York from which the Port Authority derives its rights in the Airport for indemnification arising by operation of law or through agreement of the Port Authority with the City of New York. If so directed by the Sublandlord or the Port Authority, the Concessionaire shall, at its own expense, defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in such handling such party shall not, without obtaining the express written permission from the General Counsel of the Port Authority, raise any defense involving in any way the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statute respecting suits against the Port Authority.

ARTICLE IX
UTILITIES

Sublandlord agrees to initially provide gas, electrical, water, sewer and such other services as Sublandlord shall, in the exercise of its reasonable discretion, determine necessary to each portion of the Concessionaire Premises. With the exception of gas and electricity, as to each of which Sublandlord shall pay all costs for the consumption thereof in all of the Concessionaire Premises, the costs of which shall be included in O&M Costs, the Sublandlord shall have no obligation for the payment of any other utilities used in the Concessionaire Premises. If the Concessionaire Premises shall have installed therein meters for any of the utilities consumed by Concessionaire, the maintenance thereof shall be at the sole cost and expense of the Concessionaire.

ARTICLE X
ASSIGNMENT AND SUBLETTING

Section 10.1 LIMITATIONS; PROHIBITIONS

Concessionaire covenants and agrees that it shall not transfer or assign this Sublease or its interest herein or all or any part of the letting hereunder, or all or any part of the Concessionaire Premises, without obtaining the prior written consent of Sublandlord, which shall not be unreasonably withheld, and the Port Authority. Any attempted transfer, assumption, assignment or sublease shall be void, *ab initio*, and infer no rights upon any third-parties. No amendment, transfer, assumption or contract shall relieve the Concessionaire of any of its obligations under this Sublease. Consent to the foregoing by any one or more of the Port Authority and Sublandlord shall not be deemed a waiver on the part of either or both of the Port Authority or Sublandlord to any prohibition against any future transfer, assignment, assumption or sublease. The term "transfer" includes, but is not limited to transactions in which any interest of the Concessionaire in this Sublease or the Concessionaire Premises are mortgaged or otherwise encumbered or in which the Concessionaire sublets, rents or otherwise permits occupancy or use of the Concessionaire Premises or any part thereof. If Concessionaire is a corporation, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the issued or outstanding stock of said corporation shall change, shall be deemed to be a transfer, provided, however if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "over-the-counter" market, then such sale, assignment or transfer of stock shall not be deemed a transfer. If Concessionaire is a corporation, or if Concessionaire is a corporation whose stock is owned by a corporation ("Parent"), any transfer of any issued or outstanding stock of the Concessionaire or Parent which is a transfer shall require the prior consent or approval of the Sublandlord and the Port Authority. From and after the date upon which a transfer occurs, and irrespective of whether or not either or both of the Sublandlord and the Port Authority shall issue their respective consent and approval, any abatement and waiver, if then in effect, shall thereafter cease and seventy-five percent (75%) of the Minimum Annual Guaranteed Rent shall, thereafter be due and payable if current senior management is not in control of the operations. Notwithstanding the foregoing exclusion, a sale of only those of the assets of any such corporation which are limited to less than all of the assets of the corporation, e.g., the Concessionaire Premises, shall be a "transfer" within the scope of this provision and require the prior written consent of the Port Authority and the Sublandlord. If Concessionaire is a partnership or joint venture, any sale, assignment or transfer, by operation of law or otherwise, of any interest in such partnership or joint venture shall be deemed to be a transfer. If Concessionaire is a limited liability company, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the membership interests in such limited liability company shall change, shall be deemed to be a transfer, provided, however, if the membership interests of such limited liability company are publicly traded on a national securities exchange or on the "over-the-counter" market, then this restriction on sale, assignment or transfer of membership interests shall be inapplicable.

Notwithstanding the foregoing provisions of this Article X containing a definition of the term "transfer" and exclusions or exceptions thereto, which shall not be binding upon or enforceable against the Port Authority, and regardless of whether the Sublandlord has in fact consented to any further subletting of the Concessionaire Premises or a proposed transfer,

Sublandlord's consent will be of no force and effect and shall not be binding upon the Port Authority in any manner whatsoever. No such further subletting or a proposed transfer shall be effective and no estate or benefit shall be conferred on anyone until such time as the Port Authority has consented in writing, as determined in the Port Authority's sole and absolute discretion, to any such further subletting or a proposed transfer (including, without limitation, nothing otherwise permitted in this Article X shall become effective until such time as the transferee, any other applicable parties and the Port Authority have entered into an agreement in form and substance required by the Port Authority). In addition, the terms and provisions of the Port Authority Consent which in any way discusses and/or addresses the subject matter covered in this Article X shall be controlling and shall govern. Further, if this Sublease is assigned by Sublandlord and assumed by the Port Authority for any reason whatsoever, the Port Authority shall have the right to determine, in its sole and absolute discretion, whether any of the provisions of this Article X (which are stated to be between the Concessionaire and the Sublandlord) shall be binding upon and enforceable against the Port Authority and thereafter be considered to be a part thereof.

Section 10.2 **DBE CHANGE NOTICE**

If Concessionaire is a DBE, Concessionaire shall notify the Sublandlord and the Port Authority, in the manner as set forth in Section 17.6, below, of each and every change in the ownership or ownership structure of Concessionaire ("Change Notice") within thirty (30) days after each such change.

ARTICLE XI
DAMAGE AND DESTRUCTION

Section 11.1 **DAMAGE TO THE CONCESSIONAIRE PREMISES**

In the event of damage to, or destruction of; any portion of the Premises or Concessionaire Premises, or the fixtures and equipment therein and said portion, fixtures or equipment was originally within the Sublandlord' Work, or any system within the Concessionaire Premises being the obligation of the Sublandlord to maintain, replace, or restore, the Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. Notwithstanding any damage to the Concessionaire Premises, to the extent that the Concessionaire Premises can be reasonably operated without risk of injury or damage to person or property, Concessionaire agrees to open, or reopen, as the case may be, and, in all events, to reopen for business immediately upon the completion of the foregoing repairs, restoration and rebuilding. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Concessionaire Sublease, as to that portion, or those portions of the Concessionaire Premises, so damaged. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises terminated to the floor area of the Concessionaire Premises as of the day of said damage.

Section 11.2 **DAMAGE TO TERMINAL**

In the event of damage to, or destruction of, any portion of the Terminal, other than as set forth in Section 11.1, above, Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Master Lease, as to that portion, or those portions of the Concessionaire Premises so damaged. If Sublandlord exercises such right, and the portion of the Concessionaire Premises affected thereby includes the Concessionaire Premises, then this Sublease shall end, as of the date of said termination. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises as to which this Sublease was terminated to the floor area of the Premises as of the day of said damage.

ARTICLE XII
EMINENT DOMAIN

Section 12.1 **CONDEMNATION**

(a) If the whole of the Premises or any portion of the Concessionaire Premises shall be taken by any public authority under the power of eminent domain or sold to a public authority under threat or in lieu of such taking, then the Term shall cease as of the day upon which possession is taken by such public authority, and the Rent shall be paid up to that day.

(b) A voluntary sale or transfer of interest-of all or any part of the Premises or of the Terminal to any public or quasi-public body, agency, person or other entity, corporate or otherwise, having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purposes of this Article 12.

Section 12.2 **DAMAGES AND AWARDS**

All awards and damages for such taking under the power of eminent domain or proceeds from any sale under threat or in lieu of such a taking, shall belong to and be the property of the Sublandlord or the Port Authority, irrespective of whether such damages shall be awarded or proceeds obtained as compensation for diminution in value to the leasehold improvements thereto, and Concessionaire shall have no claim against Sublandlord or the condemning authority with respect thereto; provided, however, neither the Sublandlord nor the Port Authority shall be entitled to any award specifically designated as compensation for, depreciation to, or cost of removal of, the stock and trade fixtures of the Concessionaire.

ARTICLE XIII
DEFAULT

Section 13.1 **EVENTS OF DEFAULTS BY CONCESSIONAIRE**

Events of Default. It shall be an "Event of Default" hereunder if any of the following shall occur:

(a) Failure to Make Payment

(i) Concessionaire fails to make any payment of Rent to the Sublandlord, and such failure continues for a period of five (5) days after written notice thereof to Concessionaire.

(ii) Concessionaire fails to make any payment of Rent to the Port Authority within the cure period permitted by the Port Authority.

(b) Concessionaire defaults or otherwise fails to perform or observe any of the covenants, terms or conditions contained in this Sublease to be performed or otherwise observed by Concessionaire (except for the payment of Rent, as set forth in (a), above) and such default or failure is not cured or performed within fifteen (15) days after written notice to Concessionaire.

(c) Pursuant to an order, judgment or decree entered by any court of competent jurisdiction (i) a receiver, trustee or liquidator of Concessionaire or of all or substantially all of the assets of Concessionaire shall be appointed or (ii) Concessionaire shall be adjudicated a bankrupt or insolvent, or (iii) a petition seeking reorganization of Concessionaire or an arrangement with creditors or a petition to take advantage of any insolvency law shall be approved, and Rent shall not thereafter be paid in accordance with the terms hereof.

(d) If Concessionaire is a DBE, a failure to provide the Change Notice as required pursuant to Section 10.2, hereof.

(e) An Event of Default occurring under any other Concessionaire Sublease with Sublandlord entered into, on or after the date hereof, for one or more portions of the Terminal.

(f) Failure to timely deliver the Bond, and each replacement thereof.

(g) The act or omission of the Concessionaire which, under the terms of this Sublease or the Master Lease is prohibited and which, if not timely corrected, would result in the Port Authority having the right to terminate either or both of the Master Lease or this Sublease.

Section 13.2 **RIGHTS AND REMEDIES; SUBLANDLORD**

(a) If there exists an Event of Default by Concessionaire, Sublandlord, after fifteen (15) days notice from Sublandlord that Sublandlord intends to cure such Event of Default, shall have the right, but not the obligation, to cure same and Concessionaire shall pay to Sublandlord, upon demand, as Additional Rent the reasonable cost thereof plus interest at the Default Rate until such Additional Rent has been paid in full.

(b) If there exists an Event of Default, Sublandlord shall have the right, in addition to the rights set forth in Section 13.2(a) above, to seek all remedies as are available at law or in equity.

(c) After a dispossess or removal in accordance with Law, Sublandlord may re-sublet the Concessionaire Premises or any part or parts thereof either in the name of Sublandlord or otherwise, for a term or terms which may, at the option of Sublandlord, be greater or less than the period which would otherwise have constituted the balance of the Term, and Concessionaire shall be obligated to pay Sublandlord any deficiency between the Rent due hereunder and the amount, if any, of the Rent collected on account of the new sublease or subleases of the Concessionaire Premises for each calendar year, or portion thereof, which would otherwise have constituted the balance of the Term. In computing such damages there shall be added to said deficiency the costs for reasonable attorneys' and brokerage fees which Sublandlord actually expends in connection with re-subletting the Concessionaire Premises. Such damages shall be paid by Concessionaire in installments on the dates specified in this Sublease for payment of Minimum Annual Guaranteed Rent and any suit brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Sublandlord to collect the deficiency for any subsequent period by a similar proceeding. Sublandlord shall not be liable for failure to re-sublet the Concessionaire Premises or, in the event that the Concessionaire Premises are re-sublet, for failure to collect the Rent under such re-subletting.

ARTICLE XIV
TAXES ON PROPERTY OF CONCESSIONAIRE

Concessionaire, solely, and neither the Sublandlord nor the Port Authority are or shall be responsible or liable for any taxes, assessments, levies, fees and other governmental charges and impositions of any and every kind or nature, regular or special, direct or indirect, foreseen or unforeseen or known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (i) Concessionaire's leasehold interest in the Concessionaire Premises, or (ii) furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Concessionaire Premises by Concessionaire.

ARTICLE XV
HOLDING OVER

Any holding over after the expiration of the Term shall be construed to be a tenancy from month-to-month and the Minimum Annual Guaranteed Rent payable, on a monthly basis, shall be at an amount equal to of the Minimum Annual Guaranteed Rent required to be paid by Concessionaire for the last full year of the Term.

ARTICLE XVI
QUIET ENJOYMENT

Upon payment by Concessionaire of Rent and upon the timely observance and full performance of all the covenants, terms and conditions on Concessionaire's part to be observed and performed under this Sublease and the Port Authority Consent, Concessionaire shall

peaceably and quietly hold and enjoy the Concessionaire Premises for the Term, free from and without hindrance or interruption by Sublandlord or any other person or persons claiming by, through or under Sublandlord, subject however, to the Master Lease and the Port Authority Consent.

ARTICLE XVII
MISCELLANEOUS

Section 17.1 ESTOPPEL STATEMENT.

At any time and from time to time, both parties agree that, upon request in writing from the Sublandlord or the Port Authority, or their respective designee, to execute, acknowledge and deliver, within ten (10) days after request therefore, to the requesting party or its designee, a written statement certifying that this Sublease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent has been paid, the Minimum Annual Guaranteed Rent Commencement Date, the Expiration Date, and such other pertinent and reasonable information regarding this Sublease and Concessionaire's occupancy of the Concessionaire Premises as may be requested.

Section 17.2 WAIVER; ELECTION OF REMEDIES

One or more waivers of any covenant or condition by Sublandlord or the Port Authority shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by Sublandlord or the Port Authority to or of any act of Concessionaire requiring consent or approval of either, any or both of the Sublandlord, and the Port Authority shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act. No breach by Concessionaire of a covenant or condition of this Sublease shall be deemed to have been waived by either, any or both of the Sublandlord or the Port Authority unless such waiver is in writing signed by each non-breaching party. Rights and remedies under this Sublease or under any specific section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which each party has or may have elsewhere under this Sublease or at law or in equity, whether or not such section, subsection or clause expressly so states.

Section 17.3 ENTIRE AGREEMENT

The Glossary and Basic Sublease Provisions, this Sublease and all exhibits and/or addendum(s), and/or rider(s), if any, attached to this Sublease are hereby made a part of this Sublease, with full force and effect as if set forth herein. This Sublease supersedes all prior agreements between the parties hereto and sets forth all the covenants, promises, agreements and conditions, and understandings between Sublandlord and Concessionaire concerning the Concessionaire Premises, and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. The parties agree that any deletion of language from this Sublease prior to its mutual execution by Sublandlord and Concessionaire shall not be construed to have any particular meaning or to raise

any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, obverse or opposite of the deleted language. No alteration, amendment, change or addition to this Sublease shall be binding upon Sublandlord or Concessionaire unless reduced to writing and signed by each party.

Section 17.4 **INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION**

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rent, any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

Section 17.5 **DELAYS; FORCE MAJEURE**

Time is of the essence in the performance under this Sublease. In the event Sublandlord or Concessionaire shall be delayed in the performance of any obligation, covenant, agreement or other undertaking required of it under this Sublease, by reasons of strikes; lockouts; labor disputes; Acts of God; inability to procure labor, materials, or reasonable substitutes therefore; or shall at any time be so delayed by reason of the diminution of power or power failure(s); restrictive governmental laws or controls; judicial orders; enemy or hostile governmental action; civil commotion; fire or other casualty, or reasons of a similar nature not the fault of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the time for performance shall in no event be extended due to financial or economic problems of any party. Notwithstanding anything to the contrary, the occurrence of any of the events of force majeure herein described shall not excuse Concessionaire's obligations to pay Rent on a timely basis.

Section 17.6 **NOTICES**

Any notice or demand to Concessionaire or from Concessionaire to Sublandlord or the Port Authority shall be in writing and shall be mailed by either (a) certified mail addressed, return receipt requested with proper postage affixed thereto or (b) a Delivery Service, prepaid, if to Concessionaire, at the address of Concessionaire as set forth in the Glossary and Basic Sublease Provisions, or such other address as Concessionaire shall have last designated by notice in writing to Sublandlord and the Port Authority, and, if to Sublandlord or the Port Authority, to the address set forth in the Glossary and Basic Sublease Provisions, or such other address as Sublandlord shall have last designated by notice in writing to Concessionaire. Any notice sent or otherwise delivered in accordance with the foregoing shall be deemed served and effective upon the earlier of (i) the date of receipt or refusal to accept delivery, (ii) the second business day following the date upon which the notice has been delivered to the Delivery Service; or (iii) the third business day following the date upon which the notice has been deposited with the U.S. Postal Service with proper postage thereon.

Section 17.7 **CAPTIONS AND SECTION NUMBERS**

The captions, section numbers and article numbers and index appearing in this Sublease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Sublease or in any way affect this Sublease.

Section 17.8 **BROKERS' COMMISSIONS**

Concessionaire and Sublandlord represent and warrant each to the other and the Port Authority that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Sublease, and each party agrees to indemnify the other, the Sublandlord and the Port Authority and hold each and all of them harmless from all liabilities arising from any claim for brokerage commissions and finder's fees in connection with this Sublease. Such agreement shall survive the expiration or sooner termination of this Sublease.

Section 17.9 **SUCCESSORS**

All rights and liabilities herein given to, or imposed upon, the parties to this Sublease shall inure to and be imposed upon the respective heirs, executors, administrators, permitted successors and assigns of the said parties; and if there shall be more than one Concessionaire, they shall all he bound jointly and severally by the terms, covenants and agreements herein.

Section 17.10 **GOVERNING LAW**

This Sublease shall be governed by and construed in accordance with laws of the State of New York. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties, to the extent possible; in any event, all other provisions of this Sublease shall be deemed valid and enforceable to the full extent.

Section 17.11 **SURVIVAL OF OBLIGATIONS**

All obligations of both the Concessionaire and Sublandlord which cannot be ascertained to have been fully performed prior to the end of the Term, or any earlier termination hereof shall survive the expiration or termination of this Sublease, whichever occurs earlier.

Section 17.12 **ATTORNEYS' FEES.**

If at any time after the date that this Sublease has been executed by Sublandlord and Concessionaire, either Sublandlord or Concessionaire institutes any action or proceeding against the other relating to the provisions of this Sublease or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of the Law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Notwithstanding anything to the contrary contained herein, if either Sublandlord or Concessionaire engages the

services of attorneys (either outside counsel or in-house counsel) to enforce the provisions of this Sublease, to the extent that either incurs any cost or expense (including such reasonable attorneys' fees for outside counsel or payroll and overhead expenses for in-house counsel, as the case may be) in connection with such enforcement, including instituting, prosecuting or defending its rights in any action, proceeding or dispute by reason of any default by Concessionaire or Sublandlord, as the case may be, sums so paid or billed to Sublandlord or Concessionaire, as the case may be, together with all costs and disbursements, shall be paid by the Concessionaire to the Sublandlord, or Sublandlord to Concessionaire, as the case may be, within ten (10) days after demand therefore. If Concessionaire fails to timely pay same, such will be deemed Rent and thereafter be due together with interest at the Default Rate. If Sublandlord fails to timely pay, such amount may be offset from the Minimum Annual Guaranteed Rent thereafter becoming due and payable to Sub landlord, but may not be offset against any rent thereafter becoming due and payable to the Port Authority, together with interest at the Default Rate, until the full amount has been so offset. Any amounts overpaid to Sublandlord by Concessionaire shall be promptly repaid at the end of the Term.

Section 17.13 **EXCULPATION**

Concessionaire, for itself and its successors and assigns covenants and agrees that it or they shall enforce any obligation of the Concessionaire contained in this Sublease solely against Sublandlord and not against any of the Protected Parties or in any manner realized upon the personal liability or assets of any of the Protected Parties. This is intended and shall be construed and interpreted as a covenant on behalf of each the Concessionaire and its successors and assigns not to sue or seek enforcement of any judgment against any of the Protected Parties. In the event that suit is brought to enforce any obligation of the Sub landlord, Concessionaire for itself and its successors and assigns, covenant and agree that judgment proceedings shall be enforced only against the interest of the Sublandlord in the Premises and in no event against any other assets of Sublandlord, and that, after application of the proceeds of any seizure and sale of said assets, the obligation of Sublandlord hereunder shall be then and thereafter deemed fully discharged.

Section 17.14 **TERMINATION BY PORT AUTHORITY WITHOUT CAUSE; WAIVER AND RELEASE**

(a) Concessionaire acknowledges that the Port Authority has reserved and has the right with Sublandlord's concurrence to terminate any of the Concessionaire Subleases and the Term upon thirty (30) days prior written notice to Sublandlord and each of the affected Concessionaire(s) whether or not there then exists an Event of Default, such termination hereinafter referred to as "Discretionary Termination."

(b) Sublandlord covenants and agrees that, if the Port Authority shall exercise its right to terminate this Sublease by a Discretionary Termination, then the Sublandlord shall pay to the Concessionaire an amount equal to the Unamortized Capital Investment, as defined in (c), below, as of the effective date of the Discretionary Termination.

(c) For purposes of subsection (b) above, "Capital Investment" shall be Concessionaire's actual aggregate expenditures for initially constructing and equipping the Concessionaire Premises; and the term "Unamortized Capital Investment" shall mean the amount of the Capital

Investment that, but for the Discretionary Termination, would have been amortized for the period from the effective date of such termination to the Expiration Date.

Section 17.15 **LETTERS OF CREDIT**

Concessionaire covenants and agrees that it shall deliver, or cause to be delivered to each of the Sublandlord and the Port Authority, prior to the date upon which the Concessionaire initially opens for business to the public in the Concessionaire Premises, an unconditional, irrevocable so-called "evergreen" letter of credit, being in an amount of [50%] to the Port Authority and [50%] to the Sublandlord of the Minimum Annual Guaranteed Rent to be paid for the then-current calendar year, but in no event less than $22,500.00 for the Port Authority and $22,500.00for the Sublandlord. The issuer of each said letter of credit is to be approved by (i) as to the Letter of Credit for the Sublandlord, the Sublandlord; and (ii) as to the letter of credit for the Port Authority, by the Port Authority, and each of the two letters of credit are to provide for partial draws upon demand therefore by the respective beneficiary of each such letter credit.

Section 17.16 **RESERVED**

Section 17.17 **AUTHORITY OF EXECUTION**

If Concessionaire is a corporation, limited liability company or limited partnership, Concessionaire shall furnish to Sublandlord at the time of execution of this Sublease (a) a certificate issued by the state of its formation that the Concessionaire is in good standing in said state, (b) a certified copy of its Certificate of Incorporation, Articles of Organization, Certificate of Formation, or such other documentation as used in the state of its formation whereby the Concessionaire was originally formed in said state, and (c) a certified copy of the resolution of the Board of Directors, General Partners, Managers or Managing Members of other party(ies) having the power of control of the Concessionaire approving this Sublease and authorizing its execution by the persons who have signed or will sign this Sublease.

Section 17.18 **AFFIRMATIVE ACTION AND NON-DISCRIMINATION**

(a) Concessionaire assures it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, color, sex, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises, either directly or indirectly, from the Port Authority. Concessionaire assures that it will require that its covered suborganizations will similarly undertake affirmative action programs, and that they will require assurance from their suborganizations to the same effect.

(b) This Sublease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

Concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreements.

IN WITNESS WHEREOF, Sublandlord and Concessionaire have caused this Sublease Agreement to be duly executed as of the year and day first above written.

BRITISH AIRWAYS PLC

By: Barbara Eck
Title:

XPRESSPA JFK TERMINAL 7, LLC

By:
Title: CEO

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

Exhibit B
Description of Sublandlord's Work

BRITISH AIRWAYS

JFK INTERNATIONAL AIRPORT

TERMINAL 7

CONCESSIONS DESIGN AND CONSTRUCTION MANUAL

UNISON-MAXIMUS

TRANSYSTEMS

Revised August 25, 2006

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SECTION 1 - GENERAL PROCEEDURES

1.0 INTRODUCTION

British Airways, dedicated to enriching the traveler's experience, is implementing an expansion to their JFK Terminal 7 Plan as it pertains to Concessionaires. This plan is to include new retail spaces, the on-going improvement and modification of existing leaseholds in order to present a unified design. The purpose of this Concessions Design & Construction manual is to identify the responsibilities and obligations of the parties seeking to join British Airways in fulfilling this endeavor.

This manual is separated into section.

Section 1 -	Definitions, codes, safety and security, permits / fees and a number of point's regarding working at airports.
Section 2 -	Outlines the three step design submission process.
Section 3 -	Design guidelines and technical requirements including but not limited to floors, walls, ceilings, signage etc.
Appendices	As listed in the Table of Contents

1.00 Organization

The Terminal Concessions projects are coordinated by TranSystems Corporation, the Design & Construction Coordinator, who serves as the liaison between the Concessionaire, the Concessionaire's design and construction personnel, British Airways, Unison / Maximus and the Port Authority. The Port Authority is the governing agency which enforces compliance with code requirements in the design and construction of all facilities at the Terminal. The Concessionaires is the responsible for his own dosing and construction personnel and must ensure that all work is in compliance with the Manual, all ode requirements and the submittal process.

1.1 Terms used in this Manual

"Owner" means British Airways (BA)
"Tenant / Concessionaire" means a permitted concession operator who is designing / constructing or operating a retail store or restaurant in the Terminal Building.
"Design and Construction Coordinator" (D&CC) means TranSystems Corporation
"Port Authority" means The Port Authority of New York and New Jersey (PANYNJ)
"Developer / Landlord" means Unison-Maximus (UM)

1.2 Applicable Codes and Standards

The tenant shall be responsible for reviewing and implementing, as part of their design, all codes and regulations applicable to the work. Review of the Tenant's documents by the Landlord, or the Design and Construction Coordinator, does not relieve the Tenant of responsibility to satisfy all applicable regulations.

Tenant design and construction must comply with applicable Federal, State and local laws, statutes, orders, codes, ordinances and regulations that are legally applicable to the work to be performed. For all construction at the Terminal, the Port Authority enforces Federal and State laws and regulations; New York City Building Codes; and the Port Authority and JFK Design/ Policy Standards. The latest editions of the following New York City codes and regulations should be utilized:

1. New York City Building Code and its Reference Standards
2. New York City Fire Prevention Code and Directives
3. New York City Local Laws
4. Rules of the Board of Standards ~ Appeals (BS&A)
5. New York State Labor Laws
6. New York State Energy Conservation Construction Code

This manual must NOT be referred to in construction documents.

1.3 Safety and Security

A safe, secure and healthy environment is to be maintained within the work place. Special procedures are required for air quality management within the leased premises during construction to ensure the Terminal is not adversely affected.

Security during construction is the Tenant's responsibility and all necessary precautions are to taken to secure the premises. The Landlord shall have no liability for any loss or damage including theft of building materials, equipment or supplies.

The following information is intended to assist the Concessionaire in developing design documents for review and approval. The outlined criteria identify specific requirements and physical limitations that influence the design, but still encourage individuality to achieve an interesting, exciting and unique shopping and dining environment.

1.4 Permits, Fees and Approvals

Tenants are responsible for obtaining all permits, paying all fees and obtaining all required approvals. Tenants upon completion of their work shall secure all applicable certificates of inspection and occupancy prior to occupying their space.

1.5 Statement of Professional Responsibility

All Concessionaire facilities must be designed by a practicing professional architect and/or engineer licensed in the State of New York. The professional must sign and seal the work, which must be confined to the profession in which he/she is licensed.

1.6 Information Releases

Through press releases, and the release of information in general, British Airways and Unison-Maximus keep the public informed and maintain public interest and support for activities in the Terminal. News releases should reflect the overall activities, goals and objectives of the airport, rather than emphasize an isolated event. Thus, all communications to the public media must first be submitted to the Owner's representative for approval and coordination with other releases.

1.7 Accessibility Standards

All facilities shall be designed and constructed in compliance with current Americans with Disabilities Act and Accessibility Guidelines (ADAAG), the New York Department of Building requirements and the Port Authority requirements.

1.8 Base Building Drawings for Tenant Use

The Tenant will be given by D&CC the following electronic drawing files;

1. LOD Key Floor Plan
2. Architectural Floor Plan
3. Architectural Reflected Ceiling Plan – if available.
4. Mechanical, Electrical, Plumbing and Sprinkler Plans of the premises, if available.
5. Sections and elevations and additional details as applicable to the premises.

1.9 Concessionaires / Tenant Design Construction Manual

Tenant's / Concessionaires, Architects, Engineers and contractors must be familiar with this Tenant Design Construction Manual - which is part of the Concessionaire's sublease and is hereby incorporated therein in its entirety - as well as with the Port Authority's Tenant Alteration Application Procedure & Standards Guide and Tenant Construction Review Manual. While the Manual refers to legally binding codes and standards, it is not in itself a code, standard or specification, but rather a guide for the Concessionaire's design consultants. The Manual must NOT be referred to in construction documents.

1.10 Working in the Airport

It is the responsibility of the Tenant and its Contractor to obtain and review guidelines or procedural manuals concerning security and construction at the Terminal and Airport. Points of

1.10 Working in the Airport continued

particular attention are listed below;

1. The Tenants representatives while confined to work in the premises must coordinate the movement of construction materials; noise and engineering service connections and shut downs with the Landlord, BA and the D&CC so as not to disturb the operations of the airport. These operations are to be scheduled by the Tenants Contractor giving five working days notice of the intention of such work and will only be allowed to proceed following written approval. The Landlord reserves the right to stop the Tenant's Work at any time should any such operation be deemed to be disruptive to the operations of the Airport.

2. Security passes will be required of the Tenant's Contractor and their personnel in those areas termed 'Airside' – beyond the secure check in locations. Personnel not badged will need to be escorted per security procedures in affect at the Terminal.

3. Deliveries to and removals from the Terminal will also require security clearances that must be complied with for all the Tenant's Contractor and Sub-Contractors per the existing Airport / Terminal Security Requirements.

4. Welding, cutting, grinding, coring or any such similar undertaking for any work within or outside of the premises will not be permitted without written 'Special Service Notice' from the Landlord. All such request for such work must be submitted at least five full working days in advance of such intention and could require special undertakings such as venting of fumes or stand by fire safety personnel. This applies to roof access as well.

5. The coring of the floor can only be allowed following the x-raying of the area to ensure clearances from structure or other in-slab services. The area beneath must be inspected and at the time of the core(s) being made the Contractor must have a representative below to ensure safety of any falling material or water damage from the equipment.

6. Should any element of the premises subject the existing structure to point loads either on the slab or suspended from the structure above raise concern by BA, Landlord or the D&CC representatives the Landlord reserves the right to have such concern evaluated by the Tenant's Structural Engineer at the Tenants expense. If required a signed and sealed evaluation / drawing could be requested. Questions of this nature raised by the PANYNJ during the submission process will be evaluated prior to the Approval to proceed to construction or become apart of the Rider Comments.

7. The requirement to 'tie into' or to temporarily shut down the existing fire alarm system within the premises requires a 'Special Service Notice.' All such request for such work

1.10 Working in the Airport continued

7. must be submitted at least five full working days in advance of such intention. In the event of shut down any special security and fire watch personnel needed will to be employed at the Tenant's expense.

8. The Tenant's and their Design Professionals will be required to thoroughly investigate the area of the premise to determine where and how all engineering services are to be tied into for the space. While some of the areas are established 'Retail Spaces' others are not. In such conditions it is the responsibility of the Tenant's Design Professionals to determine the point of tie in (connection) and extend the service as necessary to the premise as a part of the building contract. The services in question must also be evaluated for load / capacity and calculations if necessary provided to PANYNJ, BA, Landlord or D&CC. This includes but is not limited to the following; phone data lines, drainage, power, HVAC, sprinklers, fire alarm, natural gas, airport speakers etc.

End of Section

SECTION 2 – TENANT DESIGN SUBMISSIONS

2.0 General

1. Drawings, samples and specifications for the proposed premises are to be submitted to the Landlord, BA and the D&CC for review. D&CC – TranSystems will act as the distributor of information to and from the Tenant's Design Team. The sequence and process are defined in this section. The final submission drawings must be sealed by Architects and Engineers licensed in the State of New York.
2. All Tenant work to be in compliance with codes and particular attention is drawn to the non-combustible classification of the building, related flame spread ratings, smoke development classification of materials and the seismic restraint of construction elements.
3. The general clearances in and around fixed and free standing furniture must comply with ADA guidelines, 36" minimum. An ADA shelf / ledge or surface of appropriate width and height must be near to one of the cash register positions.
4. The Tenant's designers are free to use their conventional layer systems and CAD programs. At the project close-out the 'Record Drawings' are to be submitted in the following formats.
    A. One CD with all contract drawings updated to show the 'As Built' condition. This represents the 'CD of Record Drawings.'
    B. One new / clean printed set of Contract Drawings updated per item A above, this will not require the signature and seal of the Architects or Engineers.
    C. On the CD noted in A above the Tenant's Design Team is to place a simplified drawing named and layered as described below.
5. The Tenant's Design Team are to provide a single, plan drawing in AutoCAD version 2006 or later in 2D without any three dimensional objects or blocks and all line-work flat on the 'Z' plane in the following layer convention which will be inserted into the terminal master plan;
    A. Airport Column Lines – color 1 – line wt .12
    B. Airport Construction – color 3 – line wt .12
    C. Tenant Construction – color 41 – line wt .12
    D. Tenant Fixed / Free Standing Furniture – color 4 – line wt .12
    E. Tenant Electrical & Data Floor & Wall outlets – color 5 – line wt .12
    F. Tenant RCP all ceiling elements – FPE / MEP – color 7 – line wt. .12
    G Tenant Merchandizing plan, general text mags, etc. – color 8 – ln. wt.12.
    H This plan constitutes a separate drawing without a border sheet or text, other than that noted for the merchandizing plan, or any other detail notes, section or detail marks and is to be titled 'the premise name, space designation number and date in the following format;; mm/dd/yy..

2.1 FIRST DESIGN SUBMISSION

2.2 The Tenant's designer's attention is directed to the details / drawings appended to the back of this manual and the section heading '3 Design Criteria and Technical Requirements.'

2.3 The first Submission is to be presented on 11" x 17" sheets mounted to ¼" black Foam Core board. The boards are to be read horizontally with a line one inch (1") above the bottom edge allowing for the Tennant's Logo on the left, a title in the middle and Design Team Logo on the right. See Details drawings appended to the back of this manual. Note there is Materials Board described in 2.8 below.

2.4 Colored / rendered Floor plan – Three copies mounted per 2.3 above. Text is to be used to spell out the floor, free standing floor fixtures, wall units, special features and their respective finishes. In confined areas dimensioned clearances are to be shown to comply with clearances noted above.

2.5 Black & White Merchandizing plan – Three copies mounted per 2.3 above. Text is to be used to spell out the general locations of product intended to be displayed / sold. The purpose of this plan is to confirm the intentions of the Lease Documents with the Landlord and avoid design revisions due to misunderstandings. This is not intended to be exhaustive but sufficient so that the Tenant's designers are clear as to the kind or type of fixture is required.

2.6 Black & White Reflected ceiling plan – Three copies mounted per 2.3 above. General arrangements of ceiling features, lighting, intended heights and types of finish spelled out.

2.7 Colored / rendered Storefront Elevation - Three copies mounted per 2.3 above. The elevation may be skewed to represent a perspective if desired and must show the finishes with text to spell out features and materials intended. The Tenant's designers are to review the fascia signage zone details at the back of this manual.

2.8 One 11"x 17" materials board of ¼" black Foam Core board is required showing materials intended for use fixed to the board face. This may be supplemented with graphics if apart of the intended finishes or store lighting systems or a special feature needs to be clarified. An additional board may be added if necessary. The back of the board must explain the materials or graphics shown on the front in simple ghost layout of rectangles or squares with the description contained within the shapes. Following completion of a board the remaining two copies require the board to be color scanned and the print fixed to the front of the Foam Core per 2.3 above. A simple Xerox of the material clarifications on the back must be duplicated per the original.

2.9 The Tenant's proposal will be evaluated and comments returned within one week from the date of receipt.

2.10 SECOND DESIGN SUBMISSION

2.11 Upon receipt of the comments the Tenant's Design Team will have two weeks to prepare and submit the second submission; three weeks will be permitted if requested.

2.12 The format for this submission is the start of the development of the CD set. Drawings in 24" x 36" format are acceptable for PANYNJ retail projects. Should the Client's designers prefer 22" x 34" to ease the half set publication in 11" x 17" this is acceptable as well.

2.13 The intent of the first CD set is to provide clarification to the comments raised while allowing the Contract Documents to progress as quickly as possible. The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. Title page with usual airport key plan, terminal location plan and site location plan with north and working north arrows shown. A code evaluation must be shown and escape distances indicated. The usual listing of Client / Owner / Landlord / Space No. and store title together with a list of the drawings.
B. The general conditions may be either book form or part of the drawing set.
C. The specifications may be either book form or part of the drawing set.
D. Architectural plans at ¼" scale for setting out, finishes, fixture types etc.
E. Architectural ceiling plans at ¼" scale for lighting, coordination with MEP.
F. Architectural elevations at ½" scale both storefront and internal as required.
G. Architectural construction details as required.
H. Both wall fixed and free standing fixture details
I. Signage proposals and details at scales that clearly show materials and sizes.
J. Fixture cut sheets in book format.

2.14 This CD submission forms the first chance to evaluate the MEP requirements and is of particular importance to the evaluation team.

2.15 The Tenant's design team is again reminded of the importance to perform a thorough site investigation in order to find those services required. Should the investigation show that the necessary services needed and the routings proposed require disruption to other retail establishments, concourse or holding areas or any other space then careful consideration will be need to evaluate the proposal. Any such findings will need to be noted and added to the drawings to allow bidding contractors to provide accurate estimates for the work to be done.

2.16 The Tenant's design team is reminded that the site investigations necessary to locate a service must also include an evaluation of the capacity of that service to suit their means. Some detail measurements may be necessary to evaluate flow rates, power etc.

2.17 The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. All the Engineering Specifications may be placed on the drawing sheets or in a book together with the others if that is the preferred method.
B. Fire Prevention drawing for the plan information at the scales noted above for Architectural and detail sheets as required.
C. HVAC drawing for the ceiling plan information at the scales noted above for Architectural and detail sheets as required.
D. Electrical / Power drawing for the plan and ceiling information at the scales noted above for Architectural and detail sheets as required.

2.18 Should the services of a Structural Engineer be required, then there specifications may be added to the drawings or included in the book format and would follow those scales noted above with appropriate details sheets as required.

2.19 The evaluation of this submission by BA, Landlord and D&CC will be one week and the drawings do not need to be signed and sealed.

2.20 **THIRD DESIGN SUBMISSION**

2.21 The Tenant's design team will evaluate comments and revise and issue the final CDs / Design within a one week period, two weeks will be granted upon request. Changes to the CDs need only be noted in an accompanying letter signed by the Architect / Engineer referring on a point by point basis to the comments listed by the Landlord / BA / D&CC. This issue of the CDs must be singed and sealed by the design professionals. The documents must include the standard PANYNJ – TAA (Tenant Construction of Alteration Application) form signed and sealed by the design professional. This form must be correctly filled out with the exact information required by the PORT.

2.22 At this point the Port Authority Approval Process phase begins.

2.23 The D&CC will review the signed and sealed CD documents for compliance with the comments list and then submit all documents to the PANYNJ on behalf of the Tenant within two working days of receipt. Number of copies of each document / CD set to be confirmed by D&CC.

2.24 The review process by the PORT will take an estimated three to five weeks. The PANYNJ comments referred to as, 'The Rider,' will be transmitted directly from the D&CC to the Tenant's design team upon receipt. During this period if not earlier the Tenant's design team is advised to seek bids.

2.25 The Rider will clarify conditions under which the Pre Construction Meeting may be allowed to proceed. Should the Rider require resubmission of any part of the CD documentation prior to approval or the Pre-Con meeting being scheduled the Tenant's design team must comply specifically with each point noted in the Rider. Such points are signified in the Rider with an 'asterisk.' Alterations so required must be bubbled and so noted on the documentation and returned promptly to the D&CC for resubmission to the PORT.

2.26 Should the Rider grant approval to proceed to the Pre-Construction Meeting upon condition that specific items are clarified or confirmed then upon such undertaking being given by the Tenant's design team in writing the D&CC will arrange a date at its sole and absolute discretion. The Tenant's Architect-of-Record is solely responsible for securing acceptance of all Rider Comment responses prior to project close-out.

2.27 The Tenant and their Professional Team will attend the Port Authority Pre-Construction Meeting in order to obtain the Alteration Permit. At this point, the construction phase will begin.

2.27 The Tenants design team will provide construction administration services in conformance with the agreed standards. At least 10 working days prior to substantial completion the Project Close-out phase can begin. The Tenant's Architect will submit controlled inspection and close-out documents to the D&CC for submittal to and approval by the PANYNJ.

2.28 Within 5 working days after approval from the Port Authority, the D&C C will endeavor to schedule the date for final inspection by the Port Authority. The Tenant's Architect will attend the final inspection to obtain the Final Permit to Occupy (FPO) from the Port Authority. Fixturing and merchandising may occur at any time. However, the store may not open until Port Authority approval is secured.

End of Section

SECTION 3 - DESIGN CRITERIA AND TECHNICAL REQUIREMENTS

3.0 GENERAL – DESIGN CONDITIONS

The Overall floor plan, A-01, illustrates the locations of the various food and retail concessions leaseholds. Concessions leaseholds assigned to food are designated with the letters 'F' or 'D' and leaseholds for retail are labeled with the letter 'R.' new leaseholds are further defined according to Design Conditions A through D as follows:

3.1 Design Condition A

This applies to new retails spaces which are enclosed with full height walls and have storefronts defined by closures, walls or glass. For example Space F14, refer to applicable LOD plans and elevations.

3.2 Design Condition B

This applies to new open 'arcade' or 'kiosk' retail spaces which have an open grille or grid type ceiling and their perimeter is principally defined by side folding or overhead roll down grilles. For examples Spaces R11, R12 and R13, refer to applicable LOD plans and elevations.

3.3 Design Condition C

This applies to new, enclosed food service retail space D03 for which the storefront is enclosed by means of solid walls, glass partitions and glass doors, refer to LOD plans and elevations.

3.4 Design Condition D

This applies to open café' or restaurant seating areas defined by low walls or by other flexible or moveable barriers. For example see café seating area D18C or seating area adjacent to restaurant Space F2. Refer to applicable LOD plans and elevations.

3.5 GENERAL REQUIREMENTS

3.5.1 Floors

The level of the finished floor within the concession spaces shall align with that of the adjacent public area finished floor.

The Concessionaire is required to patch adjacent concourse terrazzo or carpet if it is damaged during construction. Floors in kitchen, food preparation and storage areas, including under counter and beverage service areas must have a quarry tile or welded sheet vinyl non-slip surface. Where a quarry tile finish is proposed a fully waterproofed membrane must be applied under the quarry tile to prevent leakage to areas below. A 6-inch high cove base in quarry tile or welded vinyl is required. Floor drains, grease traps are to be installed per code.

3.5.1 Floors Continued

If the space requires floor penetrations, the Tenant's contractor is required to follow procedures noted in Section 1.0 above. This applies to conditions should the penetrations be required outside the Tenant's space for example in the routing of services to the space in need.

The Tenant is not permitted to construct mezzanines or raised platforms in the leased premises.

3.5.2 Ceilings

The overall ceiling height within the lease space is to be a minimum of 8 feet. Open ceilings or exposed structure treatments are not acceptable except as specifically shown in the Design Guidelines, Design Condition B for example. Ceilings are required to be installed in all areas to maintain return-air plenums. All ceiling materials must be noncombustible, equal to Class A installation. Ceiling finishes shall have a flame spread rating not exceeding 200. The plenum must be accessible when base building or Concessionaire piping and/or equipment are located above.

Ceiling furrdowns or bulkheads are permitted. However, furrdowns or soffits must not restrict access to plumbing or HVAC equipment. Access doors are not permitted in gypsum board furrdowns or soffits. All damage to existing ceilings will be repaired at the Tenants expense. Ceilings in food and beverage spaces are to comply with all City of New York Health Department requirements.

3.5.3 Roofs

All required penetrations of the existing terminal roof for exhaust hoods, vent stacks, supplemental HVAC equipment or any other equipment are to be performed by the Tenant's Contractor, at the Tenant's expense. The Tenant must consider the following in dealing with roof-top equipment

1. Roof access
2. Existing roof warranties and specific Owner requirements to maintain such coverage.
3. Security clearances are required to inspect and undertake work on the roof, see Section 1 above.
4. Equipment shut-offs
5. Walkway access
6. Concealed piping
7. Existing equipment and penthouse clearances
8. Roof protection during construction
9. Temporary weatherproof protection of openings during construction
10. Lifting and hoisting of equipment
11. Structural calculations of penetrations and reinforcing of openings if required
12. Effects on roof drainage
13. Storage of equipment and materials on the roof during construction
14. Protection of roofing material from oil and grease emitted by kitchen exhaust equipment

All modifications or installations of additional equipment require review and consultation by the Owner's consultant team including the D&CC, structural engineer and MEP/FP engineer. The installation of such equipment will be at the Tenant's expense.

3.5.4 Walls

All interior demising walls between Concessionaires shall be gypsum board on metal stud framing. Partitions between multiple Concessionaires and any common, public or service corridor will extend to the structure above. The partitions between Concessionaires must have a one hour fire rating and must go to the underside of structure above. All demising partitions will be constructed by the Concessionaires at the Concessionaire's expense. All interior partitions are to extend 8 inches above the finished ceiling. All interior walls are to be constructed by the Concessionaire at the Concessionaire's expense. Permanent attachment to concrete columns with mechanical fasteners or adhesives is not permitted. The Concessionaire is permitted to furr columns with systems that are self-supporting or free standing within the leasehold. If heavy shelving, or attachments, is to be installed, the demising or Concessionaire's wall must be reinforced.

If fire-rated walls or other existing construction must be opened or cut through to extend services into a leasehold, the Concessionaire must preserve the original rating and construction.

3.6 Security

The Concessionaire is required to provide a means of securing the leasehold during non-operational hours.

3.7 IMAGERY – FOOD CONCESSIONAIRE

3.7.1 Food Concessionaire - Display

Creative display of food and beverages is required. The presentation must be clean, well-organized and devoid of clutter. Sneeze guards must be set back a minimum of 6 inches from the edge of counter and be a maximum height of 4'-6" above the finished floor. All horizontal joints are to be butt-glazed for maximum visibility. Glazing must be either tempered or safety glass. No acrylic glazing is permitted.

3.7.2 Food Concessionaire - Equipment

Concessionaire equipment on counters is to be set back a minimum of 6 inches from the front counter edge and recessed into the counter top so that no portion exceeds 42 inches in height. Beverage machines and other miscellaneous equipment on the counter are subject to design review. No simulated wood finishes will be permitted on equipment within public view.

Napkins, condiments, utensils, straws and trays must be set back from the front of the counter and must be dispensed from permanent holders recessed into the front counter top.

All paper goods and supplies are to be stored in areas not visible to the public. All equipment is to be furnished, installed and maintained by the Concessionaire at the Concessionaire's expense.

3.7.3 Food Concessionaire - Lighting

Lighting within the Concessionaire's leasehold and outside the leasehold area – as shown on the Design Guideline Drawings - is to be provided by the Concessionaire.

3.7.4 Food Concessionaire - General Signage

In addition to the basic signage, additional signage is normally required of the food Concessionaire. Menu boards and other signs must convey information in an organized, simple, straightforward manner.

The design and graphics of the signage are an integral part of the store concept. All supplemental menu graphics must be professionally produced and attractively displayed. Temporary displays are not allowed. See Section 2.5 for additional signage information.

3.7.5 Food Concessionaire - Menu Boards

The Concessionaire is to provide one or more menu boards designed as an integral part of the design concept. Menu boards must have changeable price and menu graphics. Graphics depicting food items or a supporting overall image are encouraged.

Internally illuminated menu boards are acceptable. Also acceptable are illuminated menu boards using a supplemental light source. The use of photographs for food displays is encouraged. Photographs must be produced by a professional.

"Daily Special" signs or signs for seasonal or temporary promotions must be integrated into the overall design of the menu board and of the back wall.

3.7.6 Food Concessionaire - Pick Up/Order Signage

The food Concessionaire has the option to have "Order Here" and "Pick Up Here" signs. The design and materials must be consistent with the overall design and colors used in the space. All "Order Here" signs must be supported from the counter top and may not be suspended from the ceiling.

3.7.7 Food Concessionaire - Storage

The Concessionaire's supplies must be stored on appropriate racks or in cabinets within the Concessionaire's leasehold. Such storage must be concealed from public view with doors or sliding panels.

3.8 IMAGERY - RETAIL CONCESSIONAIRE

3.8.1 Retail Concessionaire - Display

The zone behind the storefront where merchandise is displayed is where the customer receives their first full impression of the store. It is critical that special attention be paid to the area through the use of fixturing, props, furniture, and/or mannequins. These elements are to be consistent with the space in both design and materials.

3.8.2 Retail Concessionaire - Signage

All signage on and within the Concessionaire's space is subject to design review and approval, including all signs for sale promotions, seasonal promotions, product displays and brand displays. See Section 3.14 below for Storefront Signage and Appendices for detail signage information.

3.8.2 Retail Concessionaire – Signage Continued

Signage must be professionally designed, attractively displayed and produced in colors

and materials consistent with the overall store image.

3.8.3 Retail Concessionaire - FF&E

All fixtures, furnishings and equipment shall be provided by the Concessionaire, at the Concessionaire's expense. Fixtures and furnishings play an important role in establishing the character of the store. They should be made of high quality, durable materials similar or complementary to those in the space. Simulated wood grain or other simulated materials on fixture or furniture is not acceptable.

The fixture layout should accommodate passengers with hand-held luggage, bag carts and baby strollers, as well as persons in wheelchairs who require maneuvering clearances.

Any equipment used in the store that is visible to the public is to be compatible with the store design.

All interior finishes are required to meet ASTM E-84, Type 1, Class A fire retardant requirements. All floor finishes shall also meet DOC FF1 (methanine pill test) and ASTM E648 (critical radiant flux test) with a minimum critical radiant flux of 0.5 watts per square centimeter.

3.9 STOREFRONT / PRIMARY SIGNAGE

Signage is an integral part of the overall design of the Terminal experience. Accordingly, the signage of the Concessionaire's space must be designed to maintain that consistency. The Concessionaire is permitted to use the corporate logo, sign type and lettering styles, when compatible with design criteria. The Concessionaire is required to coordinate primary and secondary signage into a complementary design. The Concessionaire must avoid obstructing Terminal way-finding and information signage. See Section 2.4 for specific signage guidelines for food and retail concession leaseholds.

3.9.1 General Signage Standards

The Concessionaire is fully responsible for the design, workmanship, installation and grammatical correctness of the signs and for coordinating the work of the sign contractor.

The Owner reserves the right to reject any signage that it deems inappropriate for the Terminal.

No exterior signage will be permitted on any part of the Terminal nor shall any signage be positioned so as to be visible from outside any window.

3.9.2 Primary Sign Element

Each Concessionaire is required to design, fabricate, install and maintain one primary sign above the entrance to the space – where a soffit/fascia condition exists - or incorporated into the storefront - if a soffit condition does not exist. The sign shall be limited to the
Concessionaire's trading name only.

Any Concessionaire having storefronts on more than one side may use one sign on each storefront. The Concessionaire must comply with the following criteria:

- Etched, beveled, or sandblasted glass, dimensional metal and other materials with permanent appearance are encouraged. Three-dimensional illuminated halo or back-lit individually mounted letters are not acceptable. Letters may be milled metal / Lexan or acrylic and spray painted but can not be thicker than 1-1/2" when pinned to the fascia. The storefront signage will be front lit by the Tenant per details shown in the Appendices.

- For signs occurring on soffits or fascias, the maximum field height for signage (i.e. individual letters, double line of letters and/or sign backgrounds) is 12" overall. See applicable details.

3.9.3 Supplemental Signage

The Concessionaire is encouraged to integrate supplemental signage into the storefront design to support the overall store image and to provide greater visibility. End walls and columns may not be used for secondary signage.

No displays or signs are permitted outside the lease line, except where specifically shown in the Guideline Drawings.

All signs are subject to the approval of British Airways. Note the following:

1. Letters or logos applied or painted directly on the inside face of glass storefronts are not permitted.

2. Supergraphic treatment of large amounts storefronts is not permitted.

3. Hand-lettered non-professional signs and newspaper advertisements are not permitted.

4. Advertising for brand names (soft drinks, for example) is not permitted.

5. Animated, flashing or sound-producing elements are not permitted.

6. All graphics must have a non-glare, matte finish. The type must be large enough and its style simple enough to make the text clearly legible.

3.10 INTERIOR FINISHES

The selection and application of finishes will define the Concessionaire's image. Establishing a standard for quality, durability and aesthetic value is essential and the finishes will be evaluated and considered on that basis. The Concessionaire's image does not end at the storefront or at the front of counter, but continues to all areas exposed to the public. It is important to develop a color and finish palette that is both inviting and complementary to the overall image. Quality craftsmanship is a critical component of good finish applications.

3.10.1 Flooring

High quality, durable materials must be selected to withstand heavy traffic. Stone, ceramic tile, marble, wood or durable carpet are acceptable options. The Concessionaire must provide a continuous base around the perimeter of the lease space with material that is similar to the flooring as well as compatible with the storefront. Rubber or vinyl base is discouraged.

3.10.2 Ceilings / Walls / Doors

The Concessionaire is to use high quality, durable products for ceiling, walls and doors. Specific requirements include the following

1. Ceilings must be accessible for maintenance whenever piping or equipment, by base building or Concessionaire, occurs.

2. The following materials are not permitted:

    a. rough-sawn cedar or other unfinished woods
    b. imitation of natural materials, such a simulated wood, brick or laminates
    c. pegboard walls or fixturing systems
    d. painted drywall surfaces below 9 feet
    e. window coverings
    f. slat wall material

3. Concessionaire's interior doors must be solid core or hollow metal with a finish quality similar to the quality of the walls.

3.11 LIGHTING

The Concessionaire is encouraged to be creative in lighting design to maximize the quality and uniqueness of the environment. Energy efficient lighting is required. All lighting locations, specifications and product data sheets, including light source, must be submitted for review.

3.12 ACOUSTICS

The Concessionaire is encouraged to use materials and designs that minimize the transmission of sound to the concourse and adjacent spaces.

Food and beverage Concessionaires must isolate noises from food preparation, dishwashing and cleaning areas, using demising walls if necessary.

Music systems are permitted within leaseholds, but sound levels must be controlled to limit the sound to the leasehold boundaries.

3.13 CONSTRUCTION PROCEDURES

These construction procedures are intended to allow flexibility and accessibility to the Concessionaire's contractor for the timely execution of his work without compromising airline operations, passenger flow or airport security. Airport and airline operations and security must not be affected during any sequence of Concessionaire's construction. Therefore, some

construction may be required during restricted working hours and during evening hours.

3.13.1 Concessionaire Examination of Site

By executing lease documents, the Concessionaires represent that they have:

1. Visited the site.
2. Made due allowances for difficulties and contingencies to be encountered.
3. Compared contract documents with work in place.
4. Informed themselves of existing conditions and work being performed by others.
5. Notified the D&CC of any inconsistency, or error discovered within the lease or between Lease Exhibit and existing conditions.
6. Agreed to inspection terms during construction
7. Agreed to provide verified as-built drawings to the D&CC.

3.13.2 Temporary Partitions

In most cases, construction by Concessionaire will occur behind temporary partitions which are to be constructed by the respective Concessionaire according to approved plans. In some cases, where such temporary partitions are not practical, the Concessionaire is to provide and maintain temporary dust partitions to seal-openings to all adjacent areas, provide temporary security and protection to the public during construction. The following points also apply:

1. Temporary construction partitions must be located a maximum of 2 feet beyond the lease line.

2. Partitions must extend full height to the existing structure or ceiling to positively seal off the construction area. Partitions in view of the public are to be vinyl-covered gypsum board on metal studs.

3. All finishes are to be returned to their original condition when temporary partitions are removed.

3.13.2 Temporary Partitions - continued

4. Construction signage – approved by British Airways - is required on temporary partitions.

5. Access doors into construction areas must be solid core or hollow metal doors with commercial grade hardware and must be mounted in hollow metal frames.

3.13.3 Security

The Concessionaire is entirely responsible for the security of the leased premises during construction and must take all necessary steps to maintain airport security. The Owner shall have no liability for loss or theft of any property.

The Concessionaire's contractor shall enter the building at landside entrances approved by the Owner.

Access by air-side or AOA ramp is strictly prohibited. Access to construction areas within the building must be through passageways and corridors as approved by the Owner or the designated D&CC. The access route must be shown on construction documents.

3.13.4 Construction Coordination

The following rules and regulations apply to the Concessionaire's contractors performing work at the Terminal.

In general, the Concessionaire's contractor is to confine his operations to the construction area defined by his Contract Limit Lines (CLL). Where operations require work or staging beyond those limits, such work is to be coordinated with the Owner or their designated D&CC using the following guidelines:

1. All work to be installed beyond the CLL, such as bracing, support steel, installation of conduits or lines etc., is to be coordinated with the Owner, their designated D&CC or with other contractors of the Concessionaire, where applicable.

   The Concessionaire's contractor shall attend the Terminal's mechanical coordination meetings. The contractor must sign off the coordination with other mechanical trades, if work is occurring beyond the CLL's.

2. Where the Concessionaire's contractor's work precedes any Terminal mechanical work, the Concessionaire's contractor will furnish accurate as-builts, tying back dimensionally to building steel to locate their work. As-built documents of this work will be forwarded to British Airways or their designated D&CC within five (5) working days of work being performed in the field, for use by others in coordination of subsequent work.

3. Where the Concessionaire's contractor's work occurs after the Terminal's coordination of mechanical work in adjacent spaces, the Concessionaire's contractor will obtain copies of the "Coordination Drawing(s)" for the area and shall indicate his work on the plan. This drawing will be forwarded ten (10) working days prior to any work proceeding in the field outside their CLL and will be submitted to the Owner's D&CC for review.

4. No core drilling will occur in the Terminal outside the CLL. Any damage which occurs due to such activity will be the responsibility of the Concessionaire's contractor. Any necessary repairs not completed by the Concessionaire's contractor will be performed by a contractor selected by the Owner and applicable costs will be back-charged to the Concessionaire's contractor.

5. All shutdowns or tie-ins to existing services are to be made with a minimum of 48 hours written notice to the Owner. The Concessionaire's contractor is responsible to drain down and refill any systems affected and to furnish valves and dampers to isolate their work from the Terminal's systems, whether or not specifically indicated.

6. The Concessionaire's contractor will coordinate all deliveries with British Airways through their designated D&CC. Indicate the date, time and duration of deliveries and coordinate the location of all drop-offs. Minimum 48 hour notices will be given for all standard deliveries, and five (5) days written notice for all deliveries requiring cranes, boom equipment or requiring coordination to or blocking of roadway access.

7. The Concessionaire's contractor is required to provide competent job site supervision, full time while any of their work-force is present at the job site. capable and authorized to make binding decisions on behalf of the Concessionaire's contractor. , and who will be present

8. The Concessionaire's contractor will provide British Airways or their designated D&CC with emergency contact numbers for this individual and also for all major mechanical subcontractors working for them at the site.

9. The Concessionaire's contractor is required to make available a competent representative of his firm to attend a weekly coordination meeting with British Airways to coordinate all operations and schedules and to give notice of upcoming work or deliveries.

10. All builders' materials, gang boxes, rubbish containers, etc. are to be kept within the confines of the CLL or at pre-approved locations outside the CLL.

11. The Concessionaire's contractor will coordinate all rubbish removal, storage of mini containers, placement of roll-off pickups and drop-off times with British Airways.

12. The Concessionaire's contractor is responsible for lockup and protection of all his builders' materials, tools and equipment during the course of construction.

13. The Concessionaire's contractors are responsible for procurement of their own security badges from the Port Authority and shall coordinate procurement with British Airways.

14. The Concessionaire's contractor is aware that all work will be performed by union personnel of trades claiming jurisdiction. The Concessionaire's contractor is advised that all additional labor which results from their construction activities such as costs for stand-by trades, master machinists, laborers, teamsters, either for work completed during or beyond normal working hours, will be their responsibility and should be arranged for and paid directly by the Concessionaire's contractor.

15. The Concessionaire's contractor shall establish and obtain approval of any required axis lines and benchmarks for performance of their work. The contractor shall coordinate back to these benchmarks, axis lines and starting points as applicable.

16. The Concessionaire's contractor will be responsible for the damage caused by its own personnel or by any of the subcontractors, including suppliers and vendors of the Concessionaire's contractor, to existing construction equipment, fixtures, finished surfaces, adjacent area of construction, existing buildings, properties or utilities. The Concessionaire's contractor is responsible for protection of the preceding work in the vicinity of its work. Any disturbance or impairment resulting directly or indirectly from the work of the Concessionaire's contractor will be immediately restored, repaired, or replaced to the satisfaction of British Airways and without additional cost to British Airways. Refusal by the Concessionaire's contractor to correct the damaged work after notice from the Owner's contractor will necessitate correction by others with all related costs charged to the Concessionaire's contractor.

3.13.4 Construction Coordination – continued

17. The Concessionaire's contractor shall make all efforts to coordinate his work with Terminal Base Building construction at the interface of the CCL (Contract Limit Line).

18. The Concessionaire's contractor must be aware of the structural capacities of areas to be used for the Concessionaire's contractor's equipment and material storage and shall not exceed rated capacities without taking appropriate steps to compensate for the imposing of loads which may exceed the design limits. All storage of materials outside the CLL must be coordinated with British Airways. Any modifications to the structure must be analyzed and detailed by the Concessionaire's contractor's engineer, a professional engineer licensed in New York State, and must be submitted for review by a structural engineer selected by British Airways. All related costs including costs of the engineering review shall be included in the Concessionaire's contract price for such work.

19. The Concessionaire's contractor shall include all costs related to any and all required laboratory testing including controlled inspections required by the Port Authority.

20. The Concessionaire's contractor should note that no elevators or personnel/material hoists are available for their use on the Terminal jobsite. Use of any of the Terminal's service elevators – when permissible - shall be coordinated in advance through British Airways.

21. The Concessionaire's contractor will provide any signs, warning devices, barricades, fences and guardrails which are required for the safe performance of its work, and to control vehicular and pedestrian traffic required by its operation in accordance with applicable codes. Any fines levied against the Owner's contractor by OSHA due to failure of the Concessionaire's contractor to comply with OSHA requirements shall be paid by the Concessionaire's contractor.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS

The Terminal has in place an MEP infrastructure adequate to accommodate the needs of the concessions program. Based on the extent and nature of the work proposed by the respective Concessionaires in this phase of the work, the utility capacities shall be verified by the Concessionaire's engineering consultants. Supplemental requirements or unusual circumstances caused by the Concessionaire's development may require that supplemental equipment be installed by an approved contractor at the Concessionaire's expense. Modifications, tie-ins to existing services and supplemental equipment construction must be engineered by a professional engineer registered in New York State. See Appendix 1 - Design Condition Drawings, for graphic layout of services available to the leaseholds.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS - continued

Plans must show all routings and connections of new services to existing lines, ductwork, piping, telephones, switchboards or motor control centers. The Concessionaire must provide complete heat loss/gain and electrical power calculation forms. See Appendix 2-Schedules for calculation forms.

3.14.1 HVAC

The Terminal is served with chilled and heated water from the Port Authority's central utility plant. Air handling units are currently in place to provide a standard design capacity. The base building supply air provided by British Airways is 1.0 cfm/ft^2 at 57°F. The Concessionaire must verify the existing air supply to the leasehold and determine how much more, if any, is needed.

The existing primary air ductwork may be used to cool the leasehold, provided engineering calculations show that it is adequate to meet new leasehold design loads.

The Concessionaire's HVAC design for each leasehold must meet the following criteria:

1. Heating - Winter inside comfort design temperature: 75°F db -
2. Cooling - Summer inside comfort design temperature: 78°F db
3. Outside design temperatures - as indicated in the current edition of the ASHRAE Handbook of Fundamentals, 2 1/2 percent conditions
4. The existing maximum supply air to conditioned building areas is calculated at 1.0 cfm/ft^2. The Concessionaire is responsible for supplying supplemental HVAC if additional air-conditioned air or make-up air is required because of increased loads in the leasehold.

The Concessionaire must provide the design, engineering and installation of the HVAC system including the following:

1. All medium pressure ductwork from the main trunk ducts to the VAV boxes including duct taps and control dampers
2. All low-pressure ductwork, including that necessary for supply, return air, exhaust, and make-up air
3. All grilles and diffusers for supply, return air, exhaust and make-up air

3.14.1 HVAC - continued

4. Controls: All Concessionaire's equipment must have direct digital controls (DDC); the Concessionaire's control equipment must be compatible with those installed in the Terminal (manufactured by Trend). The Concessionaire is responsible for providing all DDC control panels required for their installation and for connecting to the existing Terminal BMS system and should contact:

   Trend Controls Group
   200-214 West 4th Street
   Plainefield, NJ 07061
   (908.755.9500)

5. A heating system using fan powered VAV boxes or induction boxes with hot-water coils and the required hot-water piping
6. A kitchen hood exhaust and tempered make-up air systems package that includes both exhaust fans and make-up air fans which must be installed by an approved Contractor. The submitted design must include sizing of roof penetrations
   a. Roof exhaust fans must be of the belt drive, up-blast, vertical discharge type

      and must bear the AMCA certified ratings seals for air and sound performance. There must be a built-in grease drain.
   b. The filtered make-up air unit should have belt-driven double width/double inlet, forward curved centrifugal supply fans.
   c. The pre-wired control center must include, but not be limited to, an integral master disconnect switch with fuse blocks for main power connection, magnetic motor starters with thermal overloads and manual reset, a fused 115 volt control transformer and a distribution terminal control strip for connecting the control wiring. Wiring must be complete, requiring only one-point field connection for power service and one-point field connection for low voltage.

7. All supplemental cooling and heating service must be designed by the Concessionaire's engineer and installed by an approved contractor. Supplemental chilled and heating water air-handling units may be installed within the Concessionaire's lease space or, with written approval, may be installed on the roof.

8. Supplemental DX units are not desirable and will be subject to Owner approval. All other resources must be considered first and approval will be granted only if documented evidence shows that the units are necessary and unavoidable. Location and size of rooftop equipment penetrations will be subject to Owner review and approval.

3.14.2 Electrical

Base building power provided by British Airways includes one separate disconnect switch per leasehold. The feeder (all 3ph, 4 wire, 60Hz) and switch are sized at 10 VA/per ft^2 for retail Concessionaire leaseholds and 24 VA/per ft^2 for food Concessionaire leaseholds. Food Concessionaires will be required to reimburse the Owner for electrical service based on a flat rate fee per square foot or based on meter readings, as determined by British Airways.

The Concessionaire is responsible for the design, engineering and installation of electrical service within the lease space and for all connections and coordination with base building electrical systems. This includes panels, transformers, wire and conduit, light fixtures, switches, outlets and any other items required to complete a functional system.

3.14.3 Plumbing

The Concessionaire must provide the design, engineering and installation of any required plumbing at the concessionaire's expense including the following:

1. All domestic cold water piping
2. All domestic hot water piping including hot water beaters
3. All sanitary sewer (waste) piping, including floor drains and grease interceptors to be connected to the base building waste connection
4. All sanitary sewer vent piping
5. Water heaters when required - they must be accessible and include T&P relief-valve piping to the nearest floor or hub drain in the lease space; all water heaters shall be gas-fired
6. Domestic hot water heaters for hand sinks, if required, can be electric or gas, fully insulated and designed for a service water temperature not to exceed 140°F

All sanitary, vent and cold-water piping must connect to existing lines in the immediate Concessionaire area and be furnished and installed by the Concessionaire.

For food service areas, all Concessionaire drainage piping must be connected to a grease waste line extending to a grease interceptor. Locations should be coordinated with existing conditions, as described above, and with Concessionaire operations.

The Concessionaire must test all existing waste lines for capacity and is responsible for any necessary cleaning or repairs to existing plumbing before connections are made.

3.15 Lighting

All temporary lighting at 10 foot candles and any final required additional lighting shall be provided by the Concessionaire at the Concessionaire's expense in accordance with the Manual. Reference Section 2.0, General Design Criteria.

3.16 Fire Protection

All Concessionaire's leaseholds must be equipped with a sprinkler system except for kiosks or open-ceiling retail spaces which are positioned below ceilings which are presently equipped with sprinklers. The Concessionaire must provide the engineering design modification and installation of the fire sprinkler system for the leasehold, which includes:

1. The design, modification and installation of wet-pipe fire sprinkler systems
2. The design, modification and installation of new and/or existing fire sprinkler heads for lease space layout
3. The design and installation of adequate fire protection systems for such equipment as kitchen grease hoods, as required.

The Concessionaire is responsible for the design, engineering and installation of the sprinkler system within their leasehold and for connecting the sprinkler system to the existing Terminal fire protection system. Contact the following contractor:

Sirina Fire Protection Corporation
151 Herrick Road
Garden City Park, NY 11040
(516.942.0400)

The kitchen hood fire protection system should be connected, by the Concessionaire, at the Concessionaire's expense, to the base building fire alarm system.

If the Concessionaire adds new ductwork for supply, return or exhaust or if the Concessionaire adds supplemental air handling units to the lease space, the Concessionaire's contractor shall install duct-mounted smoke detectors that are connected to the base building's fire alarm system. The Concessionaire's contractor shall install new devices, wiring, etc., and the final connections to the base building's fire alarm system shall be made by the Owner's fire alarm system vendor, at the Concessionaire's expense.

The base building fire alarm system, provided by the Owner, at the Owner's expense, includes one fire alarm horn/strobe per open space (minimum) plus one additional horn/strobe per 400 square feet in accordance with NFPA 72. Fire alarm devices are not generally required in leaseholds, except for in large leases where audio-visual devices must be installed. The designation of the fire alarm devices will be handled on a case-by-case basis in coordination with the Concessionaire's leasehold. It will be the responsibility of the Concessionaire, at the Concessionaire's expense, to provide any required fire alarm devices required for adequate visibility based on the design of the leasehold.

Lease spaces are not independent fire protection zones. Fire protection zones are based on column locations, and several leaseholds may be in the same fire protection zone.

3.17 Telephone

The Concessionaire will be responsible for ordering voice and data circuits from the various Telecommunications Service Providers (e.g. Bell Atlantic, AT&T, Sprint). For routing the Telecommunications circuits to the leasehold, the Concessionaire must use the building cable plant, provided by the British Airways. Originating from the nearest Communications Support Room (SCR), a fifty pair category five (CAT5) cable shall be installed by the Concessionaire terminated within the leasehold.

3.18 Natural Gas

For any natural gas supply lines required for cooking or for hot water heating appliances, the concessionaire is responsible for the design, engineering and installation within their leasehold and for connecting the gas line to the existing natural gas supply in the terminal. Any venting required shall also be provided by the concessionaire as will any required metering.

3.19 Structural

The Base Building structure will accommodate floor loading of 100 psf live load, which cannot be exceeded by the Concessionaire.

END OF SECTION

THE PORT AUTHORITY OF NY & NJ

AVIATION DEPARTMENT

TENANT ALTERATION PROCEDURES AND STANDARDS GUIDE

JOHN F. KENNEDY INTERNATIONAL AIRPORT (JFK)

LA GUARDIA AIRPORT (LGA)

NEWARK INTERNATIONAL AIRPORT (EWR)

TETERBORO AIRPORT (TEB)

NEW YORK HELIPORTS (JRA)

MARCH 1998

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SECTION III. CONSTRUCTION PROCESS

Introduction

Upon approval of design documents, M/WBE Participation Plan and Asbestos Certification, the Manager, Airport Facilities Division will transmit to the Tenant, copying the A/E of Record, an "Approval to begin construction" letter with any unresolved "Basic" comments, if applicable. This letter will authorize construction to proceed and direct the Tenant to contact the Resident Engineers' Office (REO) to schedule a Pre-Construction Conference.

The Resident Engineers Office (REO) for Tenant Construction is a field unit of the PA Engineering Department. The REO is responsible for oversight of the Tenant activities with regard to (i) construction quality assurance and safety; (ii) compliance with the approved plans, specifications, and applicable Codes; (iii) controlled inspections as required by the Code; and (iv) material certifications. The Resident Engineer coordinates project close-out through receipt of appropriate certifications from the Tenant, the Tenant's contractor and A/E, and coordinates the PA audit inspections and tests of the life safety elements and installed systems for conformance with the approved plans, Codes, and PA Standards. Once construction begins, the primary contact with the Tenant will be the REO. If during construction certain changes to the approved design documents are required which necessitate additional reviews by the PA, the REO will direct the Tenant's consultant to resubmit the revised design documents to the TLO for review.

A. Pre-Construction Conference

1. **Approval to Construct** - Once the PA TAA review process yields an approval to construct, or an approval subject to conditions; a letter is issued from the Airport Facilities Manager (sample letter - Figure V-13) indicating that construction may begin. This letter further refers the Tenant to the Resident Engineers' Office (REO) to schedule a Pre-Construction Conference.

2. **The Resident Engineers' Office** - This office performs audit inspections throughout the construction process. The Tenant's A/E is responsible for adequately inspecting and monitoring the work; ensuring the contractor constructs the improvement project in accordance with the PA approved plans and specifications; ensuring that all controlled inspections are performed as required by the applicable Building Codes; certifying that all life safety and code requirements are constructed/installed and tested properly; that all special PA construction requirements/permits are obtained (cutting and burning permits, hot work permits, etc.) and that all required Tenant A/E certifications are provided.

3. **Tenant Responsibilities** - The REO expects the Tenant and their A/E of Record, (the primary entity responsible for inspections), to have an appropriate construction Quality Assurance Program, including the necessary on-site inspection capabilities, for the size of the project, which will allow the A/E of Record to certify that the work is complete as described in Subsection III-C.

   The PA also expects the Tenant and their A/E to monitor all construction activities to ensure the safety of construction workers, tenant employees and the general public.

4. **Pre-Construction Conference Requirements** - Required attendees include the Tenant, A/E of Record, prime and sub-contractors. Information required for the Preconstruction conference includes:

   a) Approval letter from the Airport Facilities Division (Figure V-13) authorizing construction.

   b) Contractors Insurance certificates (Figure V-24).

   c) Certification that no asbestos exists (Figure V-7) or an asbestos abatement program completion certification (Figure V-27).

   d) A letter from the Tenant identifying the A/E firm/individuals who will inspect the construction and who will certify its completion (Figure V-16) and a letter of understanding from the A/E (Figure V-17).

   e) Complete set of PA approved drawings and specifications for the REO.

   f) A review of all proposed construction staging areas, haul routes and delivery routes, including any needed modifications of existing conditions.

   g) An acceptance of the M/WBE Participation Plan (Figure V-6) by the airport AAO.

   h) A list of Contractor and sub-contractor emergency telephone numbers. A listing of PA emergency telephone numbers will be furnished to the Tenant at the Pre-Construction Conference (Figure V-15).

   i) A written compliance program by the Tenant's contractor for projects in which lead containing material will be disturbed.

   j) The REO will provide to the Tenant an Alteration Permit Placard (Figure V-14) at the Pre-Construction Conference which shall be prominently displayed at the site during construction.

5. **FAA Notice of Construction** - The Tenant shall pay special attention to the need to submit completed Notice(s) of Construction (FAA Form 7460-1). See Sample Notice in Figure V-30 for proposed permanent structure (i.e., building addition) and/or temporary structure (i.e., crane/pile driver) as directed by the PA Aviation Project Management and Technical Services Division (PMTS). The Tenant shall submit the Notice(s) to PMTS via the TLO. PMTS will review these Notices and file with FAA. Data provided must be correct and exact. Latitude and Longitude coordinates must be expressed in North American Datum 1983 (NAD 83), and all related elevations shown in feet above mean sea level at Sandy Hook, N.J. Early processing is urged as the FAA review process can take from 30 to 90 days, and construction cannot proceed without FAA approval.

B. Insurance

When Tenant contractors perform construction work on site, they must have adequate insurance, as follows:

1. Any TAA (or construction alteration) with a cost of $1,000,000 (one million dollars) or more will be submitted to Risk Management through the REO for written approval of the certificates of insurance prior to the commencement of any construction work.

2. Any Minor Work (Maintenance) request or TAA with a cost of less than one million dollars will be reviewed by the REO using the following guidelines:

   a) Workers' Compensation is required for all tenant alterations.

   b) Commercial General Liability Insurance on an occurrence basis with limits as follows:

      (1) Rampside (Aeronautical) $3,000,000 (General Aggregate, Products - Completed Operations Aggregate, Each Occurrence)

      (2) Roadside (non-aeronautical) $1,000,000 (General Aggregate, Products - Completed Operations Aggregate, Each Occurrence)

   c) Automobile Liability (if Autos are used) for (Any) or (owned, Hired, Non-Owned) autos with limits as follows:

      (1) Rampside (Aeronautical) $3,000,000 Combined Single Limit

      (2) Roadside (non-aeronautical) $1,000,000 Combined Single Limit

d) For Commercial General Liability and Automobile Liability, the PA of NY & NJ and the Tenant must be included as an additional insured. (Certificate holder is not the additional insured unless it says so.)

e) If the cost of the TAA (or construction alteration) is less than one million dollars and the work to be done will be near aircraft (such as runways, taxiways, ramps and apron areas, or where the contractor would be in the same location as aircraft), then the alteration must be submitted to Risk Management in the same manner as stated in B.1 above.

f) The Certificate of Insurance must include the TAA# and will be retained in the TAA or Minor Work (Maintenance) Request file by the REO. A sample certificate annotated to indicate the required information is shown in Figure V-24.

C. Construction Activities

1. General

a) During construction, there are no meetings required with the REO. However, the REO is available to attend job site meetings, if requested. Meetings can be scheduled by either the Tenant or the REO to address specific problems.

b) Changes in construction due to field conditions which require redesign must be brought to the attention of the REO. The REO will determine if the change requires formal resubmission of documents to the PA for review.

c) On alteration projects in occupied buildings, the Tenant must maintain the existing life safety systems in occupied areas until new systems are installed or modified and are operational. Temporary shutdown of sprinkler systems in occupied areas are permissible as long as the system is reactivated by the end of the work day. Any modification work on existing fire protection and alarm systems by the Tenant's contractor shall be cleared through the REO. Proper advance notification must be given prior to the shut down of any fire protection system at any time.

d) Expansion of construction beyond the PA approved documents, workscope changes, or the undertaking of other construction not approved by the PA will be subject to an "unauthorized construction" notification, whereupon the work will be stopped and the Tenant's contractor may be required to remove the unauthorized construction.

2. **Safety Procedures**

a) The contractor must adhere to all general safety procedures and those specifically identified by the appropriate PA operating divisions and/or tenant facility managers, for the particular conditions in the area.

b) Tenant construction, where unsafe practices are observed, can be shut down by the REO or PA Police.

3. **Inspections and Certifications**

a) During construction, the airport Fire Marshal may visit the construction site and do spot checking for welding permits, certifications, and construction fire safety conditions. The Fire Marshal can stop the construction for unsafe fire conditions at any time and during final inspection may withhold occupancy approval if fire and life safety systems and/or code requirements are not met.

b) Controlled Inspections are to be performed as required by the applicable Building Code. Copies of signed and sealed reports must be submitted to the REO as they are performed, under cover letter from the A/E of Record indicating acceptance.

c) Other inspections and certifications that may be required to be submitted to the REO prior to the REO recommending that a Permit to Occupy or Use be issued include:

(1) Concrete job mix formulas report
(2) Concrete test cylinder reports
(3) Soil compaction reports
(4) Concrete plant reports
(5) Pile driving logs and resurvey drawing, including deviations from design location and bearing capacity
(6) Backfill density tests including trenches
(7) Screenings density tests
(8) Asphalt density tests
(9) Structural steel erection certification by a PE
(10) Structural steel high strength bolts certification by PE
(11) Structural welds test report
(12) Structural steel mill certification
(13) Structural steel spray-on fireproofing certification.

(14) Fire watch report including duration each day, duty list for each shift with telephone numbers and fire watch procedures to be followed

(15) Suspended ceiling concrete anchors certification and suspension system components, if different from that approved by PA

(16) Carpeting flammability test reports

(17) Drapery flammability test reports

(18) Flammability test reports on all other materials required by code

(19) Electrical "HI-POT" tests and inspection reports on electrical power feeder

(20) Roof warranties, guaranties or bonds.

(20) Ground rod resistance test report at aircraft location

(21) Aircraft fueling systems cathodic protection certification.

(22) Vehicle fueling systems cathodic protection certification.

(23) Copy of sprinkler drawings approved by tenant's fire protection underwriter.

(24) Shatter-proof glass certification

(25) Fuel tanks fire suppression system certification

(26) Fuel tanks test inspection reports

(27) Gas piping pressure test reports and certification

(28) HVAC Balancing report

(29) Hydrostatic test reports of sprinkler, plumbing and HVAC piping systems

(30) Potable water analysis and purification test report

(31) NYC Fire Department alarm box test certification (for JFK and LGA)

(32) Smoke detectors velocity and sensitivity test report

(33) Heat rise of detectors certificate of satisfactory performance

(34) Certification letter from electrical engineer for fire protection systems, fire control panels, and transmission of alarms to the Police Fire Board signed and sealed

(35) Certification letter from mechanical engineer for HVAC systems and other controlled inspected mechanical systems, signed and sealed.

(36) Certification letter from A/E signed and sealed (Figure V-25 for a partial completion and/or Figure V-26 for a final project completion)

4. **Operational Considerations**

The REO will coordinate construction activities with the appropriate PA airport operating divisions and/or tenant facility managers for review of construction staging, work hours and maintenance of traffic (vehicular and pedestrian/passenger) as required. For example, at JFK, these include JFK Landside Services, the IAB Building and/or the Unit Terminal Managers.

For work in the vicinity of the EWR Monorail - any construction or surveying operation within 20 ft. horizontally measured from the center line of each guideway requires a Permit. A permit (see Figure V-31) from AEG (the Monorail Operation and Maintenance Contractor) may be issued subject to the location and nature of the activity in relation to the Monorail operation. The permit must be applied for, through the REO, at least 48 hours prior to the start of work. AEG and/or the PA reserves the right to deny or rescind the permit at their discretion at any time.

5. **Cranes and Pile Drivers**

a) The REO shall be notified at least 48 hours prior to the arrival of any crane (or pile driver) at the work site.

b) If on the Airside, on the day of arrival of the crane (or pile driver) at the work site, and every day the crane (or pile driver) is at the work site, the Aeronautical Operations Duty Supervisor will be notified of its presence and location, the time work will be started, and a second notification at the end of each work day. The current telephone number of the Aeronautical Operations Duty Supervisor will be provided to the Tenant at the Pre-Construction Conference.

c) The following information for each crane (or pile driver) shall be given to the REO and/or the Aeronautical Operations Duty Supervisor:

(1) Boom height and its location with respect to the nearest adjacent Runway centerline.

(2) Weight

d) Crane (or pile driver) must be grounded.

e) Crane (or pile driver) must have an up-to-date Certificate of Inspection from the appropriate local authority (eg., New York City).

f) Crane (or pile driver) operator must have a current Operator's License from the appropriate local authority (eg., New York City).

g) All cranes and pile drivers shall be appropriately marked and lighted.

h) Equipment taller than 25 feet shall be lighted and marked in accordance with FAA requirements, and as directed by the PA.

i) At EWR, a PA engineer must be on site for all pile driving.

6. **Required Construction Permits**

a) Cutting and Welding Permits - (Figure V-19) are issued by the REO to individuals on specific projects by name & TAA identification number. The individual must request these permits from the REO. For a burning permit, the individual must have a Fire Department Permit or Certificate of Fitness for Burning from the appropriate local authority. For a Welding Permit, if non-structural, the requirements are the same as a burning permit. For a structural welding permit, the requirements are the same as a burning permit plus either a local Building Department license for welding or AWS certified permit for welding.

b) Hot Work Permits - (Figure V-20) are required on ramp-side and areas near fuel lines. A Hot Work Permit is required to be obtained on a daily basis from the REO.

c) Electric arc welding must be pre-cleared with the FAA indicating the type of equipment to be used due to electronic interferences. Contact with the FAA shall be made through the TLO or the REO.

d) Any surfaces coated with lead based paint which are to be cut or welded either by gas or electric arc must be stripped of paint in the affected area and the residue properly disposed of prior to proceeding with the work.

7. Security

For non-airside work, workers are required to wear identification which indicates which contractor they are working for.

For Work on the Airside:

a) All Tenant contractor personnel shall have numbered badges (pouches). The contractor shall submit a list of employees by name, badge number, and social security number to the Aeronautical Services Division via the REO on a daily basis.

b) Employees riding on contractor shuttles traveling onto the Airside will be checked against approved employee badge lists at access gates.

c) Contractor employees driving unescorted on airside or ramp areas must have an airside drivers permit based on attendance at and successful completion of a special Airport Security Division driving class. Contact the REO for information on class schedules.

d) All unescorted vehicles operating in the ramp area must display proper PA identification. Such identification is obtained from the PA Police through the REO.

e) Maintaining security on the ramp as per Federal Air Regulation (FAR) Part 107 is a requirement.

f) Tenants may erect a fence around their leasehold work area to separate the site from the airside. The area within the fence may be then considered landside and may not fall under the security requirements of airside work. Any gates onto airside would have to be manned by a guard and be adequately secured. Fences must comply with FAA Advisory Circular #107-1 requirements.

8. **Asbestos**

a) Asbestos abatement construction regulations are different from normal construction activities. Different requirements are implemented for preconstruction meetings and close-out activities for asbestos projects.

b) During abatement work, the PA Engineering Department and the airport Environmental Services Unit field representatives audit the contractor's and Tenant's Environmental consultant's work. There are a series of inspections performed by the environmental consultant. The PA field representative will also perform confirmation inspections after the environmental consultant's approval of the contractor's work.

c) The environmental consultant collects final air clearance samples and based on the results will notify the REO whether or not to commence the breakdown of the work area. The consultant will then provide a letter certifying the area is ready for occupancy. (Figure V-27) The PA field representative will also conduct a final visual inspection in the presence of the

environmental consultant after the certification is received from the consultant by the REO.

d) A final and all inclusive compliance report completed by the contractor and certified by the environmental consultant must be given to the PA to become part of the record for future facility use.

9. **Lead Paint**

Prior to construction activities, it must be determined if lead based paint is present in the work area. The PA requires that all contractors comply with EPA, OSHA, and State Regulations in the handling, removal and disposal of lead based paint. Contractors shall provide a written compliance program as required by OSHA and include a proposed plan for the containment and disposal of disturbed lead to the REO. Most susceptible problems occur with workers burning and/or cutting steel with lead paint or scraping or blasting lead paint. Lead must be contained, collected, and disposed of properly. Refer to Subsection IV-F for further information.

10. **Materials Control**

a) **Material Storage** - The storage of construction materials shall be controlled in Tenant construction to avoid unsightly appearance and to prevent winds and/or jet blast from scattering materials on airside. Appropriate storage areas and tie-downs must be provided by the contractor and approved by the REO.

b) **Removal of surplus materials** - Fill, dirt, etc., shall be done as the work progresses. No material will be stockpiled on the site without prior written approval by the REO. Excess useable fill material shall be delivered to a location designated by the REO and shall become the property of the PA, unless the PA directs the Tenant to remove and dispose of it. The Tenant shall request this determination by the TLO at the time of the initial submittal of the TAA.

c) **Contaminated Soils and Ground Water** - Contaminated soils and ground water are also an issue that must be addressed by Tenant A/Es and Contractors. Removal or abatement must meet all local, state and federal laws and regulations. Refer to Subsection IV-F for further information.

11. **Dewatering**

Dewatering in Tenant Construction must be carefully coordinated with the PA airport Environmental Services Unit through the REO or TLO. Refer to Subsection IV-F.

12. **Construction Deliveries Through the Airside**

a) Normal deliveries should be scheduled for off-peak hours. Deliveries of oversize materials or equipment via airside routes shall be requested by the Tenant to the REO not less than 24 hours prior to the requested time, over a pre-approved route, and should usually take place at night. Delivery times are to be arranged at the Pre-Construction meeting.

b) An assigned escort and monitored haul route will be established through secured areas by the REO when frequent deliveries are anticipated, such as concrete deliveries.

c) In cases where there are frequent deliveries for a limited time period the contractor may request numbered badges for delivery personnel. The Contractor shall submit a list of numbered badge with names and social security numbers of employees on a daily basis. These are checked at the time the delivery comes though the airside gate. All drivers must have an airside drivers permit as noted in paragraph 7 of this Subsection.

d) Any construction activity proposed that will impact taxiway clearances or aircraft operations must be coordinated through the REO at least 24 hours in advance.

e) Airlines or other Tenants who have escort privileges can provide for their own escort of normal deliveries on the Airside Service Road. The REO must be notified in advance of all Airline or Tenant escorts.

13. **Construction - Utilities**

a) For JFK and LGA, all utility services for primary (high tension) and secondary, electrical, water, sewage connections, and aircraft fueling are provided to the Tenant site. The Tenant's contractor makes connections to the Utility Systems. Coordination with the Maintenance Services Division (MSD) for access road connections is handled through the REO. The exception to this is for natural gas, which is handled directly with Brooklyn Union Gas Company and telephone which is handled directly with Bell Atlantic. Any access to utility manholes and temporary construction power service must be arranged through the REO.

b) For EWR, all utility services for water, sewage. and aircraft fueling are provided to the Tenant site. Connections for electrical service is handled directly with PSE&G Co. and for telephone with Bell Atlantic. For natural gas, the TLO should

be contacted to determine whether the Tenant should deal with PSE&G or Elizabethtown Gas Co.

c) For TEB, the Tenant's contractor should arrange with local utilities for all connections.

d) The appropriate 800-number should be called before digging to install underground utilities (see Figure I-1).

14. **M/WBE Requirements during Construction**

On a monthly basis, M/WBE Reports (MEUR) are required and are to be sent directly to the airport Affirmative Action Office (see Figure I-1), as follows:

a) Statement of M/WBE Payments Reports - In order to assure that the planned goals are being met, a monthly Statement of M/WBE Payments Report must be submitted directly to the AAO throughout the construction period. (Figure V-23)

b) Monthly Employment Utilization Report (MEUR) - Submit a Monthly Employment Utilization Report (Figure V-21) which itemizes the minority and female participation in the construction work force by specific trade description (Figure V-22) during project construction.

c) Submission - Both the Statement of M/W/DBE Payments Report and the Monthly Employment Utilization Report should be submitted to the Affirmative Action Office (AAO). TAA project numbers must be shown on the reports. Both reports should be submitted by the 15th of each month reflecting the preceding month's activity.

15. **Miscellaneous**

a) **Fuel Storage Tanks** - The PA requires that all aboveground and underground storage tank installations and closures comply with the applicable code and environmental regulations (See Subsection IV-G). In addition, it is PA policy that all underground storage tanks may not be abandoned in place and must be removed regardless of regulatory guidelines. This applies to both new construction and replacement projects. A tank installation and/or closure plan must be submitted with the TAA. Specific inquiries must be coordinated with the airport Environmental Manager.

b) **Construction Site Appearance** - During the contract design preparation and at the Preconstruction Conference the TLO and the REO will discuss and transmit to the participants, PA standards regarding the maintenance and upkeep of

construction sites, both interior and exterior, including dust control.

c) **Construction Site Access** - The construction contractor must provide the airport Operating Divisions staff with the ability to access work areas for periodic site review. This may be coordinated through the REO.

d) **Contractor Employee Conduct** - Contractor employees must conduct themselves in a manner appropriate for public areas; i.e. proper dress, no foul language, etc..

D. Final Inspection and Close Out Requirements

1. **Certifications** - A/E certification of completed construction will not be accepted or a final inspection scheduled if there are any unresolved Rider comments. The Tenant's A/E is to certify by letter (Figure V-26) that the work has been constructed in accordance with the PA approved plans and specifications; that applicable Code requirements are met and; that all life safety systems are complete and operational. Two original copies of the letter are required, both signed and sealed by the A/E of Record. One copy is sent to the REO and can serve to request a final inspection by the PA and the second original is sent to the TLO. Partial occupancies may be requested but will be subject to the discretionary approval of the PA. In these cases, the A/E shall provide certifications as to the partial area involved. (Figure V-25) All fire safety requirements must be met in the partial occupancy area.

2. **Separate A/E's** - If there are separate A/E consultants, each consultant must certify their area of responsibility. These consultants must be identified at the Preconstruction meeting and in the initial letters submitted to the REO by the Tenant.

3. **Final Inspection** - Once construction is complete, and the Tenant's A/E letter so states and certifies; all Rider comments have been resolved; all life safety systems are operational and tested; all controlled inspections are complete; and all other reports and submissions to the REO have been provided, the REO will evaluate the project as to its completion. If satisfied that the construction is complete and meets all PA requirements for completion, the REO will schedule a final PA inspection to be attended by the Tenant's A/E, by the REO staff, and by other appropriate PA review groups.

4. **Inspection Support** - The Tenant and/or the A/E(s) of Record must ensure that the proper A/E and contractor personnel are available and present to conduct the required final inspection testing. In addition, the appropriate subcontractors shall be available to operate, test, demonstrate, and repair, if necessary, all systems including fire alarm, sprinklers, HVAC, life safety, and fire protection systems and provide equipment, tools, ladders, etc. for access to all areas. The A/E of Record will be notified by the REO what tests are required during the final inspection.

5. **As-Built Plans & Specifications - Record Documents** - After all Rider comments and field as-built conditions are incorporated into the construction documents, the Tenant shall deliver two reproducible sets of final "As-Built" drawings to the REO for the PA's records along with two copies of the operations and maintenance manuals, specifications and manufacturer's O&M instructions for equipment and systems in the facility. The Tenant is encouraged to submit the drawings in a PA-compatible CADD format (see Subsection IV-I). The documents are required from Tenant's A/E in advance of the PA Final Inspection (one set for the REO final inspection and one set for the TLO).

6. **Life Safety Systems Inspection** - The airport Fire Marshal and the PA Risk Management, Fire Protection groups require extensive testing of the fire protection and alarm systems during final inspection. Frequent problems include systems that are not complete at the time of inspection and inadequate personnel available from the Tenant's A/E, Contractor or Sub-Contractor to perform the test or to reset elements during the testing. PA inspection staff will concentrate on, but are not limited to the testing of the following items related to fire and life safety:

   a) Automatic Sprinkler Systems - All tamper and water flow alarms for sprinkler systems must be tested for operation. Depending on the type of sprinkler system, other features may have to be tested or demonstrated including trip tests for dry pipe sprinkler systems or actuation of pre-action and deluge sprinkler system valves.

   b) Area Smoke Detection Systems - Area smoke detectors will normally be tested on a random basis depending on the amount of detectors. Smaller installations may require testing of all detectors. There is no minimum amount of detectors that are predetermined as acceptable. Satisfactory installations depend on the quality of work performed, results for tests on all fire

protection systems, and the overall condition of the areas inspected.

c) Duct Smoke Detection Systems - All duct smoke detectors must be tested to verify fire alarm signal transmission and shutdown of HVAC equipment. The duct detector must shutdown the unit for which it is installed.

d) Manual Fire Alarm Stations - As with area smoke detectors, manual fire alarm stations (manual pull stations, break glass stations, etc.) are tested randomly until PA Risk Management fire protection staff are satisfied with the system operation.

e) Fire Alarm Signal Transmission - Verification that fire alarm signals are transmitted to a remote monitoring station.

f) Other aspects of fire and life safety - are evaluated including fire resistant construction, means of egress, emergency lighting, exit signs, special fire suppression, and the operation of essential fire protection equipment such as fire pumps and standpipe systems.

7. **Inspection Punch List** - The REO generates a punch-list during the Final Inspection. If the punch list is minor and no life safety items exist, the REO will recommend to the Manager, Airport Facilities, the Engineer of Construction and the Engineer of Projects, CSQA that a Temporary Permit to Occupy or Use be issued.

8. **Authorization to Occupy or Use** - The Manager, Airport Facilities Division will, based upon the recommendation of the REO and concurrence of other members of the final inspection team, request a Permit to Occupy or Use from the PA Chief Engineer. The Tenant will be notified of approval to occupy by the Manager, Airport Facilities Division or his designated representative in the TLO.

9. **Final Inspection Approval Time** - The minimal time between satisfactory completion and acceptance of the Final Inspection at the site to the issuance of the authorization to occupy from the Manager, Airport Facilities is 48 hours, assuming all required approvals/certifications from the Tenant and the A/E of Record are in place. Fax communications may be used to expedite approval of a Temporary Permit.

10. **Types of PA Authorized Occupancies -**

a) **Temporary Permit to Occupy (TPO)** - A TPO is generally issued when there are open PA punch list items which have

resulted from the final inspection. TPOs have a term, generally 90 days, and as such Tenants are encouraged to work with the REO and TLO to rectify/resolve punch list items as soon as possible. A TPO can be issued 48 hours after the final inspection.

b) **Final Permit to Occupy (FPO)** - A FPO is issued upon satisfactory completion of all construction activities, submission of "as built" drawings and resolution of PA punch list items and outstanding Rider comments.

c) **Partial Completion/Occupancy**

(1) The feasibility of partial inspections/occupancies are determined by the REO. However, where proposed, the individual areas and all related life safety systems that serve that area must be completed and operational.

(2) The Engineer of Projects, CSQA can issue a Temporary Permit to Occupy, but will do so only if all critical comments and all Code and life safety issues are resolved to the satisfaction of all PA review and inspection groups and upon receipt of certifications of the A/E and other PA entities.

d) **FAA Facilities** - Different procedures are used where the FAA is a Tenant regarding certifications. Sample copies and detailed procedures are available from the TLO.

Exhibit C
Disadvantaged Business Enterprise Provisions

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Exhibit D
Percentage Rent Rates

From Effective Date through October 31, 2015:

Amount of Annual Gross Receipts	Percentage Rent Rates
Total Sales of Services	Ex. 2.a.
$0 to $1,000,000	
Over $1,000,000	
All Retail Sales	

Exhibit E
Form of Port Authority Tenant Alteration Application

See attached

NOTE: This is an instruction sheet only.
(Please remove before completing alteration application)

PREPARATION OF TENANT CONSTRUCTION OR ALTERATION APPLICATIONS

1. Prepare 3 original copies of form PA 531AV, accompanied by 12 complete sets of drawings and specifications showing the proposed construction.
2. **All 3 application forms must bear original signatures** of a Corporate Officer (Vice President or above) of the tenant whose company name appears on the lease.
3. All 3 application forms must bear original signatures and seal of Engineer or Architect of record employed by the tenant.

TENANT CONSTRUCTION PLAN AND SPECIFICATION GUIDELINES

The following comments are to assist your engineer or architect in preparing drawings of proposed work. Use of the guidelines, where pertinent, will minimize Port Authority review time and resultant comments.

1. Locate area of construction with respect to existing conditions, (i.e., column numbers, coordinates, dimensions to existing structures, etc.), and provide a "Plot Plan."
2. Indicate existing structures and facilities in area affected and adjacent areas; also indicate all demolition and removals. For demolition projects where the wrecking or taking out of load-supporting structural members of the facility together with related handling operations, or the intentional burning of the facility is required, the U.S. EPA shall be notified in accordance with 40 CFR Part 61, Section 61.145(a)(b).
3. Include on drawings the plans, sections, elevations and details of proposed work.
4. Show arrangement of equipment and furniture, which might constitute an obstruction of passage to exits.
5. Provide floor plans to include that area beyond the limits of proposed work area necessary to show the entire means of ingress and egress.
6. Indicate where prescribed occupancy count for all area.
7. Give location and specifications for all fire protection equipment, i.e. fire doors, fire dampers, smoke detectors, sprinklers, fire alarm systems, hose cabinets, extinguishers, etc.
8. Include a note on the drawings requiring all work to be done in accordance with the National Electrical Code and the applicable code of the City, or municipality in which work occurs. F.I.R.O. and Employers Group of Insurance Companies approval required for sprinkler and fire protection items.
9. Indicate power requirements and source of power. Also indicate size and type of all electrical equipment, i.e. conduit, wire, panels, control devices, etc.
10. Provide details of all built-in equipment.
11. Provide complete specifications for all materials.
12. Show all new and modified ventilating systems including that portion outside the area of proposed work necessary to indicate the complete circulation cycle.
13. Provide design computations for major structural members including all existing members receiving additional loads.
14. **All drawings must bear the stamp of a Registered Architect or Professional Engineer** licensed in the state in which the work is to be performed.
15. Asbestos and Demolition Certification Letter, Form PA 3677, is to be submitted with Form PA 531AV.
16. If Form PA 3677, Asbestos and Demolition Certification Letter, indicates that asbestos will be disturbed, Form PA 3678 is to be submitted with Form PA 531AV.
17. If Form PA 3677, Asbestos Certification Letter, indicates that asbestos will be disturbed and the tenant is waiving his/her right to participate in the Port Authority's litigation, Form PA 3679 is to be submitted with Form PA 531AV.
18. Asbestos work (abatement and consulting) must be performed by a state licensed abatement contractor approved by the Port Authority.
19. All materials used for the construction of this project, whether building materials or appurtenances, shall be non-asbestos containing materials.
20. All environmental services required to be performed with respect to tenant construction, including and without limitation, surveys, monitoring, laboratory analysis and waste removal, must be performed by a contractor/consultant, approved in advance by the Port Authority.
21. If proposals require resubmission, clearly indicate change from original on the resubmitted drawings.
22. An MBE/WBE Participation Plan must be submitted and accepted by the P.A. prior to approval of this application.
23. An MBE/WBE Participation Report must be submitted monthly during construction.
24. "As Built" Drawings are to be furnished after completion of this work.

PA 531AV / 11-01

THE PORT AUTHORITY OF NY & NJ
225 Park Avenue South
New York, New York 10003

For Port Authority Use Only	
Facility	APP. No.
Date	Applicant's Name

TENANT CONSTRUCTION OR ALTERATION APPLICATION

APPLICANT MUST READ THE TERMS AND CONDITIONS INCLUDED WITH THIS FORM

The Applicant shall not commence performance of any of the said work prior to the receipt by Applicant of a copy of this application duly signed in Part Three hereof on behalf of the Port Authority of New York and New Jersey. Upon receipt thereof, the Applicant agrees to perform said work in accordance with the following "Information to be Furnished by Applicant" and to comply with and be bound by all requirements and conditions set forth below under the remarks, if any, in Part Three hereof and the terms and conditions set forth in this form.

Minimum Insurance Limits Unless Specified to be Greater – Bodily Injury $500,000 each person; $500,000 each occurrence; Property Damage $500,000 each accident; $500,000 aggregate.

PART ONE: Information to be furnished by Applicant (Refer to your lease or permit for required information)

Permission is hereby requested to perform the following described work on the space occupied by the Applicant.

At (Facility)	Pursuant to (Lease, Space, Permit) No.	Location (Building No. or Area) of Space to be Altered

Description of Work and Reason

Estimated Cost of Work $	Estimated Time to Complete (Days)	Starting Date	Completion Date

Plans: Prints of each drawing must be submitted with copies of application. Include floor plan and show area affected by proposed Work (size 8 ½" x 11" or larger).

TITLE OF DRAWING	DRAWING NO.	DATED

Name & Address of Contractor (If Not Known, Submit Later)	Name & Address of Engineer or Architect	Telephone No. / License No.

Send Correspondence To:
(Name & Address of Employee in Charge of Work)

Telephone No.

Applicant's Name (As it Appears on Lease or Permit)

ENGINEER OR ARCHITECT CERTIFICATION

I have supervised the preparation of plans and specification f or the entire work represented herein and hereby certify that they conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the City, town or municipality in regard to construction and maintenance of buildings and structures and in regard to health and fire protection which should be applicable if the Port Authority were a private corporation.

By (Signature of Authorized Rep.)	Title	Date	Signature of Licensed Prof. Engineer or Architect	Date

PART TWO: MBE/MBW PROGRAM INFORMATION

A Minority/Women Business Enterprise (MBE/WBE) Plan must be submitted and accepted by the P.A. prior to approval of this application. Forms and instruction for the preparation of the MBE/WBE Plan are attached to this application. In addition, a contact person responsible for this project's MBE/WBE Program should be designated below by the tenant.

MBE/WBE Contact Person (Name and address): Telephone No.:

PART THREE: Prepared by Port Authority and returned to applicant.

The above Application is ☐ Approved ☐ Disapproved. Subject to the following conditions:

☐ Continued on attached Rider

Please advise the undersigned in writing, when this work has been completed.

The Port Authority of New York and New Jersey

By:

Inspected By	Date	Title	Date

TERMS AND CONDITIONS

1. In the performance of work covered hereunder the Applicant shall, unless otherwise directed in writing by the Port Authority, conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the city, town or municipality in which the Facility is located in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation. The Applicant's obligations to comply with the above governmental requirements is for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and is not to be construed as a submission by the Port Authority to the applications to itself of such requirements or any of them.
2. The Applicant shall comply also with such federal, state and municipal laws, statues, orders and regulations, if any, as may be legally applicable to the work or the performance thereof or its employees therein. The Applicant shall consult with the Facility Manager with respect to the applicability of any and all laws, statutes, enactments, ordinances, resolutions and regulations and as to the procedures to be followed before taking any other action with respect thereto, and shall follow the instructions and procedure prescribed by said Facility Manager with respect thereto.
3. The Applicant shall also observe and obey (and compel its officers, employees, agents and contractors to observe and obey) the rules and regulations of the Port Authority now in effect which are applicable to the performance of the work and such further applicable rules and regulations which may from time to time during the said performance 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.
4. The Applicant shall procure and maintain bodily injury and property damage liability insurance in its own name in at least the limits specified in the preamble to this Application and Workmen's Compensation insurance; or if the work is to be done by an independent contractor, the Applicant shall require such contractor to procure and maintain such insurance in the contractor's name. A certificate evidencing such insurance shall be furnished to the Port Authority Facility prior to the commencement of the work.
5. The Applicant shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees, against and from (a) the risk of injuries (including wrongful death) or damage direct or consequential, to it or them or to its or their property, arising out of or in connection with the performance of the work, and (b) the risk of claims and demands by third persons arising or alleged to arise out of the performance of the work, whether such risks arise out of acts of omissions or the Applicant its contractors, the Port Authority, or otherwise.
6. The Applicant shall pay all claims lawfully made against it by 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 all contractors and subcontractors to pay all such claims lawfully made against them.
7. Only first-class materials and workmanship shall be used in the performance of the work, which shall be done in accordance with the drawings described in Part 1 of this Application and to the satisfaction and subject to the inspection of the Facility Manager; the Applicant shall re-do or replace at its own expense any work not approved by him.
8. The Applicant shall notify the Facility Manager no less than two days prior to the commencement of the work, and shall complete the same within the number of days specified in Part 1 of this Application; and upon completion shall notify the Facility Manager.
9. In the performance of the work, (a) the Applicant shall not do or permit to be done any act affecting the operation of the existing plumbing, heating, fire-protection, fire-alarm, sewerage, drainage, water supply, electrical, sprinkler, ventilating, retrigerating, fuel or communication system at the Facility, or other such service system thereat, including all pipes, tubes, lines, mains, wires, conduits, equipment and fixtures, except with the express written approval of the Facility Manager or the Port Authority resident engineer; (b) the Applicant shall obtain a Port Authority permit from the Facility Manager prior to any cutting or welding and shall comply with the conditions which form a part of said permit, a sample of which may be examined in the office of the Facility Manager.
10. (a) Prior to the commencement of the work and throughout the performance thereof, the Applicant shall erect and maintain at its own expense in or about the space such barriers, shields and other suitable protective devices for the protection of the public and others and their property as in the opinion of the Facility Manager may be necessary or desirable for the purpose. The work shall be performed in such manner as will cause the minimum inconvenience to members of the public and others at the Facility. During the performance of the work, the Applicant shall not permit the accumulation in or about the space of any debris, rubbish or liter of any sort resulting from such performance and shall make such arrangements for the frequent removal thereof from the Facility, by means of facilities to be furnished by the Applicant, as may in the opinion of the Facility Manager be necessary to prevent such accumulations.

(b) In the performance of the work covered by this permit, the Applicant shall not employ any contractor nor shall the Applicant or any of its contractors employ any persons or use or have any equipment or materials or allow any condition to exist if any such shall, or in the opinion of the Port Authority, may cause or be conducive to any labor troubles at the Facility which interfere, or in the opinion of the Port Authority, are likely to interfere with the operations of the Facility by the Port Authority or with the operations of others at the Facility or with the progress of other construction work thereat. The determinations of the Port Authority shall be conclusive on the Applicant and, upon notice from the Port Authority, the Applicant shall immediately remove such contractor or withdraw or cause its contactors to withdraw from the Facility the persons, equipment or materials specified in the notice and replace them with unobjectionable contractors, persons, equipment and materials and the Applicant shall or shall cause it contractor to immediately rectify any conditions specified in the notice in the event of failure by the Applicant or any of its contractors to immediately comply with the requirements of this paragraph (whether or not such failure is due to the Applicant's fault) the Port Authority shall have the right to suspend this permit and the permission thereby granted, without prior notice when the labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority, by notice to the Permittee, shall reinstate this permit 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.

(c) Not withstanding the approval of this permit by the Port Authority, the Applicant shall not perform or permit to be performed any work hereunder, the performance of which or the subsequent use or occupancy of which will (1) invalidate or conflict or conflict with any insurance covering the Facility or any part thereof, or in any property located therein or thereon, or (2) increase the rate of any fire insurance, extended coverage, rental insurance or other insurance on the Facility, or any part thereof or upon any property located therein or thereon. The Applicant shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders, directions and standards of the National Board of Fire Underwriters as interpreted by the New York Fire Insurance Rating Organization as to work performed in New York State, or as interpreted by the Fire Insurance Rating Organization of New Jersey as to work performed in New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the performance of the work or to the completed work (including use or operation (hereof) and the Applicant shall make any and all structural and non-structural improvements, alterations or repairs of the work that may be required at any time hereafter by any such present or future rule, regulation, requirement, or order or direction. If because of the work done or by reason of any failure on the part of the Applicant to comply with the provisions of this paragraph any such insurance shall at any time be limited, cancelled or invalidated, then the Applicant shall immediately remove the work, or if the rate of premium for any such insurance shall be higher than it otherwise would be, then the Applicant shall pay to the Port Authority on demand that part of all premiums which shall have been charged because of such work or by reason of such failure by the Applicant. The Applicant shall furnish to the Port Authority evidence of approval of the work by the insurance authority having jurisdiction.
11. Title to any installation, improvement, alteration, modification, addition, repair or replacement resulting from work done pursuant hereto shall immediately upon completion vest in the Port Authority (or in the Port Authority's lessor, if any and if the agreement between such lessor and the Port Authority so provides) without execution of any further instrument. The Applicant shall not remove or change the same unless the Port Authority, on or prior to the expiration or termination of the lease or permit described in Part 1 of this Application or within sixty (60) days after such expiration or termination, shall give notice to the Applicant requiring removal or restoration, in which case the Applicant (on or prior to the expiration or termination date or, if the notice is given after such date, then immediately after receipt of the notice) shall complete the removal of all of the same (or as much thereof as may be required by the notice) and the restoration (to the extend required by the notice) of the space affected by the work to the same condition as it was in prior to the commencement of the said work. If the Applicant shall fail to comply with such notice, the Port Authority may effect the removal and restoration and the Applicant shall pay the cost thereof to the Port Authority upon demand.
12. A certificate of completion shall be issued be issued to the Applicant by the Facility Manager upon request of the Applicant on completion of the work hereunder in accordance with the Terms and Conditions hereof and inspection thereof by the Facility Manager. Issuance of such certificate shall not preclude the Port Authority from showing that Applicant has failed to comply with his obligations hereunder nor shall it release Applicant from such obligations.

Exhibit F
Guaranty

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Exhibit G
Affirmative Action Policy

EXHIBIT G

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 _____of Port Authority Agreement No.____ (herein called the "Lease") with _____ (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 circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which

assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at lease as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security

number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor

associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority 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.

MB
For the Port Authority

Initialled:

GWC
For the Lessee

Exhibit H
Terminal Rules

Concessionaire covenants and agrees that it shall conform with each of the following rules and regulations and each modification, revision, deletion, or addition thereto made by the Sublandlord, in the exercise of the reasonable judgment of the Sublandlord, and shall cause similar conformance by its employees, agents, contractors, and all others over whom Concessionaire has any right to control or direct while in the Airport. Notwithstanding the foregoing, in the event there is an inconsistency or conflict between any one or more of the Terminal Rules and Laws, then the Laws shall control and prevail. Sublandlord shall not be responsible to Concessionaire for the non-compliance by any other concessionaire with the Terminal Rules.

1. Concessionaire shall not place, construct, or maintain on the store front of the Concessionaire Premises, the doors, the exterior walls, the Common Areas or any portion thereof any signs, advertisements, names, insignias, trademarks, descriptive materials, or similar items without Sublandlord's prior written consent. All signs, promotional material and displays within the Concessionaire Premises must, at all times, be attractively displayed and professionally produced. Sublandlord, at Concessionaire's expense, as Additional Rent, may remove any sign placed, constructed or maintained that does not comply with the provisions hereof. Further, Concessionaire shall not, without Sublandlord's prior written consent, place, construct or maintain in or for the Concessionaire Premises any search lights, flashing lights, loud speakers, phonographs, or other similar visual or audio media which may be heard or otherwise experienced outside the Concessionaire Premises.

2. Concessionaire shall not, by itself, or through any officer, salesperson, employee, agent or otherwise solicit business in the vestibules, entrances, elevator lobbies, corridors, hallways or elevators of the Terminal.

3. Quality and Character of Merchandise

   a. Merchandising. Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sale a full and complete stock of merchandise consistent with only the Permitted Operations. Concessionaire shall ensure that all such merchandise is at all times attractively and logically arranged and that all merchandise displays are fully stocked with product.

   b. Product Selection. Concessionaire may from time to time, with written approval of the Sublandlord, or its designee, add or delete items from its merchandise offerings provided that such additions or deletions shall be consistent with those authorized in this Sublease, as amended, and do not conflict with the rights of other concessionaires at the Terminal as may be determined by Sublandlord, in its sole discretion.

   c. Quality of Merchandise. Concessionaire shall offer for sale only high quality products and those which are safe, sanitary, properly labeled and as advertised. Upon written notice to Concessionaire by Sublandlord of any violation of this

provision, Concessionaire shall forthwith correct the condition objected to within four (4) hours after receipt of such notice.

d. Sublandlord's Right to Object. Concessionaire shall upon written demand from Sublandlord cease selling any item that Sublandlord shall determine is objectionable for sale or display at the Terminal and immediately remove such item from its inventory and not thereafter offer such item for sale at the Terminal.

e. Replacement and Refunds. Concessionaire shall, at all times during the term of this Sublease, as amended, and without any additional charge to customers, replace any merchandise determined by customers to be unsatisfactory, flawed or defective or shall provide customers a full refund therefore provided said customers have complied with any applicable warranty and use provisions applicable to the merchandise.

4. Concessionaire shall accept as payment for goods and services all nationally recognized credit or charge cards including, at least, American Express, Master Card, VISA and Discover. Concessionaire shall provide, without charge, change-making services at each cashier's location in the Concessionaire Premises. Such service shall be equally provided to all persons, regardless if any purchase has been made or not.

5. Concessionaire shall not use or permit the use in the Concessionaire Premises of anything that may be dangerous to life or limb. Concessionaire shall not in any manner deface or injure the Terminal or any part thereof, or overload the floors of the Concessionaire Premises. Concessionaire shall not do anything or permit anything to be done in the Concessionaire Premises in any way tending to create a nuisance, or tending to disturb any other concessionaire in the Terminal.

6. Adherence to Standards.

f. Concessionaire shall ensure that all requirements of the Port Authority and County and/or State Boards of Health, and health and sanitary regulations adopted by the Authority, County, State or any governmental legal authority, are fully complied with in all Facilities. Concessionaire shall give access for inspection purposes to any duly authorized representatives of such governing bodies and to Sublandlord. Concessionaire shall provide Sublandlord with copies of all inspection reports within forty-eight (48) hours of receipt. This paragraph does not require Concessionaire to waive any applicable attorney-client or attorney work product privileges.

g. Additional Compliance. Concessionaire shall comply with all applicable governmental laws, ordinances and regulations in the conduct of its operations under this Sublease, as amended.

h. Concessionaire's Standards. Concessionaire shall submit to Sublandlord a copy of any of its own customer service, operations, etc. standards, plans and/or manuals,

and shall ensure continuous adherence to Concessionaire's own standards in addition to Sublandlord's standards as set forth herein.

7. Concessionaire, at its sole cost and expense, shall provide exterminating service for the Concessionaire Premises, which services shall be performed as needed, and in all events, upon demand by the Sublandlord or Port Authority.

8. Trash and Refuse.

i. Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling of all trash, grease and other refuse caused as a result of the operation of the Concessionaire Premises and shall provide for its timely removal. Piling of boxes, cartons, barrels or other similar items in view of a public area is prohibited. Concessionaire shall keep any areas used for trash and garbage storage prior to removal from Terminal in a clean and orderly condition so as not to attract rodents, pests and birds or create an offensive odor.

j. In transporting trash, grease and other refuse from the Concessionaire Premises, Concessionaire shall use only carts, vehicles or conveyances that are covered, leak proof and equipped with wheels suitable for operating without damage to the Terminal. Such disposal shall take place during hours as may be directed by Sublandlord.

k. The plumbing facilities, within the Concessionaire Premises and elsewhere in the Terminal, shall not be used for any purpose other than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. If installed in connection with the Concessionaire Premises, Concessionaire shall, at its own expense, check and clean at least monthly all grease traps and grease receptors. The expense of any breakage, stoppage, or damage resulting from a violation of this provision, wherever such occurs, shall be borne by Concessionaire who may, or whose employees, agents, or invitees may, have caused it.

l. If at any time during the Term, the Port Authority establishes a Terminal-wide recycling program, Concessionaire agrees to participate in any such program at its own cost.

9. The portion of the Common Areas, if any, immediately adjoining the Concessionaire Premises shall be kept clean and free from Concessionaire's dirt and rubbish by Concessionaire to the reasonable satisfaction of Sublandlord. Concessionaire shall not encumber or obstruct the corridors or stairways of the Terminal with furniture, equipment, boxes, crates, floor mats, merchandise, goods or otherwise. In the event of a violation, Sublandlord may move such objects into the Concessionaire Premises or to any other suitable location.

10. Personnel

m. The management, maintenance and operation of the Concessionaire Premises and the concession conducted thereon shall be at all times during the Term under the supervision and direction of an active, qualified, competent and experienced manager, who shall at all times be authorized to represent and act for Concessionaire. Said manager shall have full authority to make day-to-day business decisions on behalf of Concessionaire, with respect to the concession operations contemplated by this Agreement, and shall represent the Concessionaire in dealings with Sublandlord, and coordinate all concession activities with Sublandlord. Concessionaire shall cause such manager to be assigned a duty station or office in the Concessionaire Premises at which he or she shall be available during normal business hours. During the absence of such manager, Concessionaire will, at all times during Store Hours, assign or cause to be assigned, a qualified subordinate to assume and be directly responsible for the carrying out of his or her duties.

n. Concessionaire shall recruit, train, supervise, direct and deploy the number of representatives, agents and employees, collectively referred to as "personnel" necessary to promptly provide services to all customers and to meet all of the requirements of this Sublease, as amended. Concessionaire shall be continuously responsible for actively managing personnel levels to ensure that changes in passenger activity, due to schedule changes, load factor changes or flight delays are adequately accommodated through increased levels of personnel. Any actual or perceived degradation in (i) the customer service requirements set forth in this Sublease or other duties, rights or responsibilities set forth in this Sublease provided by Concessionaire in the course of conducting Concessionaire's permitted uses; or (ii) the training and competence of Concessionaire's personnel shall be conveyed to the Concessionaire and Concessionaire hereby agrees that it shall promptly institute training programs and/or add additional adequately trained and capable staff to the satisfaction of Sublandlord.

o. In addition to the staffing level requirements set forth herein, Concessionaire shall ensure that all personnel utilized in the Concessionaire Premises shall conform to the following:

i. All personnel employed by the Concessionaire shall be neat, clean and courteous at all times.

ii. No loud, boisterous or otherwise improper actions or language shall be permitted while on or about the Terminal.

iii. Concessionaire shall, at its sole cost and expense, provide each member of the sales staff with a uniform of a design to be approved by Sublandlord, in its discretion, which shall be worn whenever said staff are in the Concessionaire Premises.

iv. Personnel shall prominently display nametags, Airport Identification badges and any other specified airport badges and/or pins while on duty in the Terminal.

v. All personnel shall be actively working while on the sales floor in view of the public. No personnel shall be engaged in personal conversation (via telephone, etc.) or activities such as reading, writing, eating, etc.

vi. All personnel shall be attentive to customer needs, display a positive attitude and refrain from discussing personal issues/problems within the sales areas of the Concessionaire Premises.

vii. All personnel shall know and utilize practices of good customer service such as (1) assisting customers with purchase decisions; (2) identify product alternatives; (3) posses and display good product knowledge; and (4) utilize appropriate suggestive selling.

viii. All personnel shall provide warm, friendly, smiling, prompt and courteous service.

ix. All personnel shall be proficient with and trained in the required operations of all equipment and devices used in the Concessionaire Premises to facilitate sales (i.e. point of sale devices, credit card transaction equipment, etc.).

x. All personnel shall be familiar with all applicable policies of this Sublease, the Terminal and Concessionaire.

xi. All personnel engaged in sales activities shall speak and comprehend English, at a level appropriate to their duties.

p. Sublandlord shall have the right to object to the demeanor, conduct, and appearance of any employee of Concessionaire or any of its invitees or those doing business with it, whereupon Concessionaire shall take all steps necessary to remedy the cause of the objection. If requested by Concessionaire, Sublandlord shall present its objections in writing and provide the opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

11. The delivery or shipping of merchandise, supplies, and fixtures to and from the Concessionaire Premises shall be subject to such rules and regulations as in the reasonable judgment of Sublandlord are necessary for the proper operation of the Terminal.

12. Concessionaire acknowledges that all locks and similar devices on and to the Concessionaire Premises are to be keyed or otherwise within the control from or by a master key or other device within the possession and control of the Sublandlord. At no time during the Term, shall the Concessionaire have the right to place any locks or similar devices on or to any portion of the interior or exterior of the Concessionaire Premises without each being capable of being opened by the master key or other controlling device of the Sublandlord. To the extent that the Concessionaire shall desire to install, within the Concessionaire Premises any combination or other form of locks, no such equipment may be installed without first obtaining the prior written consent and approval of the

Sublandlord, and providing to Sublandlord the key, combination, or other means of opening same at any time.

13. Concessionaire's Maintenance Obligations.

q. Concessionaire will maintain the Concessionaire Premises and every part thereof in good appearance, repair and safe condition. Concessionaire shall maintain and repair all leasehold improvements on the Concessionaire Premises and all furnishing, fixtures and equipment therein, whether installed by Concessionaire or by others, including repainting or redecorating as necessary and replacing or repairing worn carpet, tile, fixtures or furnishings. All such maintenance and repairs shall be of quality equal to or better than the original in materials and workmanship and all work, including paint colors, shall be subject to the prior written approval of both Sublandlord and the Port Authority.

r. Concessionaire shall, without cost to Sublandlord, provide all janitorial services for the Concessionaire Premises. Concessionaire shall ensure that the Concessionaire Premises, and the public areas adjacent to the Concessionaire Premises, are kept free from all rubbish, filth and refuse.

s. On or about each anniversary of the Commencement Date, representatives of Sublandlord and Concessionaire shall tour the Concessionaire Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Concessionaire Premise in first-class condition, and Concessionaire shall promptly undertake such refurbishment at its sole cost and expense. For purposes of these Terminal Rules, refurbishment shall mean the routine repainting or redecoration of public areas within the Concessionaire Premises, including the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures or finishes.

t. Concessionaire agrees to employ sufficient personnel, and provide necessary equipment to keep the Concessionaire Premises and all furniture, furnishings, fixtures and equipment clean, neat, safe, sanitary and in good working order and condition at all times pursuant to the maintenance requirements of these Terminal Rules.

u. Sublandlord shall be the sole judge of the quality of maintenance. The Port Authority, Sublandlord, or their designees, may at any time, without notice, enter upon the Leased Premises to determine if satisfactory maintenance is being performed. If it is determined that said maintenance is not satisfactory, the Port Authority and/or Sublandlord shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire within fifteen (15) days after receipt of written notice, British Airways or its designee thereafter shall have the right to enter upon the Leased Premises and perform the maintenance therefore, and Concessionaire agrees to promptly reimburse British Airways for the cost thereof, plus fifteen percent (15%) for administrative overhead.

v. The Sublandlord and the Port Authority and their respective agents shall have the right to enter the Concessionaire Premises for the purpose of making repairs, alterations, or additions which Sublandlord shall deem necessary and take all materials into and upon said Concessionaire Premises that may be required to make such repairs, improvements additions or alterations, without in any way being deemed or held guilty of an eviction of Concessionaire and the Rent reserved herein shall in no wise abate while said repairs, alterations or additions are being made. Concessionaire shall not be entitled to maintain a setoff or counterclaim for damages by reason of loss or interruption to the business of Concessionaire because of the prosecution of any such work.

14. Hours of Operation.

w. Concessionaire shall ensure that all portions of the Concessionaire Premises are continuously and uninterruptedly open for business and provide all services and sales activities as required by this Agreement at such hours as may be established from time to time by Sublandlord, in its sole and absolute discretion (hereinafter referred to as "Store Hours"). Concessionaire hereby understands and agrees that the Store Hours may be seven (7) days per week, including local, state and federal holidays, twenty-four (24) hours per day.

x. In the event of delayed flights within those portions of the Terminal in which any portion of the Concessionaire Premises are located, Concessionaire shall remain continuously open and provide all services and sales activities as required by the Agreement in any such Facility until said flights depart the gate or Sublandlord otherwise instructs, even if such period is beyond the current Store Hours for said portion of the Concessionaire Premises.

y. If Sublandlord deems it necessary, on an emergency basis, to serve the public during other than Store Hours, Concessionaire shall remain continuously open and provide all services and sales activities in such portion of the Concessionaire Premises as required by Sublandlord during the emergency period.

z. Concessionaire shall prominently post in each of the Facilities, in an area visible to customers, the current listing of the Facility's hours of operation.

15. Concessionaire shall be required to respond to any complaints in writing within 10 days of receipt, with a good faith effort to explain, resolve or rectify the corresponding problem. Concessionaire shall provide Sublandlord, or its designee, with a copy of any complaint received the same day it is received by the Concessionaire and shall provide Sublandlord with a copy of the written response the same day it is sent. Complaints received by Sublandlord shall be forwarded to the Concessionaire, who shall respond utilizing the above procedure. Concessionaire shall be required to implement and utilize a customer comment system (cards, telephone, web, etc.). All such completed comments and Concessionaire's summary reports shall be provided to the Sublandlord within 10 days of receipt and/or completion.

16. Sublandlord reserves the right, to make such other and further reasonable rules and regulations as in its judgment may, from time to time, be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other further rules and regulations shall be binding upon the parties with the same force and effect as if they had been inserted herein at the time of the execution hereof.

Exhibit I
Permitted Operations and Branded Concepts

1. Concessionaire is permitted to offer spa services, in accordance with Section 5.1 hereof, including the following services and products:

Massage, facial, foot rubs, teeth whitening, and products such as lotions, oils, creams, massage tools, gift certificates, and related items.

Such services and products may not be substituted or moved between locations without BA's express written consent. Concessionaire agrees that it has or will obtain all necessary rights, titles and licenses to permit such designated brands to be installed at the locations herein and provide BA with proof of such as requested. Concessionaire agrees that it will retain, to the extent reasonably possible, the ability both to retain such brands for the duration of this Agreement and to replace such brands as is necessary.

BA may, in the reasonable exercise of its discretion, request a review of the performance of any of the locations set forth herein. The basis for such review may be either or both of a location's financial performance or its suitability for the designated location or the Terminal in general. In the event BA determines after such review that a particular brand is performing in a materially unsatisfactory fashion or is otherwise no longer appropriate for the Terminal, BA and Concessionaire will enter into good faith negotiations to consider and agree a replacement brand. The capital investment required for such brand substitution and which party will be responsible therefore will be a component of such good faith negotiations.

THIS AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE LESSEE AND THE SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Agreement No. AYD-809
Lease No. AYB-876
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of September 1, 2007 (the "Effective Date"), by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), BRITISH AIRWAYS PLC (hereinafter called the "Lessee") and BROOKSTONE STORES, INC. (hereinafter called the "Sublessee"), a corporation organized and existing under the laws of the State of New York with an office and place of business at One Innovation Way, Merrimack, New Hampshire 03054, whose representative is Mr. Phillip Roizin.

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have heretofore entered into an agreement of lease, dated as of January 4, 1998, and identified by Port Authority Agreement No. AYB-876 (which agreement, as the same has been or may hereafter be supplemented and amended, is hereinafter called the "Lease") pursuant to which the Lessee hired and took from the Port Authority certain premises at John F. Kennedy International Airport (herein called the "Airport") all as more particularly described in the Lease (said premises being hereinafter referred to as the "Premises");

WHEREAS, the Lessee has requested the consent of the Port Authority to the attached proposed concessionaire sublease agreement, made as of September 1, 2007, between the Lessee and the Sublessee (hereinafter called the "Sublease") covering portions of the premises under the Lease (such portions being hereinafter collectively referred to as the "Space");

WHEREAS, the applicable provisions of the Lease require, and the Sublease Agreement provides, that the Sublease shall be subject and subordinate to the Lease as the same may be amended, supplemented or extended and, further, that it shall not take effect without the prior written consent of the Port Authority thereto embodied in an instrument signed by the Port Authority;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Lessee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents

to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Lessee or the Sublessee, on the earliest to occur of the day preceding the date of expiration or earlier termination of the Lease, the effective date of any revocation of this Consent Agreement pursuant to paragraph 8 hereof, or such earlier date as the Lessee and the Sublessee may agree upon subject to the terms and provisions hereof. Notwithstanding the foregoing, however, no termination of the Sublease shall diminish, limit, alter, affect, modify or impair the obligations, liabilities, or responsibilities of the Lessee under the Lease or release or relieve the Lessee from the same or from any of the terms, provisions, covenants and conditions of the Lease on its part to be kept, performed or observed. The Sublessee shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Lessee shall at any time be in default of its obligations under the Lease, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent Agreement but all such payments shall be credited against the obligations of the Lessee or of the Sublessee, as the Port Authority may determine for each payment or part thereof.

4. (a) Neither this Consent, nor anything contained herein nor the consent granted hereunder shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Lessee under the Lease, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Lease nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Lessee under the Lease, nor shall the same affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Lessee under the Lease nor constitute or be deemed to constitute a release of the Lessee from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent Agreement nor anything contained herein nor the consent granted hereunder shall constitute an agreement between the Port Authority and the Lessee that the provisions of the Sublease shall apply and pertain as between the Lessee and the Port Authority, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent Agreement and those of the Sublease, this Consent Agreement shall be controlling. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent Agreement or shall thereafter grant its consent or

approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Lease as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Lessee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease (in whole or in part) the Space or any part thereof, be deemed to imply or infer that Port Authority consent or approval thereto pursuant to the Lease will be given or that Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) (i) The Sublessee acknowledges and agrees that it shall pay directly to the Port Authority Ex. 2.a. of the Minimum Annual Guaranteed Rent, Percentage Rent and Additional Rent, as such terms are defined in the Sublease.

(ii) Notwithstanding anything to the contrary stated in Section 13.1 (a) of the Sublease, the Port Authority does not and shall not grant or Sublease a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority. Nor shall the Port Authority grant any rent abatements which are not consistent with the Port Authority's general practices and/or policies with regard to rent abatement.

(d) Additional Rent, if any shall be paid within ten (10) days after receipt of a bill thereof.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Lease.

6. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

7. The granting of the consent hereunder by the Port Authority shall not be or be

deemed to operate as a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease or other agreement (by the Lessee or by the Sublessee) with respect to the use or occupancy of the Space or any other portion or area of the Premises under the Lease, or to any assignment of the Lease or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

8. (a) The Port Authority shall have the right to revoke this Consent Agreement at any time without cause on thirty (30) days' notice to the Sublessee, which notice shall be jointly subscribed by the Port Authority and the Lessee, as to any one or more of the Spaces at the Premises at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby.

(b) In the event the Port Authority exercises it right to revoke this Consent Agreement for any reason other than "without cause", the Sublessee 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 including, without limitation, any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent Agreement including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent Agreement.

9. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent Agreement and the Sublease or the use and occupancy of the Space thereunder.

10. The Lessee and the Sublessee hereby represent and covenant to the Port Authority that they have complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Lessee and the Sublessee under the Sublease or its or their use and/or occupancy of the Space or the Premises. The obligation of the Lessee and the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

11. (a) Notwithstanding anything to the contrary stated in Section 2.3 of the Sublease, the Sublessee shall fail to pay any amount required under this Consent Agreement 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 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent Agreement. 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 paragraph, with respect to such unpaid amount. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent Agreement shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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.

(c) Nothing in this paragraph 11 is intended, or shall be deemed, to affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Consent Agreement, including, without limitation, the Port Authority's rights to revoke this Consent Agreement or (ii) any obligations of the Sublessee under this Consent Agreement.

12. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees and also others on the Spacc covered by the Sublease or at the Premises or on the Airport with the consent of the Sublessee.

13. It is hereby acknowledged and agreed by the Lessee and the Sublessee that the Port Authority has no obligation under the Lease, this Consent Agreement or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Premises, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Lease or upon revocation of this Consent Agreement with or without cause (in accordance with the terms of Paragraph 8 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said capital investment.

14. (a) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent Agreement and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements as if it were the Lessee under the Lease. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent Agreement by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Lessee under the Lease and the Lessee shall also be severally responsible therefor including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

15. (a) In addition to the insurance required to be maintained by the Lessee

under the Lease, the Sublessee in its own name as insured and including the Port Authority and the Lessee as additional insureds shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or the Lessee, or both, and with respect to any claim or action against the Port Authority or the Lessee, or both, by the Sublessee as though the Port Authority and the Lessee were the named insureds thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority and the Lessee thereunder as additional insureds. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under subparagraph (a) above.

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such amounts, against such other insurable hazards, as the Port Authority may deem required.

(c) As to the insurance required by the provisions of subparagraph (a) of this paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

16. Without limiting the generality of the provisions of this Consent Agreement, the terms, provisions, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Lease or this Consent Agreement then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Lease.

17. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

18. (a) Nothing contained in this Consent Agreement nor in the Sublease, including, without limitation, the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Lease. Neither a partnership nor any joint venture is hereby, or by the Sublease, created or implied notwithstanding the provisions of Article II of the Sublease.

(b) Without limiting the generality and notwithstanding the provisions of paragraph 4(a) herein, the Sublessee and the Lessee further acknowledge and expressly agree that the Port Authority shall have the right to enforce the Sublease directly against the Sublessee, including but not limited to all insurance provisions thereof.

19. Nothing contained in this Consent Agreement or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Lessee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Lease and an approved Alteration Application which the Lessee shall prepare and submit to the Port Authority.

20. (a) (a) The Sublessee shall deliver to the Port Authority, as initial security for all obligations under this Consent Agreement, 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 District, in favor of the Port Authority in the amount of Fifty Thousand Dollars and No Cents ($50,000.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective letting under this Consent Agreement 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. Upon notice of cancellation of a letter of credit, the Sublessee 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 cash or bonds 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. Failure to provide such a letter of credit at any time during the effective letting, 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 Consent Agreement on the part of the Sublessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Sublessee made thereafter, the Port Authority will return the security deposit, if any, thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of this paragraph. The Sublessee 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 permission under this Consent Agreement and fulfillment of the obligations of the Sublessee hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Sublessee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(b) The Sublessee hereby certifies that its Federal Tax Identification Number is Ex. 1/4 for the purposes of subparagraph (a) above.

21. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Sublessee and their respective offices shall be as set forth in this Consent Agreement. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent Agreement as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent Agreement as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

22. This Consent Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Sublessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The Sublessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Sublessee agrees to comply with the terms and provisions of Schedule G, attached hereto and hereto made a part hereof.

23. Basic Lease Provisions:

(a) Certain Definitions.

(i) "City Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar

with the contents of, the City Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the City Lease.

(c) In accordance with the provisions of the City Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent Agreement is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Consent Agreement for more than one (1) month in advance (excluding security and other deposits required under this Consent Agreement);

(iii) With respect to this Consent Agreement, the Sublessee on the termination of the City Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the City Lease that arise out of the Sublessess's operations at the Airport, or arise out of the acts or omissions of the Sublessess's officers, employees, agents, representatives, contractors, customers, business visitors and guests at the Airport with the Sublessess's consent;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the City Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent Agreement, which shall provide the Port Authority with the right to revoke this Consent Agreement and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent Agreement.

24. Without in any way limiting the provisions hereof, unless otherwise notified by the Port Authority in writing, in the event the Sublessee shall continue to perform the operations permitted under this Consent Agreement and/or the Sublease, after the expiration, revocation or termination of the term granted under this Consent Agreement or the Sublease, as such effective term

may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Consent Agreement or other remedies the Port Authority may have by law or otherwise, the Sublessee 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 Sublessee shall cease to perform the operations at the Airport under the Sublease, equal to twice the sum of the monthly amount due to the Port Authority under this Consent Agreement. Nothing herein contained shall give, or be deemed to give, the Sublessee any right to continue to perform the privilege granted under this Consent Agreement at the Airport after the expiration, revocation or termination of the term granted under this Consent Agreement and/or Sublease. The Sublessee acknowledges that the failure of the Sublessee to cease to perform the operations at the Airport from and after the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Sublessee 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 Sublessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

25. The Sublessee and Lessee specifically agree not to interpose any claims as counterclaims in any summary proceeding for possession or in any action for non-payment of rents, fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

26. Notwithstanding anything to the contrary stated in the Sublease, Section 2.1(b)(iii) shall be deemed, deleted in its entirely and the following Section 2.1(b)(iii) shall be substituted in lieu thereof:

"Section 2.1 Base Rent".

If, for any calendar year or partial calendar year, as the case may be, the total amount of monthly installments of Percentage Rent for such period is less than the total amount of Percentage Rent required to be paid for said period, Concessionaire shall pay to the Sublandlord or the Port Authority, or both, as the case may be, the amount of such deficiency together with the delivery of the Annual Statement. If, at the end of any calendar year or partial calendar year, as the case may be, the total amount of Percentage Rent paid by Concessionaire for such period was in excess of amount of Percentage Rent required to be paid hereunder for said period, then such excess shall be deemed to be prepaid Percentage Rent and shall be applied as a credit against Percentage Rent thereafter becoming due and payable by Concessionaire to Sublandlord only and the Port Authority will apply any remaining balance of said credit to Concessionaire's outstanding Port Authority receivables".

27. Notwithstanding anything to the contrary stated in the Sublease, Section 6.4 shall be, and be deemed, deleted in its entirely and the following Section 6.4 shall be substituted in

lieu thereof:

"Section 6.4 Operation and Maintenance Fee ("O&M Fee").

Concessionaire shall pay to Sublandlord an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of concessionaire in the operation of the concession space within the Terminal ("O&M Costs"). O&M Costs include, but are not limited to: trash removal; operations, maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage charges; and all other direct costs and expenses properly chargeable to the operation, maintenance or repair of such systems and services.

Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Weighted Floor Area of the Concessionaire Premises, as that term is herein defined, and the denominator shall be the sum of the weighted floor areas leased and occupied by Concessionaires to which O&M Costs are allocated by Sublandlord. The calculation of the amount of costs and expenses incurred by Sublandlord in connection with the operation of the concession space within the Terminal, which shall be an allocation which is derived from the total costs and expenses incurred by Sublandlord in connection with the Terminal as a whole, shall be determined by the Sublandlord in good faith, in a consistent manner from year-to-year, and, in addition, in a manner capable of substantiation. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionarie, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payment s are next coming due, then against that portion of the Minimum Annual

Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid. For purposes of this Sublease, the Weighted Floor Area of the Concessionaire Premises is 100% of the Floor Area of the Concessionaire Premises."

28. This Consent Agreement and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

29. No Commissioner, director, officer, agent or employee of either party shall be charged personally by the other party with any liability, or held liable to the other party, under any term or provision of this Consent Agreement, or because of the party's execution or attempted execution, or because of any breach thereof.

(THE REMAINDER OF THIS PAGE WAS LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, the Port Authority, the Lessee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By NYSA C. SCULLY

(Title) ASST. DIRECTOR, CCAS

(Seal)

ATTEST:

~~Secretary~~ Director

BRITISH AIRWAYS PLC

By NEIL EVANS

(Title) SENIOR VICE President FINANCE

(Corporate Seal)

ATTEST:

~~Secretary~~ Robert W. Fusco
Treasurer

BROOKSTONE STORES, INC.

By Thomas F. Moynihan
Vice President

(Title) President

(Corporate Seal)

TRANSMITTAL	
FORM	TERMS
	SB

Form - All-Purpose Ack. N.Y. (rev 1/4/2000)

For the Port Authority of NY & NJ

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 22ND day of MARCH in the year 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared LYSA C. SCULLY, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Gail E. Mitchell
(notarial seal and stamp)

GAIL E. MITCHELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MI6026210
Qualified in Queens County
My Commission Expires June 14, 2011

For British Airways Plc

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

On the 29th day of July in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Neil Evans, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

JAMES B. BLANEY
Notary Public, State of New York
No. 02BL4919572
Qualified in New York County
Commission Expires 09/14/2010

For BROOKSTONE STORES, INC.

STATE OF NEW HAMPSHIRE
) ss.
COUNTY OF HILLSBOROUGH

On the 19 day of October in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Thomas F Moynihan, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Lianne C Dionne
(notarial seal and stamp)

LIANNE C. DIONNE
Notary Public - New Hampshire
My Commission Expires September 5, 2012

SCHEDULE G

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

In accordance with regulations of the US Department of Transportation 49 CFR Part 23, the Port Authority has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) program under which qualified firms may have the opportunity to operate an airport business. The Port Authority has established an ACDBE participation goal, as measured by the total estimated annual gross receipts for the overall concession program. The goal is modified from time to time and posted on the Port Authority's website: www.panynj.gov.

The overall ACDBE goal is a key element of the Port Authority's concession program and Concessionaire shall take all necessary and reasonable steps to comply with the requirements of the Port Authority's ACDBE program. The Concessionaire commits to making good faith efforts to achieve the ACDBE goal. Pursuant to 49 CFR 23.25 (f), ACDBE participation must be, to the greatest extent practicable, in the form of direct ownership, management and operation of the concession or the ownership, management and operation of specific concession locations through subleases. The Port Authority will also consider participation through joint ventures in which ACDBEs control a distinct portion of the joint venture business and/or purchase of goods and services from ACDBEs. In connection with the aforesaid good faith efforts, as to those matters contracted out by the Concessionaire in its performance of this agreement, the Concessionaire shall use, to the maximum extent feasible and consistent with the Concessionaire's exercise of good business judgment including without limit the consideration of cost competitiveness, a good faith effort to meet the Port Authority's goals. Information regarding specific good faith steps can be found in the Port Authority's ACDBE Program located on its above-referenced website. In addition, the Concessionaire shall keep such records as shall enable the Port Authority to comply with its obligations under 49 CFR Part 23 regarding efforts to offer opportunities to ACDBEs.

Qualification as an ACDBE

To qualify as an ACDBE, the firm must meet the definition set forth below and be certified by the New York State or New Jersey Uniform Certification Program (UCP). The New York State UCP directory is available on-line at www.nysucp.net and the New Jersey UCP at www.njucp.net.

An ACDBE must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed $47.78 million and it must be (a) at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it. The personal net worth standard used in determining eligibility for purposes of

part 23 is $750,000.

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State or New Jersey UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but

which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, 233 Park Avenue South, 4th Floor, New York, New York 10003 or such other address as the Port Authority may designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee, the term Concessionaire shall mean the Lessee herein.

Please Initial

For the Port Authority

Initialed:

For the Sublessee Thomas F. Moynihan
Vice President

For the Lessee

CONCESSIONAIRE SUBLEASE

BETWEEN

BRITISH AIRWAYS PLC

AS

SUBLANDLORD

AND

BROOKSTONE STORES, INC.

AS

CONCESSIONAIRE

FOR

A PORTION OF TERMINAL 7 IN JOHN F. KENNEDY INTERNATIONAL AIRPORT

JOHN F. KENNEDY INTERNATIONAL AIRPORT - TERMINAL 7
CONCESSIONAIRE SUBLEASE AGREEMENT

September ~~August~~, This Concessionaire Sublease Agreement ("Sublease") is made as of this 1 day of 2007, by and between British Airways Plc, a corporation of England and Wales having offices at 75-20 Astoria Street, Jackson Heights, New York 11370 ("Sublandlord"), and Brookstone Stores, Inc., having offices at 1 Innovation Way, Merrimack, New Hampshire 03054 ("Concessionaire").

GLOSSARY AND BASIC SUBLEASE PROVISIONS

The following information and terms are deemed to be incorporated in and part of the Sublease.

Additional Rent: The collective term for all sums of money required to be paid by Concessionaire to Sublandlord or the Port Authority, other than Base Rent, as that term is defined below, and including, without limitation, the Operations and Maintenance Fee and Marketing Fee, as those terms are hereinafter defined.

Address for payments to Port Authority: P.O. Box 17309, Newark, New Jersey 07194.

Address for payments to Sublandlord: British Airways, c/o Unison-Maximus, Inc., Terminal 7, JFK International Airport, Jamaica, New York 11430

Airport: John F. Kennedy International Airport.

Annual Statement: A statement from, and certified as being true, accurate and complete by, Concessionaire and delivered to the Sublandlord and the Port Authority, stating the amount of Gross Receipts from the Concessionaire for the previous calendar year or partial calendar year.
Audit: A complete audit to be made, by an independent certified public accountant selected by Sublandlord or the Port Authority, as the case may be, of the Records of the Concessionaire for the period covered by any Monthly Statement or Annual Statement.

Bond: Letter(s) of credit for the benefit of the Sublandlord and the Port Authority, respectively, issued by a party or parties approved by the Sublandlord and the Port Authority, as the case may be, as to the surety or letter of credit in its respective favor, which provides Sublandlord or the Port Authority, as the case may be, the right to make an immediate demand upon the issuer thereof for any Rent that may be owned to Sublandlord, or the Port Authority, as the case may be, by the Concessionaire.

Commencement Date: September 1, 2007.

Common Areas: All portions of the Terminal, except for those portions (1) included within each of the premises subleased to Concessionaires including, but not limited to, the Concessionaire Premises; and (2) not open or available for use by the general public, as more fully set forth in Section 6.1.

Concessionaire Premises: That portion of the Premises subleased to the Concessionaire and depicted on Exhibit A, comprised of the following Spaces:

Brookstone	R 11

Concessionaire Sublease: This Sublease, which shall be void *ab initio* and of no force and effect unless and until such time as the Concessionaire, Sublandlord, and the Port Authority have executed a consent agreement in the form of a so-called "Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, which issuance is within the sole and absolute discretion of the Port Authority.

Concessionaires: All third-parties to whom the Sublandlord subleases or licenses portions of the Premises.

CPI: The twelve (12) month average of the Consumer Price Index [U.S.-All Items in Commodity Groups-New York Area Only, Urban Wage Earners and Clerical Workers of the U.S. Department of Labor 1982-84=100].

Default Rate: A rate of interest being the lesser of (a) the Prime Rate, plus four percent (4%); and (b) the highest rate then allowed under the usury laws of the State of New York.

Delivery Date: As it applies to any portion of the Concessionaire Premises, the date on which possession of said portion of the Concessionaire Premises is delivered to Concessionaire by British Airways.

Delivery Service: Federal Express or similar nationally recognized overnight courier service.

Disadvantaged Business Enterprise or **DBE:** An individual or entity meeting the requirements of a disadvantaged business enterprise as defined in US Department of Transportation Regulations Title 49, Code of Federal Regulations, Part 23, and certified as an ACDBE by the Port Authority.

Enplanement or **Enplaned Passenger**: Any local originating, connecting or through passenger that boards a flight from the Terminal, excluding passengers who have disembarked and reboarded for the purpose of continuing their journey on the same aircraft with the same flight number.

Event of Default: Certain failures by the Concessionaire, as more fully set forth in Section 13.1.

Expiration Date: October 31, 2015, unless sooner terminated in accordance with the provisions of this Sublease, as amended.

Federal Aviation Administration or **FAA:** The United States Federal Aviation Administration, and any successor agency, office or department thereof.

Floor Area of Concessionaire Premises: R 11 -- 630 sq. ft.

Food Court Common Areas: That portion of the Common Areas primarily intended for (a) public circulation to and from certain food and beverage Concessionaires and (b) a public seating area containing tables and chairs for use by passengers, employees and other visitors to the Terminal to consume purchases from said food and beverage Concessionaires, as further depicted in Exhibit A.

GAAP: Generally Accepted Accounting Principles.

Governmental Authority or Governmental Authorities: The United States of America, the

States of New York and New Jersey, any political subdivision of either and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, or any quasi-governmental authority (to the extent the rulings of such quasi-governmental authority have the force of law), including the Port Authority, now existing or hereafter created, having jurisdiction over the Airport or any portion thereof.

Gross Receipts: As that term is defined in Section 2.1(b)(iv), below.

Initial Build Out Costs: The aggregate of the so-called hard and soft costs incurred by the Concessionaire in connection with the development, design, construction, furnishing, fixturing and equipping of the Concessionaire Premises.

Initial Improvements: that work to be undertaken by Concessionaire in any portion of the Concessionaire Premises, following the Delivery Date of said portion of the Concessionaire Premises, as further described in Section 1.2(b) below.

Laws: All present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any applicable fire rating bureau or other body exercising similar functions, affecting the Airport or any portion thereof.

Master Lease: That certain Agreement of Lease dated as of January 4, 1988 between the Sublandlord as the Lessee therein and The Port Authority of New York and New Jersey, and all amendments, supplements and revisions thereof, whether heretofore or hereafter made (collectively "Supplements") and known as Lease No. AYB-876.

Minimum Annual Guaranteed Rent: Ex. 2.a. subject to the adjustment, as set forth in Section 2.1(a), below.

Minimum Annual Guaranteed Rent Commencement Date: The first to occur of the (a) date upon which the Concessionaire Premises are initially opened for business to the public; or (b) 122nd day following Substantial Completion and execution of this Sublease by all Parties, as that term is hereinafter defined, but in no case later than 90 days after the date of the Port Authority's preconstruction meeting.

Monthly Statement: A statement from and certified, as being true, accurate and complete by the Concessionaire to the Sublandlord and the Port Authority stating the amount of Gross Receipts from Concessionaire for the previous calendar month, and such other information as Sublandlord may reasonably request, each such statement to identify each location operated by Concessionaire within the Premises, irrespective of whether or not all such locations (if more than one) are operated under one or more Concessionaire Subleases.

Percentage Rent: That portion of the Gross Receipts of the Concessionaire to be paid as a component of Rent by the Concessionaire to the Sublandlord or Port Authority, as the case may be.

Percentage Rent Rates: Those rates identified as such in Exhibit D.

Permitted Operations: Retail sales of unique and specialty electronics, gifts, gadgets, tools, and travel accessories, as further described in Exhibit I. Exhibit I may be revised by Concessionaire and Sublandlord upon reasonable consultation and agreement by both parties, such agreement not to be unreasonably withheld or delayed. It is further provided that the foregoing are subject, in all

events, to the limitations set forth in Section 5.1 hereof.

Plans and Specifications: The plans and specifications approved by Sublandlord and the Port Authority, by which the Concessionaire will (a) design; (b) furnish; (c) fixture; and (d) equip the Concessionaire Premises. All plans and specifications must comply with the Concessions Design and Construction Manual and the Port Authority's Tenant Alteration Application process, copies of which are attached hereto as Exhibit E.

Port Authority: The Port Authority of New York and New Jersey, a body corporate and politic as established by compact between the States of New Jersey and New York with the consent of the Congress of the United States of America.

Port Authority Consent: A written consent agreement in the form of a so-called "Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, or amendments thereto, which issuance is within the sole and absolute discretion of the Port Authority.

Port Authority Percentage Rent: An amount equal to Ex. 2.a of the Percentage Rent.

Premises: Those portions of the Terminal which are, from time-to-time, designated as such by the Sublandlord, but in no event shall it consist of less than the aggregate of (a) the Concessionaire Premises; (b) all other portions of the Terminal subleased to other concessionaires; and (c) and the Food Court Common Areas.

Prime Rate: That which is published, from time to time, in the Wall Street Journal as being the prime rate.

Protected Parties: All officers, directors, employees, agents and shareholders of the Sublandlord and its successors and assigns.

Records: Those records and books or account recording all transactions of the Concessionaire at, through, or in anyway connected with the Concessionaire Premises.

Rent: The collective term for Minimum Annual Guaranteed Rent, Percentage Rent and Additional Rent.

Sublandlord Percentage Rent: An amount equal to Ex. 2.a of the Percentage Rent.

Sublandlord's Work: That work, if any, to be done by or on behalf of the Sublandlord as more fully set forth in Exhibit B.

Substantial Completion: That stage in the process of the Sublandlord's Work when such is sufficiently complete, as reasonably determined by Sublandlord, so that the Concessionaire may beneficially occupy the Concessionaire Premises for its intended use,

Term: The period beginning on the Commencement Date and ending on the Expiration Date, unless sooner terminated pursuant to the terms of this Sublease.

Terminal: That portion of the Airport currently and commonly known as Terminal 7 or the British Airways Terminal.

Transportation Security Administration or **TSA**: The United States Transportation Security Administration, and any successor agency, office or department thereof

Notice Address:

Sublandlord:
75-20 Astoria Boulevard
Jackson Heights, New York 11370
Attention: Steve Clark, Senior Vice President, Customer Service

With a copy to:
James B. Blaney
Senior Counsel, Americas
75-20 Astoria Boulevard
Jackson Heights, New York 11370

Port Authority:

Manager of Central Business
Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003

With copy to:
Chief, Leases Division
Port Authority of New York and New Jersey
Law Department
225 Park Avenue South
New York, New York 10003

Concessionaire:

Brookstone Stores, Inc.
1 Innovation Way
Merrimack, New Hampshire 03054
Attn.: Director of Real Estate

With a copy to:

Exhibits:

A. Depiction of Concessionaire's Premises
B. Description of Sublandlord's Work
C. INTENTIONALLY OMITTED
D. Percentage Rent Rates
E. Concessions Design and Construction Manual and Port Authority Tenant Alteration Application
F. INTENTIONALLY OMITTED

G. Affirmative Action Policy
H. Standards of Operation
I. Permitted Retail Operations

ARTICLE I
GRANT AND TERM

Section 1.1 **GRANT AND PREMISES**

(a) Sublandlord, in consideration of the Rent to be paid and the covenants to be performed by Concessionaire, does hereby, demise and lease unto Concessionaire, and Concessionaire hereby rents and hires from Sublandlord, the Concessionaire Premises for the uses and purposes hereinafter set forth, subject, at all times, to the terms and conditions of the Master Lease and the Port Authority Consent, provided however, this Sublease shall be void ab initio until receipt of the executed Port Authority Consent.

(b) The foregoing grant and demise to Concessionaire includes the non-exclusive right of the Concessionaire and its officers, shareholders, partners, members, contractors, agents, employees and invitees and others acting by, through or under the Concessionaire to use the Airport, pursuant to the terms of the Master Lease, including, but not limited to, Section 6, thereof, in common with all others permitted to use the Airport by the Port Authority.

Section 1.2 **DELIVERY OF PREMISES; WORK OF SUBLANDLORD AND CONCESSIONAIRE.**

(a) Sublandlord will perform or cause to be performed, the Sublandlord's Work, as more fully set forth in Exhibit B. Concessionaire, by its execution of this Sublease, represents, warrants and agrees that Sublandlord has no obligation, duty and has made no agreement with Concessionaire to do or cause to be done any other work in or to the Concessionaire Premises except as expressly set forth herein.

(b) Concessionaire covenants and agrees that, to the extent not required to be completed by the Sublandlord, it shall (i) undertake, at no cost to the Sublandlord or Port Authority, improvement of the Concessionaire Premises, which improvement shall include the (1) design; (2) furnishings and fixtures; (3) leasehold improvements; (4) costs of permits and approvals; and (5) equipping of the Concessionaire Premises (said work herein referred to as the "Initial Improvements"), and shall expend for said Initial Improvements an amount not less than $300.00 per square foot, and Concessionaire will provide to Sublandlord such documentation as is reasonably required to evidence and support such expenditure. Subject to delays beyond Concessionaire's control, Concessionaire shall cause the Initial Improvements to proceed diligently to completion in accordance with the Plans and Specifications. Concessionaire agrees to complete the Initial Improvements within 6 months of the Date of Delivery, except as such date may be extended by Sublandlord. Concessionaire covenants that it will, at all times, conform with all Laws, the Master Lease and the Tenant Alteration Application process of the Port Authority.

ARTICLE II
RENTAL

Section 2.1 **BASE RENT**

For each calendar year, Concessionaire shall pay to Sublandlord and Port Authority, or such other party or parties as the Concessionaire is from time-to-time notified in writing, as Base Rent, an amount equal to the greater of the (1) Minimum Annual Guaranteed Rent, prior to and without regard to any waiver or abatement as set forth in (a)(A)(I); and (2) Percentage Rent. All payments of Base Rent shall be due and payable without prior demand or notice.

(a) MINIMUM ANNUAL GUARANTEED RENT.

(i) Calculation of Minimum Annual Guaranteed Rent

(A) Minimum Annual Guaranteed Rent shall be due and be paid in twelve (12) equal monthly installments, in advance, on the first day of the first month following the Minimum Annual Guaranteed Rent Commencement Date.

(B) Notwithstanding anything herein contained to the contrary, in the event the Concessionaire does not initially open for business on or before the Minimum Annual Guaranteed Rent Commencement Date, then, for the period commencing on the Minimum Annual Guaranteed Rent Commencement Date, until the date such Concessionaire initially opens for business ("Stub Period"), Concessionaire shall pay to Sublandlord, as liquidated damages, and not as a penalty, an amount equal to the Minimum Annual Guaranteed Rent for such Concessionaire Premises ("Stub Rent") prorated, on a daily basis, and paid, in advance, on the first day of the first calendar month following the Stub Period. Upon the initial opening for business by such Concessionaire, the Minimum Annual Guaranteed Rent shall thereafter begin to accrue in accordance with the terms of this Sublease and be paid in accordance with I., above.

(ii) Concessionaire acknowledges and agrees that, of the Minimum Annual Guaranteed Rent, Ex. 2.a. thereof is due and payable by Concessionaire to the Port Authority, on a monthly basis ("Port Authority Minimum Annual Guaranteed Rent"). Therefore, Port Authority Minimum Annual Guaranteed Rent shall be paid, directly to the Port Authority, in equal monthly installments, on the first day of the month following the Minimum Annual Guaranteed Rent Commencement Date, and the Minimum Annual Guaranteed Rent for the first calendar year shall be prorated on a per diem basis. Subsequent to the Minimum Annual Guaranteed Rent Commencement Date, the Concessionaire shall deliver to the Sublandlord a statement confirming the Minimum Annual Guaranteed Rent Commencement Date.

(iii) During each calendar year that an amount equal to Ex. 2.a. of the Percentage Rent therefore shall exceed the Minimum Annual Guaranteed Rent for the same calendar year, then the Minimum Annual Guaranteed Rent for the next succeeding calendar year shall be an amount equal to said Ex. 2.a. of the Percentage Rent.

(b) PERCENTAGE RENT.

(i) Percentage Rent from Concessionaire shall be equal to the product of the

Percentage Rent Rates applicable to the merchandise sold or services offered by the Concessionaire within the Concessionaire Premises, multiplied by the Gross Receipts.

(ii) Commencing with the second (2nd) month of the Term, Percentage Rent shall be paid by Concessionaire to Sublandlord, as to the Sublandlord Percentage Rent, and the Port Authority, as to the Port Authority Percentage Rent, without prior notice or demand, within fifteen (15) days after the end of each month of the Term ("Percentage Rent Payment Date"); provided however, in no event shall either the Sublandlord Percentage Rent or Port Authority Percentage Rent be less than the amount due to the Sublandlord or Port Authority, as the case may be, as Minimum Annual Guaranteed Rent.

(iii) If, for any calendar year or partial calendar year, as the case may be, the total amount of monthly installments of Percentage Rent for such period is less than the total amount of Percentage Rent required to be paid for said period, Concessionaire shall pay to the Sublandlord or the Port Authority, or both, as the case may be, the amount of such deficiency together with the delivery of the Annual Statement. If, at the end of any calendar year or partial calendar year, as the case may be, the total amount of Percentage Rent paid by Concessionaire for such period was in excess of amount of Percentage Rent required to be paid hereunder for said period, then such excess shall be deemed to be prepaid Percentage Rent and shall be applied as a credit against Percentage Rent thereafter becoming due and payable by Concessionaire to Sublandlord or Port Authority, or both, as the case may be, until such credit is exhausted. This obligation shall survive the expiration or sooner termination of this Sublease.

(iv) The term Gross Receipts, for each calendar year or partial calendar year, shall mean and include all monies paid or payable to Concessionaire for sales made and, services rendered at or from the Concessionaire Premises, regardless of (A) when during a calendar year sales are made and (B) where the order is filled or from where it is shipped, if the order was taken at the Concessionaire Premises, provided however the following shall be excluded, or, if included, may be deducted therefrom: (1) taxes imposed by law which are separately stated to and paid by a customer and directly payable to the taxing authority by the Concessionaire; (2) receipts of Concessionaire which arise from its operations, if any, under any other agreement with the Port Authority and which are subject to a percentage rental or fee under that agreement; (3) refunds for merchandise returned by customers; (4) the amount of gratuities paid or given by patrons or customers to employees of Concessionaire or others employed at or serving at any of the facilities being operated by Concessionaire; (5) bona fide transfers of merchandise to or from the Concessionaire Premises to any other stores or warehouses of Concessionaire; (6) sales of Concessionaire's fixtures and store equipment not in the ordinary course of such Concessionaire's business; (7) returns to shippers, suppliers or manufacturers; (8) insurance proceeds received from the settlement of claims for loss of or damages to merchandise, fixtures and other personal property of the Concessionaire other than the proceeds of business interruption insurance; and (9) proceeds from the sale of gift certificates. During all time periods for which Gross Receipts are computed, in the event the foregoing definition produces a negative number, Gross Receipts shall be deemed to equal zero. The full amount of any payments received by Concessionaire from any third party as consideration for (i) promotions, (ii) advertising, or (iii) the prominent display of merchandise and/or the placement of promotional material in the Concessionaire Premises from a supplier of goods (such latter promotional considerations commonly referred to as "Retail Display Allowance") shall be included in the Gross Receipts for the year within which such payment was

earned, irrespective of when received. The amount of Gross Receipts shall be determined and based upon the amount that Concessionaire reports to Sublandlord and the Port Authority as the Gross Receipts for each such reporting period, as adjusted, thereafter after examination of Concessionaire's books and record and/or Audit by either or both of the Sublandlord and the Port Authority. Except as otherwise provided for herein, if any charge for any of the products or services provided hereunder is not assessed, charged or collected, irrespective of the reason therefore, the proper amount of such charge shall, nevertheless, be included in Gross Receipts. Further, no deduction shall be made from Gross Receipts by reason of any credit loss, charge or deduction that may be incurred by reason of the acceptance or use of credit cards or other credit or charge arrangements.

Section 2.2 **ADDITIONAL RENT.**

Additional Rent, if any, shall be paid within ten (10) days after receipt of a bill therefore.

Section 2.3 **LATE CHARGE, DEFAULT RATE, LOCATION FOR PAYMENTS**

(a) Unless specifically stated otherwise in this Sublease, Rent shall be due and payable as indicated herein. The parties hereby agree that late payment by Concessionaire of any Rent may cause Sublandlord to incur certain costs and expenses not contemplated under this Sublease; the exact amount of which costs are extremely difficult to determine. In the event Concessionaire fails to pay any Rent to Sublandlord on or before the 5th day after same is due to Sublandlord, then Concessionaire shall pay to Sublandlord a late charge of five percent (5%) of the amount not so paid as damages for the failure to make prompt payment. In the event Concessionaire pays said late charge, but fails to pay contemporaneously therewith all unpaid amounts of Rent then due to Sublandlord and payable, Sublandlord's acceptance of this late charge shall not constitute a waiver of Concessionaire's failure with respect to Concessionaire's nonpayment or prevent Sublandlord from exercising all other rights and remedies available to Sublandlord.

(b) Late Charges

(i) Any amount due from Concessionaire to Sublandlord which is not paid when due (including, without limitation, amounts due as reimbursement to Sublandlord for costs incurred in performing obligations of the Concessionaire) shall bear interest at the Default Rate from the date due until paid (such interest hereinafter referred to as "Interest Charges"), unless otherwise specifically provided herein, but the payment of such Interest Charges shall not excuse or cure any failure or default under this Sublease. Interest Charges shall not accrue with respect to disputed items being contested in good faith by Concessionaire; however, Interest Charges shall accrue on any disputed item not paid within five (5) days from the date of resolution computed from the date of resolution.

(ii) If Concessionaire should fail to pay any amount required under this Sublease or the Port Authority Consent to the Port Authority, including without limitation any payment of any Rent, 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 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 (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. Each late charge shall be payable immediately upon demand made at any time therefore 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 this subsection with respect to such unpaid amount. Nothing herein is intended to, or shall be deemed to affect, alter, modify or diminish in any way any rights of the Port Authority under this Sublease or the Part Authority Consent, as the case may be. In the event that any late charge imposed pursuant to this subsection shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable hereunder shall be payable instead at such legal maximum.

(c) Rent and all other sums payable by Concessionaire shall be paid in currency of the United States or other customary commercial manner at the Address for Payments to Sublandlord or Port Authority, as the case may be, or such other place as either or all may designate, from time to time, without any deductions or offsets, except as otherwise specifically permitted in this Sublease.

ARTICLE III
RECORDS AND BOOKS OF ACCOUNT, AUDIT

Section 3.1 **RECORDS**

a) Concessionaire covenants and agrees to maintain all Records in accordance with GAAP during the Term, and for two full calendar years after the expiration or earlier termination of the Term or the Port Authority Consent ("Records Term"). The Records shall be kept at all times within the Port of New York District. Without implying any limitations on the rights of the Port Authority, but in addition thereto, if any Records are maintained outside of the Port of New York District, but within the continental United States, the Port Authority or the Sublandlord, in their respective discretion, both, may (i) require that such Records be produced within the Port of New York District; or (ii) examine such Records at the location at which they have been maintained and in such event, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or both, as the case may be, when billed, all travel and related expenses, as determined by the Port Authority and the Sublandlord, for the Port Authority's and Sublandlord's auditors and other representatives, employees and officers in connection with such examination and audit, or, if any such Records have been maintained outside the continental United States, then, in addition to the costs set forth in (ii), above, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or all, as the case may be, when billed, all other costs of the examinations and audits of such Records, including, without limitation, salaries, benefits, travel costs and related expenses, overhead costs and fees and charges of third-party auditors retained by the Port Authority or the Sublandlord, or both, as the case may be, for the purpose of conducting such examinations and audits. The foregoing auditing costs, expenses and amounts due to the (i)

Port Authority shall be deemed fees and charges under the Port Authority Consent, payable to the Port Authority with the same force and effect as all other fees and charges payable thereunder; or (ii) Sublandlord, as Additional Rent, and be payable upon demand therefore.

b) Notwithstanding anything contained in this Sublease to the contrary, for purposes of this Sublease, Records shall exclude any books and records relating to any other locations owned or occupied by Concessionaire located off the Airport or any other business operations of Concessionaire, provided however, that this exclusion shall neither bind nor apply to the Port Authority and its right to inspect and Audit as herein provided. The Port Authority shall also be entitled to examine and audit the books and records of account of any company or entity which is owned or controlled by Concessionaire, or which owns or controls Concessionaire, or which is under common control with the Concessionaire, if said company performs services similar to those performed by the Concessionaire, and the Concessionaire shall make available such books and records to the Port Authority for such purposes to the same extent as would be required pursuant to paragraph (c) of this section.

c) Concessionaire shall permit during the Records Term, (i) the examination and audit of the Records by the officers, employees and representatives of either or both of the Sublandlord and Port Authority ("Audit"). Concessionaire shall make available to the Port Authority within the Port of New York District for examination and Audit pursuant hereto all of the Records; (ii) the inspection by the officers, employees and representatives of either or both of the Port Authority and Sublandlord of any equipment used by Concessionaire including, but not limited to sales registration and tracking devices such as cash registers, sales slips, invoicing machines and any other equipment or devices for recording orders taken, or services rendered, as may be appropriate to Concessionaire's business and necessary or desirable to keep accurate records of Gross Receipts.

d) In the event Concessionaire shall fail to maintain, keep or make available for examination and Audit the Records in the manner and at the times or location as provided herein then, in addition to all and without limiting any other rights and remedies of the Sublandlord or the Port Authority, either or both may:

(i) Estimate the Gross Receipts of the Concessionaire on any basis that the Port Authority or the Sublandlord, in their respective sole discretion, shall deem appropriate, such estimation to be final and binding on the Concessionaire (but not on the remaining party having the benefit of this provision) and Concessionaire's Percentage Rent based thereon to be payable to the party conducting the Audit; or

(ii) If any such Records have been maintained outside of the Port of New York District, then the Port Authority or the Sublandlord, or all, may, in the exercise of the sole discretion of either, may require, on ten (10) days notice to Concessionaire, that such Records to be produced and made available within the Port of New York District for the Port Authority's or Sublandlord's, or both, auditors and other representatives, employees and officers in connection with such examination and Audit.

Section 3.2 **REPORTS BY CONCESSIONAIRE**

(a) Concessionaire shall furnish to Sublandlord and the Port Authority (i) the Monthly Statement by the Percentage Rent Payment Date, for the preceding month; and (ii) the Annual Statement on or before April 1st of each calendar year, for the preceding calendar year.

(b) Concessionaire shall timely provide to the Sublandlord and the Port Authority a Monthly Statement and Annual Statement together with all other documents, Records and materials requested or required to be delivered by Concessionaire to the Port Authority or Sublandlord.

Section 3.3 **SUBLANDLORD AUDIT ADJUSTMENTS; COSTS**

If any Audit conducted by the Sublandlord of the Concessionaire discloses that the Gross Receipts as previously reported for the period audited were understated and additional Percentage Rent is due, then the Concessionaire shall be required to pay to (i) Sublandlord the additional Percentage Rent due thereto for the period audited within five (5) days after receipt of a statement therefore (together with a copy of the results of the Audit indicating the understatement); and (ii) within five (5) days of an invoice therefore, all costs of each such Audit.

ARTICLE IV
INITIAL CONDITION OF CONCESSIONAIRE PREMISES

Section 4.1 **ACCEPTANCE**

(a) Upon Substantial Completion, Concessionaire shall accept the Concessionaire Premises in their then-current condition, subject to such work as may be necessary to complete the work, if any, to be done by the Sublandlord, which work shall be completed by Sublandlord as soon as is reasonably possible and, in any event, so as not to unreasonably interfere with Concessionaire's Work.

(b) Concessionaire, by the acceptance of the tender of delivery by Sublandlord of the Concessionaire Premises, shall be deemed the unequivocal representation, warranty and agreement by the Concessionaire that (a) Substantial Completion of the Sublandlord's Work has occurred; (b) Concessionaire has, subject to full completion of Sublandlord's Work, accepted the Concessionaire Premises in all respects; and (c) Sublandlord has no obligation, duty or has made any agreement to do or cause to be done any other work in or to the Concessionaire Premises except to the extent otherwise set forth in this Sublease.

(c) Sublandlord makes no warranty, either express or implied, as to the condition of the Concessionaire Premises or the suitability of the Concessionaire Premises for Concessionaire's purposes or needs. If during the construction of Improvements, latent defects are discovered in Sublandlord's Work, Sublandlord will pay the reasonable costs of correction.

Section 4.2 **CHANGES TO PREMISES**

(a) The Initial Improvements with respect to each portion of the Concessionaire Premises shall be made only in accordance with the provisions of Exhibits B and E.

(b) Changes, if any, made to the Concessionaire Premises from and after the completion of the Initial Improvements shall be made only in accordance with the Plans and Specifications and, in all events, in compliance with the Port Authority's Tenant Alteration Application process, which process must be complied with, in addition to, and not in lieu of, the provisions of this Section 4.2.

(c) Full and complete plans and specifications for all work, facilities, improvements and finishes, and the time required to complete same ("Plans and Specifications"), shall be first reviewed and approved in writing by Sublandlord and then submitted and approved by the Port Authority before any work or construction is commenced. Approval of Sublandlord shall include architectural and aesthetic matters and Sublandlord reserves the right to reject any layout or design proposal submitted and to require Concessionaire to resubmit any such layout or design proposal until it meets Sublandlord's approval.

(d) All improvements, furniture, fixtures, equipment and finishes, including the plans and specifications thereof, constructed or installed by Concessionaire, its subtenants, agents or contractors shall conform in all respects to applicable Laws including, but not limited to, the Americans with Disabilities Act of 1990, as amended. Any approvals given by Sublandlord shall not constitute a representation or warranty as to such conformity; responsibility therefore shall at all times remain with Concessionaire.

(e) All designs, colors, materials and construction shall be furnished as set forth in the Plans and Specifications. Concessionaire acknowledges that Sublandlord, or its designee, may from time to time inspect the progress of the work for conformance to the Plans and Specifications. In the event Sublandlord, or its designee, determines, in their sole judgment, there is a material deviation from the Plans and Specifications, Concessionaire agrees, upon notice from Sublandlord, to promptly effect repairs or modifications to the improvements so as to conform to the Plans and Specifications. Concessionaire acknowledges and agrees that the any improvements to the Concessionaire Premises are subject to the inspection and acceptance of Sublandlord and the Port Authority.

Section 4.3 **CHANGES TO THE TERMINAL**

Concessionaire acknowledges that it is aware that Sublandlord and the Port Authority each have the right, without compensation, or reimbursement to Concessionaire, or abatement of Rent, to make alterations to the Terminal, including any modifications of the Common Areas and, in connection with such alterations, may erect temporary scaffolds and other temporary aids to construction on the exterior of the Concessionaire Premises, and to install, maintain, use, repair and replace within the Concessionaire Premises pipes, ducts, conduits, wires and all other mechanical equipment serving other parts of the Terminal or Airport, provided in each case of exercise of such rights of access, maintenance, repair, replacement, or alternation, Sublandlord shall use reasonable efforts not to unreasonably interfere with the use and occupancy of the Premises by Concessionaire.

ARTICLE V
CONDUCT OF BUSINESS BY CONCESSIONAIRE

Section 5.1 **PERMITTED OPERATIONS**

(a) Concessionaire shall use the Concessionaire Premises only for the purpose of conducting the Permitted Operations and for no other use or purpose, without first obtaining the prior written consent of the Sublandlord and the Port Authority, as set forth in the Port Authority Consent. If any governmental license or permit shall be required for the proper and lawful conduct of any business or other activity conducted in the Concessionaire Premises, then Concessionaire shall duly procure and thereafter maintain each such license or permit and submit the same for inspection by Sublandlord or the Port Authority upon request therefore by Sublandlord and Port Authority, as the case may be.

(b) Notwithstanding the foregoing, the Permitted Operations shall exclude any operation that:

(i) Materially interferes with the reasonable use, by third-parties, of the Common Areas;

(ii) Hinders emergency personnel (including, but not limited to police, fire and rescue personnel);

(iii) Constitutes a condition hazardous to the safety or health of the general public; or

(iv) Is contrary to rules, regulations, policies or directives of the Port Authority.

(c) In addition to the uses excluded by (b), above, Concessionaire agrees that it may not receive any revenues or profits with respect to any of the following uses, operations or installations which the Port Authority has reserved to itself and its designees exclusively in the Terminal: VIP lounges, airline clubs, monorail facilities, if any, advertising (including, without limitation, static display, broadcast and other), pay telephones, rental of cellular phones intended for use solely within the Airport, facsimile transmission machines and other public communication services, concierge services (i.e., a center or location which offers a variety of services for passengers, including, but not limited to hotel reservations, sale of entertainment events tickets and lottery tickets, luggage storage and delivery, sightseeing tours, business services and provision of touring information), ground transportation, including vehicle rentals, hotel and other lodging reservations, vending machines dispensing anything, including but not limited to, catalog and electronic sales, (save and except for those owned and operated by Concessionaire within the Concessionaire Premises selling goods and services by Concessionaire from the Concessionaire Premises), other than products specifically permitted to be sold in the Concessionaire Premises pursuant to this Sublease and, if approved by the Port Authority, on-airport baggage carts or other on-airport baggage-moving devices, electronic amusements, and public service airport operation information, messages and announcements.

(d) Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sales a full and complete stock of merchandise consistent with

only the Permitted Operations as more fully set forth in the Terminal Rules (Exhibit H). Upon request, Concessionaire must promptly provide Sublandlord, or its designee, with a complete list of all merchandise and prices. Concessionaire understands that its rights hereunder are nonexclusive and agrees that Sublandlord has the right to grant privileges under separate agreements for other concession services that may or may not be similar to the privileges granted herein to Concessionaire. In the event of a dispute between Concessionaire and any other lessee, licensee or concessionaire as to the respective rights of the respective lessees, licensees or concessionaires, Sublandlord shall determine the rights of each lessee, licensee or concessionaire and Concessionaire agrees to be bound by such decision.

Section 5.2 **OPERATION OF BUSINESS**

(a) Concessionaire agrees and covenants to be open for business and diligently conduct its business (1) in a commercially reasonable manner, fully staffed with personnel that have been trained and are qualified for the positions held and duties to be discharged; (2) on such days and during such hours as reasonably determined from time to time by the Sublandlord; and (3) in accordance with the reasonable rules and regulations promulgated from time to time by the Sublandlord to regulate the use, occupancy and operation of the Concessionaires in the Premises, all of the foregoing being the "Standards of Operation" as more fully set forth in Exhibit H.

(b) Concessionaire shall promptly comply with all present and future Laws of all Governmental Authorities relating to Tenant's use thereof and shall neither (i) do or permit anything to be done in or about the Concessionaire Premises which will violate any Laws; nor (ii) cause or knowingly permit anything to occur in the Concessionaire Premises which constitutes a violation or breach of the Master Lease or cause Sublandlord to be in breach or violation of said Master Lease.

(c) Concessionaire shall maintain a street pricing policy whereby certain goods, services, food or beverages, shall be subject to the restrictions and policies of the Port Authority.

(d) Concessionaire covenants and agrees to (1) assist and support all efforts of the Sublandlord and others to provide deliveries from the public access areas of the Terminal to and from the Premises and the Concessionaire Premises to and from the secure areas of the Terminal; and (2) coordinate with Sublandlord and others in matters essential to the efficient operation of the Premises and the Terminal.

(e) Sublandlord's Right to Monitor Performance

(i) Concessionaire shall maintain and operate the concessions granted hereunder in an orderly, proper and first-class manner which, in the sole judgment of Sublandlord, does not annoy, disturb or offend others at the Terminal. Sublandlord shall have the right to raise reasonable objections to the condition of the Concessionaire Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, the appearance and performance of service personnel and to require any such conditions or practices objectionable to Sublandlord to be remedied by Concessionaire. If requested by Concessionaire, Sublandlord shall reduce its

objections to writing and provide Concessionaire an opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

(ii) Concessionaire hereby acknowledges and agrees that Sublandlord shall have the right, at its cost, to audit, review, monitor, inspect or test all Sublandlord reserves the right to conduct, or have its designee conduct, periodic audits, inspections, reviews and/or tests of Concessionaire's operations at any time through the use of its own direct review, the use of third parties and/or other means that do not unduly interfere with Concessionaire's operations. Concessionaire acknowledges that such audits and reviews will be conducted by Sublandlord, or its designee, and hereby agrees to cooperate with any such performance audit. Said performance audits may include minimum objective standards in the areas of (1) product quality, (2) customer service and (3) cleanliness and maintenance. If Concessionaire fails to meet minimum standards in any of these areas which are not promptly corrected as provided in (f), Sublandlord may, at its discretion, assess liquidated damages as set forth herein.

(iii) Repeated violations and deficiencies in performance by Concessionaire, or its permitted sublessees, may be cause, at Sublandlord's sole discretion, to terminate this Sublease.

(f) Failure to Comply with Standards of Operation

(i) Concessionaire acknowledges Sublandlord's desire to provide the public and air traveler with the level and quality of service as described herein. Accordingly, Sublandlord has established a series of fees, as set forth in Table 1 of this Section 5.02(g), that it may assess, in its sole discretion, for various violations of this Sublease, as amended, as additional Marketing Fee (as said term is defined herein). Concessionaire and Sublandlord agree that the fees set forth herein are reasonable, and Concessionaire further agrees to pay to Sublandlord such fees in accordance with the rates or in the amounts specified herein upon written demand by Sublandlord. Concessionaire further acknowledges such fees are not exclusive remedies and Sublandlord may pursue other remedies, as allowed for in this Sublease, as amended, at its sole discretion.

(ii) Multiple Violations. Except for violations of requirements regarding operating hours, health code violations, and delivery and vendor access infraction, which shall accrue immediately and without notice upon violation, other fees shall not be assessed unless the violation continues for more than three (3) calendar days after Sublandlord has given to Concessionaire written notice of the violation; provided, however, after Sublandlord has given Concessionaire notice of a violation of the same operating requirement more than twice during any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, the fee shall be immediately assessed with no opportunity to cure. Further, after two (2) violations of the same operating requirement within any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, Sublandlord reserves the right, in its sole discretion, to deem said repeated violations a default hereunder and to seek any other remedies available to it under this Sublease, as amended, including, but not limited to, termination of this Sublease.

Table 1
Performance Standard Fines

Infraction	Fee Schedule
Required merchandise not available	
Premises unclean, trash not picked up	
Signage policy infraction	
Pricing policy infraction (following one notices)	
Late Market Basket Survey	
Delivery and vendor access infractions	
Operating Hours infraction (any locations)	
Inadequate Staffing (per location)	
Health Code Violations (per location) Scores below 90% Scores below 80% Scores below 70%	
Performance Audit Scores (per location) Scores below 90% Scores below 80% Scores below 70%	

(g) INTENTIONALLY OMITTED

(h) In addition to its general obligation to comply with applicable Laws, Concessionaire specifically agrees to comply with all Port Authority, Transportation Security Administration, Federal Aviation Administration and Sublandlord security directives, rules and regulations, in effect as of the Commencement Date or as may be modified or enacted from time to time throughout the Term. Concessionaire understands and agrees that fines and/or penalties may be assessed by the TSA or FAA for Concessionaire's noncompliance with the provisions of 49 CFR Parts 1540 and 1542 entitled "Airport Security" or by other agencies for noncompliance with regulations applicable to Concessionaire's operations. In the event the Port Authority or

Sublandlord shall be subject to any fine or penalty by reason of any violation at the Terminal of any such rule, regulation or standard, the Port Authority or Sublandlord may conduct an investigation and make a determination as to the identity of the party responsible for the violation. If it is determined by the Port Authority or Sublandlord that Concessionaire, or any party for which Concessionaire is liable under this Sublease, as amended, is responsible for all or part of the fine or penalty, the Concessionaire shall pay said amount of the fine or penalty.

Section 5.3 **HAZARDOUS MATERIALS**

(a) For the purposes of this Sublease, the following terms shall have the following meanings: (i) the term "Hazardous Materials" shall mean: (A) any materials or substances that, whether by its nature or use, are subject to regulation under any Environmental Requirement, or (B) any materials, substances or wastes which are toxic, ignitable, explosive, corrosive or reactive, or (C) asbestos, or (D) petroleum and petroleum-based products, or (E) formaldehyde, or (F) polychlorinated biphenyls (PCB's), or (G) freon and other chlorofluorocarbons or (H) such other materials as are designated in a notice from Sublandlord to Concessionaire (whether such notice is provided before or after Concessionaire first commences to use any such materials and; (ii) the term "Environmental Requirement" shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), all as presently in effect and as the same may hereafter be amended, any regulation pursuant thereto, or any other present or future law, ordinance, rule, regulation, order or directive addressing environmental, health or safety issues of or by any Governmental Authority.

(b) Both Concessionaire and Sublandlord acknowledge that one or more Governmental Authorities may require that employees of each and others be made aware of the conditions within which they are being asked to work and, in an effort to disclose such conditions to said employees, Sublandlord hereby (i) represents to Concessionaire that, other than those Hazardous Materials to which Sublandlord has notified Concessionaire in writing (copies of which are attached), there are no Hazardous Materials in the Terminal; and (ii) agrees that, if any Hazardous Materials are generated, manufactured, sold, transported or located at, on, in, under or about the Terminal, other than as a result of an act or omission of the Concessionaire, then Sublandlord shall at no cost, expense or liability to Concessionaire, to (1) cleanup and take whatever corrective action of any kind required under any Environmental Requirement; and (2) indemnify and hold harmless the Concessionaire from all losses, costs, expenses and liabilities therefrom, provided however the foregoing prohibition concerning Hazardous Materials shall not prevent the use of regular consumer products which contain amounts of such Hazardous Materials that are not prohibited by any law applicable thereto.

(c) Concessionaire covenants and agrees that by, through or under it (i) no Hazardous Materials will be generated, manufactured, sold, transported or located at, on, in, under or about the Concessionaire Premises; (ii) no Hazardous Material will be generated, manufactured, sold, transported or located at, in, on, under or about the Concessionaire Premises in a manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement and (iii) no Hazardous Materials will be transported,

released, emitted, sold, discharged, leached, dumped or disposed of from the Concessionaire Premises onto or into the Common Areas.

(d) Concessionaire covenants and agrees that it shall (i) notify the Port Authority and Sublandlord promptly in the event of any spill or other release of any Hazardous Materials at, in, on, under or about the Concessionaire Premises which spill or release is required to be reported to a Governmental Authority under any Environmental Requirement; (ii) promptly forward to the Port Authority and Sublandlord copies of any notices it receives relating to the alleged violations of any Environmental Requirement; (iii) promptly pay when due any fine or assessment as a result of its acts or omissions or those of any party acting under its control or direction; and (iv) except with respect to Sublandlord's or the Port Authority's direct violation of any Environmental Requirement, defend, indemnify, and hold harmless the Sublandlord and the Port Authority and their respective affiliates, subsidiaries, partners, members, management company, successors and assigns, and the employees, agents, officers, directors and Commissioners of any of them from and against any and all loss, claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) directly or indirectly arising out of, or in any way related to (1) any breach by it or any party acting under its control or direction of any of the provisions of this Section 5.03; (2) the presence, use, generation, transportation, disposal, spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Materials which are at, in, on, under, about, from or affecting the Concessionaire Premises and were not present as of the Delivery Date, including, but without limitation any damage or injury resulting from any such Hazardous Materials to or affecting the Concessionaire Premises or any soil, water, air, vegetation, buildings, personal property, persons or animals; (3) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Materials; or (4) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Materials. The obligations set forth in this Section 5.3 shall survive the expiration or sooner termination of the Sublease.

ARTICLE VI
COMMON AREAS

Section 6.1 DEFINITION OF COMMON AREAS

For the purpose of this Sublease, the term "Common Areas" shall mean, all portions of the interior of the Terminal, save and except for those portions included within each of the Concessionaire Premises, intended to be used and used by either (a) the public or (b) the Sublandlord or Concessionaires in the course of receiving and making deliveries to the Premises. The Common Areas shall include but are not limited to: (i) ticketing areas and facilities, gate seating areas, hallways, elevators, escalators, stairs, restrooms and comfort stations, service areas, passageways and other public areas, amenities, facilities and improvements in the Terminal; and (ii) those areas within the Terminal as may be provided by either the Sublandlord or the Port Authority, from time to time for the convenience and use by the public or the Sublandlord or Concessionaires.

Section 6.2 **USE OF COMMON AREAS**

Upon payment of the Rent and the performance and observance of all terms and conditions in this Sublease to be performed and observed by the Concessionaire, the right to possession of the Concessionaire Premises shall also include the non-exclusive right to the use of the Common Areas with all others for whose convenience and use both the Common Areas have been or may hereafter be provided by the Port Authority or the Sublandlord, or both, subject however, to such reasonable rules and regulations for the use thereof as may be prescribed from time to time by either or both of the Sublandlord and the Port Authority.

Section 6.3 **OPERATION AND MAINTENANCE; TERMINAL AND COMMON AREAS**

Sublandlord agrees, at no cost to Concessionaire, to keep all portions of the Terminal in good order and repair, and in full compliance with all Laws, including but not limited to all HVAC equipment, plumbing (including sewage systems), electrical, fire protection (including any sprinkler systems in the Terminal) and other systems and facilities servicing the Terminal, foundations, and the structural soundness of the floors and exterior walls in good order, repair and condition provided however the provisions of this section shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of the Sublandlord shall be controlled by either Article XI or XII, respectively, of the Master Lease and further provided that Sublandlord shall have the obligation to maintain or cause to be maintained the cleanliness and orderliness of the Food Court Common Areas, but such limited obligations shall not impose any obligation on the part of the Concessionaire to repair, restore, refurbish, correct, install, or in any other manner make any changes, alterations, improvements or the like to any portion of said Food Court Common Areas. The foregoing obligations of the Sublandlord shall include, but are not limited to, the responsibility and liability for the repair, maintenance, replacement and restoration of all systems servicing the Premises or all portions thereof, save and except for, and to the extent of, those systems installed within any of the Concessionaire Premises, by the Concessionaire to the extent that such system services only the Concessionaire Premises.

Section 6.4 **OPERATIONS AND MAINTENANCE FEE**

Concessionaire shall pay to Sublandlord, as Additional Rent, an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of Concessionaire in the operation of the Terminal ("O&M Costs"). O&M Costs include, but are not limited to: trash removal; operation, maintenance, and repair heating, cooling and ventilation systems; water, power, gas and sewerage charges; and all other direct costs and expenses properly chargeable to the operation, maintenance or repair of such systems and services.

Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Floor Area of the Concessionaire Premises and the denominator shall be the sum of the floor areas leased and occupied by concessionaires to which O&M Costs, in whole or in part, are allocated by Sublandlord in the exercise of its business judgment. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement

Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M Costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount Concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to he paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid.

ARTICLE VII
MAINTENANCE OF PREMISES

(a) Concessionaire shall keep the Concessionaire Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Concessionaire. Any liens will be treated in the same manner as liens pursuant to the Master Lease.

(b) Concessionaire shall cause the Concessionaire Premises to be, at all times, in a first-class condition, relative to the appearance thereof as of the date the Concessionaire initially opened for business in the Concessionaire Premises. Concessionaire covenants and agrees that it shall refurbish and renovate the Concessionaire Premises (in accordance with the terms of this Sublease and the Tenant Alteration Application) no later than October 31, 2012. The scope and extent of necessary refurbishment and renovation for each portion of the Concessionaire Premises shall be jointly determined by Sublandlord and Concessionaire.

ARTICLE VIII
INSURANCE AND INDEMNITY

Section 8.1 CONCESSIONAIRE'S INSURANCE

Concessionaire shall obtain and keep in full force and effect (i) an "all risk" insurance policy for its property at the Concessionaire Premises in an amount equal to one hundred percent (100%) of the replacement value thereof, and (ii) a policy of commercial general liability (including premises, operations, product liability, liquor liability and automobile liability, if vehicles will be used on the airs side portions of the Airport) on an occurrence basis, (with a broad form contractual liability endorsement under the general liability policy). Such policies shall

provide that Concessionaire is named as the insured and Sublandlord and the Port Authority shall be added as additional insureds, as their respective interests may appear with respect to the insurance required to be carried pursuant to (i) above. Such policy described in (ii) above shall include a provision under which the insurer agrees to insure Concessionaire with respect to any cost, expense and liability arising out of, or based upon, any and all claims, accidents, injuries and damages for which Concessionaire is required to indemnify Sublandlord or the Port Authority under the provisions of this Sublease. In addition, such policy shall contain a provision that (a) no act or omission of the Port Authority, Sublandlord or Concessionaire shall affect or limit the obligation of the insurer to pay the amount of any loss sustained and (b) the policy shall be non-cancelable with respect to either Sublandlord or the Port Authority unless thirty (30) days' prior written notice shall have been given to all of the Sublandlord and the Port Authority in the manner set forth in this Sublease for notices, which notice shall contain the policy number and the names of the insured and additional insureds. In addition, upon receipt by Concessionaire of any notice of cancellation or any other notice from the insurance carrier which may materially adversely affect the terms and substance (but not the amounts) of the coverage of the insureds under such policy of insurance, Concessionaire shall promptly deliver to Sublandlord and the Port Authority a copy of such notice. The minimum amounts of liability under the policy of insurance required to be carried pursuant to (ii) above shall be a combined single limit with respect to each occurrence in an amount of $2,000,000 for injury (or death) to persons and damage to property, which amount shall be increased from time to time after the second (2nd) calendar year (but not more frequently than once per year) to that amount of insurance which is then being customarily carried by tenants of first-class retail developments in the New York/New Jersey metropolitan area. All insurance required to be carried by Concessionaire pursuant to the terms of this Sublease shall be effected under valid and enforceable policies issued by reputable and independent insurers permitted to do business in the State of New Jersey and New York and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of having a general policyholder rating of "A" and a financial rating of at least "XI". In the event of vehicles being used under this Sublease, above-referenced auto liability insurance shall be in limits of no less than $5,000,000 combined single limit per accident for bodily injury and property damage. The policy(ies) of insurance required to be carried pursuant to (ii) above will include the following statement:

> "Further, unless otherwise agreed by the Port Authority, the liability policy shall be specifically endorsed, to prohibit the insurance carrier from raising any defenses involving in any way the jurisdiction of the tribunal, 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 without obtaining express advance written permission from the General Counsel of the Port Authority."

Concessionaire and all officers and employees of Concessionaire who may handle or are responsible for the handling of receipts and disbursements shall be covered by insurance in an amount not less than Five Hundred Thousand Dollars ($500,000) for employee dishonesty coverage against any and all loss, theft, embezzlement or other fraudulent acts on the part of Concessionaire or Concessionaire's employees, and not less than One Hundred Thousand Dollars ($100,000) for money and securities on or off premises, transit and depositors forgery coverage,

indemnifying the Sublandlord and Port Authority, as co-obligees, against any and all loss, theft, embezzlement or other fraudulent acts of the part of Concessionaire or Concessionaire's employees.

Section 8.2 **CERTIFICATES**

On or prior to the date hereof, Concessionaire shall deliver to the Sublandlord and the Port Authority certificates of insurance, including evidence of waivers of subrogation required pursuant to this Sublease, required to be carried by the Concessionaire. Evidence of each renewal or replacement of a policy shall be similarly delivered not less than ten (10) days prior to the expiration of each such policy.

Section 8.3 **COVENANT TO HOLD HARMLESS**

Concessionaire and Sublandlord covenant, each to the other, to defend and indemnify the other and their respective directors, officers, partners, shareholders, representatives, management company, agents and employees, and save them harmless (except to the extent of loss or damage resulting from the negligence of party that would otherwise be so indemnified) from and against any and all claims, actions, demands, judgments, awards, fines, mechanics' liens or other liens, losses, damages, liability and expense, including attorneys' fees and court costs, in connection with all losses, including loss of life, personal injury and/or damage to property, arising from or out of any occurrence, upon or at the Premises, as to the Sublandlord, or the Concessionaire Premises as to the Concessionaire, or arising from or out of Concessionaire or Sublandlord's, as the case may be, failure to comply with any provision of this Sublease. In case either Sublandlord or Concessionaire or any other party so indemnified hereunder shall be made a party to any litigation commenced by or against either the Sublandlord or the Concessionaire (and not litigation commenced by or against one against the other), then the Concessionaire or Sublandlord, as the case may be, shall defend, indemnify, protect and save the other harmless and shall pay, as the same becomes due and payable, all costs, expenses and reasonable attorneys' fees and court costs incurred or paid by them in connection with such litigation. The provisions of this section shall survive the expiration, termination or earlier cancellation of this Sublease for any claims, suits, demands, actions, liabilities, loss or damage which occur prior to the expiration, termination or earlier cancellation of this Sublease.

Section 8.4 **WAIVER OF RIGHT OF RECOVERY – INDEMNIFICATION.**

(a) Except as otherwise provided in this Sublease, neither Sublandlord nor Concessionaire shall be liable to the other or the other's insurance company (by way of subrogation or otherwise) for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the non-gross negligence of Sublandlord or the Concessionaire or their respective agents or employees.

(b) Concessionaire covenants and agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives (collectively the "Port Indemnitees") from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal 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 default of the Concessionaire in performing or observing any term or provision in this Sublease, or out of the use and occupancy of the Concessionaire Premises, and its officers, employees and persons who are doing business with Concessionaire, or out of any of the operations, acts or omissions of the Concessionaire, or out of the acts or omissions of others in the Concessionaire Premises with the Concessionaire consent. The foregoing indemnity shall also include claims and demands of the City of New York from which the Port Authority derives its rights in the Airport for indemnification arising by operation of law or through agreement of the Port Authority with the City of New York. If so directed by the Sublandlord or the Port Authority, the Concessionaire shall, at its own expense, defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in such handling such party shall not, without obtaining the express written permission from the General Counsel of the Port Authority, raise any defense involving in any way the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statute respecting suits against the Port Authority.

ARTICLE IX
UTILITIES

Sublandlord agrees to initially provide gas, electrical, water, sewer and such other services as Sublandlord shall, in the exercise of its reasonable discretion, determine necessary to each portion of the Concessionaire Premises. With the exception of gas and electricity, as to each of which Sublandlord shall pay all costs for the consumption thereof in all of the Concessionaire Premises, the costs of which shall be included in O&M Costs, the Sublandlord shall have no obligation for the payment of any other utilities used in the Concessionaire Premises. If the Concessionaire Premises shall have installed therein meters for any of the utilities consumed by Concessionaire, the maintenance thereof shall be at the sole cost and expense of the Concessionaire.

ARTICLE X
ASSIGNMENT AND SUBLETTING

Section 10.1 LIMITATIONS; PROHIBITIONS

Concessionaire covenants and agrees that it shall not transfer or assign this Sublease or its interest herein or all or any part of the letting hereunder, or all or any part of the Concessionaire Premises, without obtaining the prior written consent of Sublandlord, which shall not be unreasonably withheld, and the Port Authority. Any attempted transfer, assumption, assignment or sublease shall be void, *ab initio*, and infer no rights upon any third-parties. No amendment, transfer, assumption or contract shall relieve the Concessionaire of any of its obligations under this Sublease. Consent to the foregoing by any one or more of the Port Authority and Sublandlord shall not be deemed a waiver on the part of either or both of the Port Authority or Sublandlord to any prohibition against any future transfer, assignment, assumption or sublease. The term "transfer" includes, but is not limited to transactions in which any interest of the Concessionaire in this Sublease or the Concessionaire Premises are mortgaged or otherwise encumbered or in which the Concessionaire sublets, rents or otherwise permits occupancy or use of the Concessionaire

Premises or any part thereof. If Concessionaire is a corporation, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the issued or outstanding stock of said corporation shall change, shall be deemed to be a transfer, provided, however if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "over-the-counter" market, then such sale, assignment or transfer of stock shall not be deemed a transfer. If Concessionaire is a corporation, or if Concessionaire is a corporation whose stock is owned by a corporation ("Parent"), any transfer of any issued or outstanding stock of the Concessionaire or Parent which is a transfer shall require the prior consent or approval of the Sublandlord and the Port Authority. A sale of only those of the assets of any such corporation which are limited to less than all of the assets of the corporation, e.g., the Concessionaire Premises, shall be a "transfer" within the scope of this provision and require the prior written consent of the Port Authority and the Sublandlord. If Concessionaire is a partnership or joint venture, any sale, assignment or transfer, by operation of law or otherwise, of any interest in such partnership or joint venture shall be deemed to be a transfer. If Concessionaire is a limited liability company, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the membership interests in such limited liability company shall change, shall be deemed to be a transfer, provided, however, if the membership interests of such limited liability company are publicly traded on a national securities exchange or on the "over-the-counter" market, then this restriction on sale, assignment or transfer of membership interests shall be inapplicable. In the event that, in the reasonable exercise of its commercial judgment Sublandlord does not consent to the assignment or transfer as set forth herein, the parties agree that this Concessionaire Sublease shall terminate, with each party to bear its own costs therefor, on a date to be agreed but no later than 90 days from the date notice of such "no consent" is given.

Notwithstanding the foregoing provisions of this Article X containing a definition of the term "transfer" and exclusions or exceptions thereto, which shall not be binding upon or enforceable against the Port Authority, and regardless of whether the Sublandlord has in fact consented to any further subletting of the Concessionaire Premises or a proposed transfer, Sublandlord's consent will be of no force and effect and shall not be binding upon the Port Authority in any manner whatsoever. No such further subletting or a proposed transfer shall be effective and no estate or benefit shall be conferred on anyone until such time as the Port Authority has consented in writing, as determined in the Port Authority's sole and absolute discretion, to any such further subletting or a proposed transfer (including, without limitation, nothing otherwise permitted in this Article X shall become effective until such time as the transferee, any other applicable parties and the Port Authority have entered into an agreement in form and substance required by the Port Authority). In addition, the terms and provisions of the Port Authority Consent which in any way discusses and/or addresses the subject matter covered in this Article X shall be controlling and shall govern. Further, if this Sublease is assigned by Sublandlord and assumed by the Port Authority for any reason whatsoever, the Port Authority shall have the right to determine, in its sole and absolute discretion, whether any of the provisions of this Article X (which are stated to be between the Concessionaire and the Sublandlord) shall be binding upon and enforceable against the Port Authority and thereafter be considered to be a part thereof.

Section 10.2 **DBE CHANGE NOTICE**

If Concessionaire is a DBE, Concessionaire shall notify the Sublandlord and the Port Authority, in the manner as set forth in Section 17.6, below, of each and every change in the ownership or ownership structure of Concessionaire ("Change Notice") within thirty (30) days after each such change.

ARTICLE XI
DAMAGE AND DESTRUCTION

Section 11.1 **DAMAGE TO THE CONCESSIONAIRE PREMISES**

In the event of damage to, or destruction of; any portion of the Premises or Concessionaire Premises, or the fixtures and equipment therein and said portion, fixtures or equipment was originally within the Sublandlord's Work, if any, or any system within the Concessionaire Premises being the obligation of the Sublandlord to maintain, replace, or restore, the Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. Notwithstanding any damage to the Concessionaire Premises, to the extent that the Concessionaire Premises can be reasonably operated without risk of injury or damage to person or property, Concessionaire agrees to open, or reopen, as the case may be, and, in all events, to reopen for business immediately upon the completion of the foregoing repairs, restoration and rebuilding. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Concessionaire Sublease, as to that portion, or those portions of the Concessionaire Premises, so damaged. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises terminated to the floor area of the Concessionaire Premises as of the day of said damage.

Section 11.2 **DAMAGE TO TERMINAL**

In the event of damage to, or destruction of, any portion of the Terminal, other than as set forth in Section 11.1, above, Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Master Lease, as to that portion, or those portions of the Concessionaire Premises so damaged. If Sublandlord exercises such right, and the portion of the Concessionaire Premises affected thereby includes the Concessionaire Premises, then this Sublease shall end, as of the date of said termination. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises as to which this Sublease was terminated to the floor area of the Premises as of the day of said damage.

ARTICLE XII
EMINENT DOMAIN

Section 12.1 CONDEMNATION

(a) If the whole of the Premises or any portion of the Concessionaire Premises shall be taken by any public authority under the power of eminent domain or sold to a public authority under threat or in lieu of such taking, then the Term shall cease as of the day upon which possession is taken by such public authority, and the Rent shall be paid up to that day.

(b) A voluntary sale or transfer of interest-of all or any part of the Premises or of the Terminal to any public or quasi-public body, agency, person or other entity, corporate or otherwise, having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purposes of this Article 12.

Section 12.2 DAMAGES AND AWARDS

All awards and damages for such taking under the power of eminent domain or proceeds from any sale under threat or in lieu of such a taking, shall belong to and be the property of the Sublandlord or the Port Authority, irrespective of whether such damages shall be awarded or proceeds obtained as compensation for diminution in value to the leasehold improvements thereto, and Concessionaire shall have no claim against Sublandlord or the condemning authority with respect thereto; provided, however, neither the Sublandlord nor the Port Authority shall be entitled to any award specifically designated as compensation for, depreciation to, or cost of removal of, the stock and trade fixtures of the Concessionaire.

ARTICLE XIII
DEFAULT

Section 13.1 EVENTS OF DEFAULTS BY CONCESSIONAIRE

Events of Default. It shall be an "Event of Default" hereunder if any of the following shall occur:

(a) Failure to Make Payment

(i) Concessionaire fails to make any payment of Rent to the Sublandlord, and such failure continues for a period of five (5) days after written notice thereof to Concessionaire.

(ii) Concessionaire fails to make any payment of Rent to the Port Authority within the cure period permitted by the Port Authority.

(b) Concessionaire defaults or otherwise fails to perform or observe any of the covenants, terms or conditions contained in this Sublease to be performed or otherwise observed by Concessionaire (except for the payment of Rent, as set forth in (a), above) and such default or failure is not cured or performed within fifteen (15) days after written notice to Concessionaire.

(c) Pursuant to an order, judgment or decree entered by any court of competent jurisdiction (i) a receiver, trustee or liquidator of Concessionaire or of all or substantially all of the assets of Concessionaire shall be appointed or (ii) Concessionaire shall be adjudicated a bankrupt or insolvent, or (iii) a petition seeking reorganization of Concessionaire or an arrangement with creditors or a petition to take advantage of any insolvency law shall be approved, and Rent shall not thereafter be paid in accordance with the terms hereof.

(d) If Concessionaire is a DBE, a failure to provide the Change Notice as required pursuant to Section 10.2, hereof.

(e) An Event of Default occurring under any other Concessionaire Sublease with Sublandlord entered into, on or after the date hereof, for one or more portions of the Terminal.

(f) Failure to timely deliver the Bond, and each replacement thereof.

(g) The act or omission of the Concessionaire which, under the terms of this Sublease or the Master Lease is prohibited and which, if not timely corrected, would result in the Port Authority having the right to terminate either or both of the Master Lease or this Sublease.

Section 13.2 **RIGHTS AND REMEDIES; SUBLANDLORD**

(a) If there exists an Event of Default by Concessionaire, Sublandlord, after fifteen (15) days notice from Sublandlord that Sublandlord intends to cure such Event of Default, shall have the right, but not the obligation, to cure same and Concessionaire shall pay to Sublandlord, upon demand, as Additional Rent the reasonable cost thereof plus interest at the Default Rate until such Additional Rent has been paid in full.

(b) If there exists an Event of Default, Sublandlord shall have the right, in addition to the rights set forth in Section 13.2(a) above, to seek all remedies as are available at law or in equity.

(c) After a dispossess or removal in accordance with Law, Sublandlord may re-sublet the Concessionaire Premises or any part or parts thereof either in the name of Sublandlord or otherwise, for a term or terms which may, at the option of Sublandlord, be greater or less than the period which would otherwise have constituted the balance of the Term, and Concessionaire shall be obligated to pay Sublandlord any deficiency between the Rent due hereunder and the amount, if any, of the Rent collected on account of the new sublease or subleases of the Concessionaire Premises for each calendar year, or portion thereof, which would otherwise have constituted the balance of the Term. In computing such damages there shall be added to said deficiency the costs for reasonable attorneys' and brokerage fees which Sublandlord actually expends in connection with re-subletting the Concessionaire Premises. Such damages shall be paid by Concessionaire in installments on the dates specified in this Sublease for payment of Minimum Annual Guaranteed Rent and any suit brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Sublandlord to collect the deficiency for any subsequent period by a similar proceeding. Sublandlord shall not be liable for failure to re-sublet the Concessionaire Premises or, in the event that the Concessionaire Premises are re-sublet, for failure to collect the Rent under such re-subletting.

ARTICLE XIV
TAXES ON PROPERTY OF CONCESSIONAIRE

Concessionaire, solely, and neither the Sublandlord nor the Port Authority are or shall be responsible or liable for any taxes, assessments, levies, fees and other governmental charges and impositions of any and every kind or nature, regular or special, direct or indirect, foreseen or unforeseen or known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (i) Concessionaire's leasehold interest in the Concessionaire Premises, or (ii) furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Concessionaire Premises by Concessionaire.

ARTICLE XV
HOLDING OVER

Any holding over after the expiration of the Term shall be construed to be a tenancy from month-to-month and the Minimum Annual Guaranteed Rent payable, on a monthly basis, shall be at an amount equal to one-twelfth (1/12th) of 200% of the Minimum Annual Guaranteed Rent required to be paid by Concessionaire for the last full year of the Term.

ARTICLE XVI
QUIET ENJOYMENT

Upon payment by Concessionaire of Rent and upon the timely observance and full performance of all the covenants, terms and conditions on Concessionaire's part to be observed and performed under this Sublease and the Port Authority Consent, Concessionaire shall peaceably and quietly hold and enjoy the Concessionaire Premises for the Term, free from and without hindrance or interruption by Sublandlord or any other person or persons claiming by, through or under Sublandlord, subject however, to the Master Lease and the Port Authority Consent.

ARTICLE XVII
MISCELLANEOUS

Section 17.1 **ESTOPPEL STATEMENT.**

At any time and from time to time, both parties agree that, upon request in writing from the Sublandlord or the Port Authority, or their respective designee, to execute, acknowledge and deliver, within ten (10) days after request therefore, to the requesting party or its designee, a written statement certifying that this Sublease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent has been paid, the Minimum Annual Guaranteed Rent Commencement Date, the Expiration Date, and such other pertinent and reasonable information regarding this Sublease and Concessionaire's occupancy of the Concessionaire Premises as may be requested.

Section 17.2 **WAIVER; ELECTION OF REMEDIES**

One or more waivers of any covenant or condition by Sublandlord or the Port Authority shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by Sublandlord or the Port Authority to or of any act of Concessionaire requiring consent or approval of either, any or both of the Sublandlord, and the Port Authority shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act. No breach by Concessionaire of a covenant or condition of this Sublease shall be deemed to have been waived by either, any or both of the Sublandlord or the Port Authority unless such waiver is in writing signed by each non-breaching party. Rights and remedies under this Sublease or under any specific section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which each party has or may have elsewhere under this Sublease or at law or in equity, whether or not such section, subsection or clause expressly so states.

Section 17.3 **ENTIRE AGREEMENT**

The Glossary and Basic Sublease Provisions, this Sublease and all exhibits and/or addendum(s), and/or rider(s), if any, attached to this Sublease are hereby made a part of this Sublease, with full force and effect as if set forth herein. This Sublease supersedes all prior agreements between the parties hereto and sets forth all the covenants, promises, agreements and conditions, and understandings between Sublandlord and Concessionaire concerning the Concessionaire Premises, and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. The parties agree that any deletion of language from this Sublease prior to its mutual execution by Sublandlord and Concessionaire shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, obverse or opposite of the deleted language. No alteration, amendment, change or addition to this Sublease shall be binding upon Sublandlord or Concessionaire unless reduced to writing and signed by each party.

Section 17.4 **INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION**

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rent, any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

Section 17.5 **DELAYS; FORCE MAJEURE**

Time is of the essence in the performance under this Sublease. In the event Sublandlord or Concessionaire shall be delayed in the performance of any obligation, covenant, agreement or other undertaking required of it under this Sublease, by reasons of strikes; lockouts; labor disputes; Acts of God; inability to procure labor, materials, or reasonable substitutes therefore; or

shall at any time be so delayed by reason of the diminution of power or power failure(s); restrictive governmental laws or controls; judicial orders; enemy or hostile governmental action; civil commotion; fire or other casualty, or reasons of a similar nature not the fault of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the time for performance shall in no event be extended due to financial or economic problems of any party. Notwithstanding anything to the contrary, the occurrence of any of the events of force majeure herein described shall not excuse Concessionaire's obligations to pay Rent on a timely basis.

Section 17.6 **NOTICES**

Any notice or demand to Concessionaire or from Concessionaire to Sublandlord or the Port Authority shall be in writing and shall be mailed by either (a) certified mail addressed, return receipt requested with proper postage affixed thereto or (b) a Delivery Service, prepaid, if to Concessionaire, at the address of Concessionaire as set forth in the Glossary and Basic Sublease Provisions, or such other address as Concessionaire shall have last designated by notice in writing to Sublandlord and the Port Authority, and, if to Sublandlord or the Port Authority, to the address set forth in the Glossary and Basic Sublease Provisions, or such other address as Sublandlord shall have last designated by notice in writing to Concessionaire. Any notice sent or otherwise delivered in accordance with the foregoing shall be deemed served and effective upon the earlier of (i) the date of receipt or refusal to accept delivery, (ii) the second business day following the date upon which the notice has been delivered to the Delivery Service; or (iii) the third business day following the date upon which the notice has been deposited with the U.S. Postal Service with proper postage thereon.

Section 17.7 **CAPTIONS AND SECTION NUMBERS**

The captions, section numbers and article numbers and index appearing in this Sublease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Sublease or in any way affect this Sublease.

Section 17.8 **BROKERS' COMMISSIONS**

Concessionaire and Sublandlord represent and warrant each to the other and the Port Authority that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Sublease, and each party agrees to indemnify the other, the Sublandlord and the Port Authority and hold each and all of them harmless from all liabilities arising from any claim for brokerage commissions and finder's fees in connection with this Sublease. Such agreement shall survive the expiration or sooner termination of this Sublease.

Section 17.9 **SUCCESSORS**

All rights and liabilities herein given to, or imposed upon, the parties to this Sublease shall inure to and be imposed upon the respective heirs, executors, administrators, permitted successors and assigns of the said parties; and if there shall be more than one Concessionaire, they shall all he bound jointly and severally by the terms, covenants and agreements herein.

Section 17.10 **GOVERNING LAW**

This Sublease shall be governed by and construed in accordance with laws of the State of New York. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties, to the extent possible; in any event, all other provisions of this Sublease shall be deemed valid and enforceable to the full extent.

Section 17.11 **SURVIVAL OF OBLIGATIONS**

All obligations of both the Concessionaire and Sublandlord which cannot be ascertained to have been fully performed prior to the end of the Term, or any earlier termination hereof shall survive the expiration or termination of this Sublease, whichever occurs earlier.

Section 17.12 **ATTORNEYS' FEES.**

If at any time after the date that this Sublease has been executed by Sublandlord and Concessionaire, either Sublandlord or Concessionaire institutes any action or proceeding against the other relating to the provisions of this Sublease or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of the Law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Notwithstanding anything to the contrary contained herein, if either Sublandlord or Concessionaire engages the services of attorneys (either outside counsel or in-house counsel) to enforce the provisions of this Sublease, to the extent that either incurs any cost or expense (including such reasonable attorneys' fees for outside counsel or payroll and overhead expenses for in-house counsel, as the case may be) in connection with such enforcement, including instituting, prosecuting or defending its rights in any action, proceeding or dispute by reason of any default by Concessionaire or Sublandlord, as the case may be, sums so paid or billed to Sublandlord or Concessionaire, as the case may be, together with all costs and disbursements, shall be paid by the Concessionaire to the Sublandlord, or Sublandlord to Concessionaire, as the case may be, within ten (10) days after demand therefore. If Concessionaire fails to timely pay same, such will be deemed Rent and thereafter be due together with interest at the Default Rate. If Sublandlord fails to timely pay, such amount may be offset from the Minimum Annual Guaranteed Rent thereafter becoming due and payable to Sub landlord, but may not be offset against any rent thereafter becoming due and payable to the Port Authority, together with interest at the Default Rate, until the full amount has been so offset.

Section 17.13 **EXCULPATION**

Concessionaire, for itself and its successors and assigns covenants and agrees that it or they shall enforce any obligation of the Concessionaire contained in this Sublease solely against Sublandlord and not against any of the Protected Parties or in any manner realized upon the personal liability or assets of any of the Protected Parties. This is intended and shall be construed and interpreted as a covenant on behalf of each the Concessionaire and its successors and assigns

not to sue or seek enforcement of any judgment against any of the Protected Parties. In the event that suit is brought to enforce any obligation of the Sublandlord, Concessionaire for itself and its successors and assigns, covenant and agree that judgment proceedings shall be enforced only against the interest of the Sublandlord in the Premises and in no event against any other assets of Sublandlord, and that, after application of the proceeds of any seizure and sale of said assets, the obligation of Sublandlord hereunder shall be then and thereafter deemed fully discharged.

Section 17.14 **TERMINATION BY PORT AUTHORITY WITHOUT CAUSE; WAIVER AND RELEASE**

(a) Concessionaire acknowledges that the Port Authority has reserved and has the right with Sublandlord's concurrence to terminate any of the Concessionaire Subleases and the Term upon thirty (30) days prior written notice to Sublandlord and each of the affected Concessionaire(s) whether or not there then exists an Event of Default, such termination hereinafter referred to as "Discretionary Termination."

(b) Sublandlord covenants and agrees that, if the Port Authority shall exercise its right to terminate this Sublease by a Discretionary Termination, then the Sublandlord shall pay to the Concessionaire an amount equal to the Unamortized Capital Investment, as defined in (c), below, as of the effective date of the Discretionary Termination.

(c) For purposes of subsection (b) above, "Capital Investment" shall be Concessionaire's actual aggregate expenditures for initially constructing and equipping the Concessionaire Premises; and the term "Unamortized Capital Investment" shall mean the amount of the Capital Investment that, but for the Discretionary Termination, would have been amortized for the period from the effective date of such termination to the Expiration Date.

Section 17.15 **LETTERS OF CREDIT**

Concessionaire covenants and agrees that it shall deliver, or cause to be delivered to each of the Sublandlord and the Port Authority, prior to the date upon which the Concessionaire initially opens for business to the public in the Concessionaire Premises, an unconditional, irrevocable so-called "evergreen" letter of credit, being in an amount of [50%] to the Port Authority and [50%] to the Sublandlord of the Minimum Annual Guaranteed Rent to be paid for the then-current calendar year, but in no event less than $50,000.00 for the Port Authority and $50,000.00 for the Sublandlord. The issuer of each said letter of credit is to be approved by (i) as to the Letter of Credit for the Sublandlord, the Sublandlord; and (ii) as to the letter of credit for the Port Authority, by the Port Authority, and each of the two letters of credit are to provide for partial draws upon demand therefore by the respective beneficiary of each such letter credit.

Section 17.16 **RESERVED**

Section 17.17 **AUTHORITY OF EXECUTION**

If Concessionaire is a corporation, limited liability company or limited partnership, Concessionaire shall furnish to Sublandlord at the time of execution of this Sublease (a) a certificate issued by the state of its formation that the Concessionaire is in good standing in said state, (b) a certified copy of its Certificate of Incorporation, Articles of Organization, Certificate of

Formation, or such other documentation as used in the state of its formation whereby the Concessionaire was originally formed in said state, and (c) a certified copy of the resolution of the Board of Directors, General Partners, Managers or Managing Members of other party(ies) having the power of control of the Concessionaire approving this Sublease and authorizing its execution by the persons who have signed or will sign this Sublease.

Section 17.18 **AFFIRMATIVE ACTION AND NON-DISCRIMINATION**

(a) Concessionaire assures it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, color, sex, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises, either directly or indirectly, from the Port Authority. Concessionaire assures that it will require that its covered suborganizations will similarly undertake affirmative action programs, and that they will require assurance from their suborganizations to the same effect.

(b) This Sublease is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

Concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreements.

[Signature Page Follows]

IN WITNESS WHEREOF, Sublandlord and Concessionaire have caused this Sublease Agreement to be duly executed as of the year and day first above written.

BRITISH AIRWAYS PLC

By: _____

Title: VP FINANCE

BROOKSTONE STORES, INC.

By: _____

Title: Philip Rolzin
Executive Vice President

LEGAL
9CO
APPROVAL

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

Exhibit B
Description of Sublandlord's Work

At execution of Agreement, no Sublandlord Work was identified. If Sublandlord Work subsequently is required the parties agree to discuss such work in good faith as reasonably required.

Exhibit C

INTENTIONALLY OMITTED

Exhibit D
Percentage Rent Rates

From Commencement Date through October 31, 2015:

Amount of Annual Gross Receipts	Percentage Rent Rates
eX. 2.A.	

Exhibit E
Concessions Design and Construction Manual and
Port Authority Tenant Alteration Application

BRITISH AIRWAYS

JFK INTERNATIONAL AIRPORT

TERMINAL 7

CONCESSIONS DESIGN AND CONSTRUCTION MANUAL

UNISON-MAXIMUS

TRANSYSTEMS

Revised August 25, 2006

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SECTION 1 - GENERAL PROCEEDURES

1.0 INTRODUCTION

British Airways, dedicated to enriching the traveler's experience, is implementing an expansion to their JFK Terminal 7 Plan as it pertains to Concessionaires. This plan is to include new retail spaces, the on-going improvement and modification of existing leaseholds in order to present a unified design. The purpose of this Concessions Design & Construction manual is to identify the responsibilities and obligations of the parties seeking to join British Airways in fulfilling this endeavor.

This manual is separated into section.

Section 1 -	Definitions, codes, safety and security, permits / fees and a number of point's regarding working at airports.
Section 2 -	Outlines the three step design submission process.
Section 3 -	Design guidelines and technical requirements including but not limited to floors, walls, ceilings, signage etc.
Appendices	As listed in the Table of Contents

1.00 Organization

The Terminal Concessions projects are coordinated by TranSystems Corporation, the Design & Construction Coordinator, who serves as the liaison between the Concessionaire, the Concessionaire's design and construction personnel, British Airways, Unison / Maximus and the Port Authority. The Port Authority is the governing agency which enforces compliance with code requirements in the design and construction of all facilities at the Terminal. The Concessionaires is the responsible for his own dosing and construction personnel and must ensure that all work is in compliance with the Manual, all ode requirements and the submittal process.

1.1 Terms used in this Manual

"Owner" means British Airways (BA)
"Tenant / Concessionaire" means a permitted concession operator who is designing / constructing or operating a retail store or restaurant in the Terminal Building.
"Design and Construction Coordinator" (D&CC) means TranSystems Corporation
"Port Authority" means The Port Authority of New York and New Jersey (PANYNJ)
"Developer / Landlord" means Unison-Maximus (UM)

1.2 Applicable Codes and Standards

The tenant shall be responsible for reviewing and implementing, as part of their design, all codes and regulations applicable to the work. Review of the Tenant's documents by the Landlord, or the Design and Construction Coordinator, does not relieve the Tenant of responsibility to satisfy all applicable regulations.

Tenant design and construction must comply with applicable Federal, State and local laws, statutes, orders, codes, ordinances and regulations that are legally applicable to the work to be performed. For all construction at the Terminal, the Port Authority enforces Federal and State laws and regulations; New York City Building Codes; and the Port Authority and JFK Design/ Policy Standards. The latest editions of the following New York City codes and regulations should be utilized:

1. New York City Building Code and its Reference Standards
2. New York City Fire Prevention Code and Directives
3. New York City Local Laws
4. Rules of the Board of Standards ~ Appeals (BS&A)
5. New York State Labor Laws
6. New York State Energy Conservation Construction Code

This manual must NOT be referred to in construction documents.

1.3 Safety and Security

A safe, secure and healthy environment is to be maintained within the work place. Special procedures are required for air quality management within the leased premises during construction to ensure the Terminal is not adversely affected.

Security during construction is the Tenant's responsibility and all necessary precautions are to taken to secure the premises. The Landlord shall have no liability for any loss or damage including theft of building materials, equipment or supplies.

The following information is intended to assist the Concessionaire in developing design documents for review and approval. The outlined criteria identify specific requirements and physical limitations that influence the design, but still encourage individuality to achieve an interesting, exciting and unique shopping and dining environment.

1.4 Permits, Fees and Approvals

Tenants are responsible for obtaining all permits, paying all fees and obtaining all required approvals. Tenants upon completion of their work shall secure all applicable certificates of inspection and occupancy prior to occupying their space.

1.5 Statement of Professional Responsibility

All Concessionaire facilities must be designed by a practicing professional architect and/or engineer licensed in the State of New York. The professional must sign and seal the work, which must be confined to the profession in which he/she is licensed.

1.6 Information Releases

Through press releases, and the release of information in general, British Airways and Unison-Maximus keep the public informed and maintain public interest and support for activities in the Terminal. News releases should reflect the overall activities, goals and objectives of the airport, rather than emphasize an isolated event. Thus, all communications to the public media must first be submitted to the Owner's representative for approval and coordination with other releases.

1.7 Accessibility Standards

All facilities shall be designed and constructed in compliance with current Americans with Disabilities Act and Accessibility Guidelines (ADAAG), the New York Department of Building requirements and the Port Authority requirements.

1.8 Base Building Drawings for Tenant Use

The Tenant will be given by D&CC the following electronic drawing files;

1. LOD Key Floor Plan
2. Architectural Floor Plan
3. Architectural Reflected Ceiling Plan – if available.
4. Mechanical, Electrical, Plumbing and Sprinkler Plans of the premises, if available.
5. Sections and elevations and additional details as applicable to the premises.

1.9 Concessionaires / Tenant Design Construction Manual

Tenant's / Concessionaires, Architects, Engineers and contractors must be familiar with this Tenant Design Construction Manual - which is part of the Concessionaire's sublease and is hereby incorporated therein in its entirety - as well as with the Port Authority's Tenant Alteration Application Procedure & Standards Guide and Tenant Construction Review Manual. While the Manual refers to legally binding codes and standards, it is not in itself a code, standard or specification, but rather a guide for the Concessionaire's design consultants. The Manual must NOT be referred to in construction documents.

1.10 Working in the Airport

It is the responsibility of the Tenant and its Contractor to obtain and review guidelines or procedural manuals concerning security and construction at the Terminal and Airport. Points of

1.10 Working in the Airport continued

particular attention are listed below;

1. The Tenants representatives while confined to work in the premises must coordinate the movement of construction materials; noise and engineering service connections and shut downs with the Landlord, BA and the D&CC so as not to disturb the operations of the airport. These operations are to be scheduled by the Tenants Contractor giving five working days notice of the intention of such work and will only be allowed to proceed following written approval. The Landlord reserves the right to stop the Tenant's Work at any time should any such operation be deemed to be disruptive to the operations of the Airport.

2. Security passes will be required of the Tenant's Contractor and their personnel in those areas termed 'Airside' – beyond the secure check in locations. Personnel not badged will need to be escorted per security procedures in affect at the Terminal.

3. Deliveries to and removals from the Terminal will also require security clearances that must be complied with for all the Tenant's Contractor and Sub-Contractors per the existing Airport / Terminal Security Requirements.

4. Welding, cutting, grinding, coring or any such similar undertaking for any work within or outside of the premises will not be permitted without written 'Special Service Notice' from the Landlord. All such request for such work must be submitted at least five full working days in advance of such intention and could require special undertakings such as venting of fumes or stand by fire safety personnel. This applies to roof access as well.

5. The coring of the floor can only be allowed following the x-raying of the area to ensure clearances from structure or other in-slab services. The area beneath must be inspected and at the time of the core(s) being made the Contractor must have a representative below to ensure safety of any falling material or water damage from the equipment.

6. Should any element of the premises subject the existing structure to point loads either on the slab or suspended from the structure above raise concern by BA, Landlord or the D&CC representatives the Landlord reserves the right to have such concern evaluated by the Tenant's Structural Engineer at the Tenants expense. If required a signed and sealed evaluation / drawing could be requested. Questions of this nature raised by the PANYNJ during the submission process will be evaluated prior to the Approval to proceed to construction or become apart of the Rider Comments.

7. The requirement to 'tie into' or to temporarily shut down the existing fire alarm system within the premises requires a 'Special Service Notice.' All such request for such work

1.10 Working in the Airport continued

7. must be submitted at least five full working days in advance of such intention. In the event of shut down any special security and fire watch personnel needed will to be employed at the Tenant's expense.

8. The Tenant's and their Design Professionals will be required to thoroughly investigate the area of the premise to determine where and how all engineering services are to be tied into for the space. While some of the areas are established 'Retail Spaces' others are not. In such conditions it is the responsibility of the Tenant's Design Professionals to determine the point of tie in (connection) and extend the service as necessary to the premise as a part of the building contract. The services in question must also be evaluated for load / capacity and calculations if necessary provided to PANYNJ, BA, Landlord or D&CC. This includes but is not limited to the following; phone data lines, drainage, power, HVAC, sprinklers, fire alarm, natural gas, airport speakers etc.

End of Section

SECTION 2 – TENANT DESIGN SUBMISSIONS

2.0 General

1. Drawings, samples and specifications for the proposed premises are to be submitted to the Landlord, BA and the D&CC for review. D&CC – TranSystems will act as the distributor of information to and from the Tenant's Design Team. The sequence and process are defined in this section. The final submission drawings must be sealed by Architects and Engineers licensed in the State of New York.
2. All Tenant work to be in compliance with codes and particular attention is drawn to the non-combustible classification of the building, related flame spread ratings, smoke development classification of materials and the seismic restraint of construction elements.
3. The general clearances in and around fixed and free standing furniture must comply with ADA guidelines, 36" minimum. An ADA shelf / ledge or surface of appropriate width and height must be near to one of the cash register positions.
4. The Tenant's designers are free to use their conventional layer systems and CAD programs. At the project close-out the 'Record Drawings' are to be submitted in the following formats.
    A. One CD with all contract drawings updated to show the 'As Built' condition. This represents the 'CD of Record Drawings.'
    B. One new / clean printed set of Contract Drawings updated per item A above, this will not require the signature and seal of the Architects or Engineers.
    C. On the CD noted in A above the Tenant's Design Team is to place a simplified drawing named and layered as described below.
5. The Tenant's Design Team are to provide a single, plan drawing in AutoCAD version 2006 or later in 2D without any three dimensional objects or blocks and all line-work flat on the 'Z' plane in the following layer convention which will be inserted into the terminal master plan;
    A. Airport Column Lines – color 1 – line wt .12
    B. Airport Construction – color 3 – line wt .12
    C. Tenant Construction – color 41 – line wt .12
    D. Tenant Fixed / Free Standing Furniture – color 4 – line wt .12
    E. Tenant Electrical & Data Floor & Wall outlets – color 5 – line wt .12
    F. Tenant RCP all ceiling elements – FPE / MEP – color 7 – line wt. .12
    G Tenant Merchandizing plan, general text mags, etc. – color 8 – ln. wt.12.
    H This plan constitutes a separate drawing without a border sheet or text, other than that noted for the merchandizing plan, or any other detail notes, section or detail marks and is to be titled 'the premise name, space designation number and date in the following format;; mm/dd/yy..

2.1 FIRST DESIGN SUBMISSION

2.2 The Tenant's designer's attention is directed to the details / drawings appended to the back of this manual and the section heading '3 Design Criteria and Technical Requirements.'

2.3 The first Submission is to be presented on 11" x 17" sheets mounted to ¼" black Foam Core board. The boards are to be read horizontally with a line one inch (1") above the bottom edge allowing for the Tennant's Logo on the left, a title in the middle and Design Team Logo on the right. See Details drawings appended to the back of this manual. Note there is Materials Board described in 2.8 below.

2.4 Colored / rendered Floor plan – Three copies mounted per 2.3 above. Text is to be used to spell out the floor, free standing floor fixtures, wall units, special features and their respective finishes. In confined areas dimensioned clearances are to be shown to comply with clearances noted above.

2.5 Black & White Merchandizing plan – Three copies mounted per 2.3 above. Text is to be used to spell out the general locations of product intended to be displayed / sold. The purpose of this plan is to confirm the intentions of the Lease Documents with the Landlord and avoid design revisions due to misunderstandings. This is not intended to be exhaustive but sufficient so that the Tenant's designers are clear as to the kind or type of fixture is required.

2.6 Black & White Reflected ceiling plan – Three copies mounted per 2.3 above. General arrangements of ceiling features, lighting, intended heights and types of finish spelled out.

2.7 Colored / rendered Storefront Elevation - Three copies mounted per 2.3 above. The elevation may be skewed to represent a perspective if desired and must show the finishes with text to spell out features and materials intended. The Tenant's designers are to review the fascia signage zone details at the back of this manual.

2.8 One 11"x 17" materials board of ¼" black Foam Core board is required showing materials intended for use fixed to the board face. This may be supplemented with graphics if apart of the intended finishes or store lighting systems or a special feature needs to be clarified. An additional board may be added if necessary. The back of the board must explain the materials or graphics shown on the front in simple ghost layout of rectangles or squares with the description contained within the shapes. Following completion of a board the remaining two copies require the board to be color scanned and the print fixed to the front of the Foam Core per 2.3 above. A simple Xerox of the material clarifications on the back must be duplicated per the original.

2.9 The Tenant's proposal will be evaluated and comments returned within one week from the date of receipt.

2.10 SECOND DESIGN SUBMISSION

2.11 Upon receipt of the comments the Tenant's Design Team will have two weeks to prepare and submit the second submission; three weeks will be permitted if requested.

2.12 The format for this submission is the start of the development of the CD set. Drawings in 24" x 36" format are acceptable for PANYNJ retail projects. Should the Client's designers prefer 22" x 34" to ease the half set publication in 11" x 17" this is acceptable as well.

2.13 The intent of the first CD set is to provide clarification to the comments raised while allowing the Contract Documents to progress as quickly as possible. The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. Title page with usual airport key plan, terminal location plan and site location plan with north and working north arrows shown. A code evaluation must be shown and escape distances indicated. The usual listing of Client / Owner / Landlord / Space No. and store title together with a list of the drawings.
B. The general conditions may be either book form or part of the drawing set.
C. The specifications may be either book form or part of the drawing set.
D. Architectural plans at ¼" scale for setting out, finishes, fixture types etc.
E. Architectural ceiling plans at ¼" scale for lighting, coordination with MEP.
F. Architectural elevations at ½" scale both storefront and internal as required.
G. Architectural construction details as required.
H. Both wall fixed and free standing fixture details
I. Signage proposals and details at scales that clearly show materials and sizes.
J. Fixture cut sheets in book format.

2.14 This CD submission forms the first chance to evaluate the MEP requirements and is of particular importance to the evaluation team.

2.15 The Tenant's design team is again reminded of the importance to perform a thorough site investigation in order to find those services required. Should the investigation show that the necessary services needed and the routings proposed require disruption to other retail establishments, concourse or holding areas or any other space then careful consideration will be need to evaluate the proposal. Any such findings will need to be noted and added to the drawings to allow bidding contractors to provide accurate estimates for the work to be done.

2.16 The Tenant's design team is reminded that the site investigations necessary to locate a service must also include an evaluation of the capacity of that service to suit their means. Some detail measurements may be necessary to evaluate flow rates, power etc.

2.17 The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. All the Engineering Specifications may be placed on the drawing sheets or in a book together with the others if that is the preferred method.
B. Fire Prevention drawing for the plan information at the scales noted above for Architectural and detail sheets as required.
C. HVAC drawing for the ceiling plan information at the scales noted above for Architectural and detail sheets as required.
D. Electrical / Power drawing for the plan and ceiling information at the scales noted above for Architectural and detail sheets as required.

2.18 Should the services of a Structural Engineer be required, then there specifications may be added to the drawings or included in the book format and would follow those scales noted above with appropriate details sheets as required.

2.19 The evaluation of this submission by BA, Landlord and D&CC will be one week and the drawings do not need to be signed and sealed.

2.20 THIRD DESIGN SUBMISSION

2.21 The Tenant's design team will evaluate comments and revise and issue the final CDs / Design within a one week period, two weeks will be granted upon request. Changes to the CDs need only be noted in an accompanying letter signed by the Architect / Engineer referring on a point by point basis to the comments listed by the Landlord / BA / D&CC. This issue of the CDs must be singed and sealed by the design professionals. The documents must include the standard PANYNJ – TAA (Tenant Construction of Alteration Application) form signed and sealed by the design professional. This form must be correctly filled out with the exact information required by the PORT.

2.22 At this point the Port Authority Approval Process phase begins.

2.23 The D&CC will review the signed and sealed CD documents for compliance with the comments list and then submit all documents to the PANYNJ on behalf of the Tenant within two working days of receipt. Number of copies of each document / CD set to be confirmed by D&CC.

2.24 The review process by the PORT will take an estimated three to five weeks. The PANYNJ comments referred to as, 'The Rider,' will be transmitted directly from the D&CC to the Tenant's design team upon receipt. During this period if not earlier the Tenant's design team is advised to seek bids.

2.25 The Rider will clarify conditions under which the Pre Construction Meeting may be allowed to proceed. Should the Rider require resubmission of any part of the CD documentation prior to approval or the Pre-Con meeting being scheduled the Tenant's design team must comply specifically with each point noted in the Rider. Such points are signified in the Rider with an 'asterisk.' Alterations so required must be bubbled and so noted on the documentation and returned promptly to the D&CC for resubmission to the PORT.

2.26 Should the Rider grant approval to proceed to the Pre-Construction Meeting upon condition that specific items are clarified or confirmed then upon such undertaking being given by the Tenant's design team in writing the D&CC will arrange a date at its sole and absolute discretion. The Tenant's Architect-of-Record is solely responsible for securing acceptance of all Rider Comment responses prior to project close-out.

2.27 The Tenant and their Professional Team will attend the Port Authority Pre-Construction Meeting in order to obtain the Alteration Permit. At this point, the construction phase will begin.

2.27 The Tenants design team will provide construction administration services in conformance with the agreed standards. At least 10 working days prior to substantial completion the Project Close-out phase can begin. The Tenant's Architect will submit controlled inspection and close-out documents to the D&CC for submittal to and approval by the PANYNJ.

2.28 Within 5 working days after approval from the Port Authority, the D&C C will endeavor to schedule the date for final inspection by the Port Authority. The Tenant's Architect will attend the final inspection to obtain the Final Permit to Occupy (FPO) from the Port Authority. Fixturing and merchandising may occur at any time. However, the store may not open until Port Authority approval is secured.

End of Section

SECTION 3 - DESIGN CRITERIA AND TECHNICAL REQUIREMENTS

3.0 GENERAL – DESIGN CONDITIONS

The Overall floor plan, A-01, illustrates the locations of the various food and retail concessions leaseholds. Concessions leaseholds assigned to food are designated with the letters 'F' or 'D' and leaseholds for retail are labeled with the letter 'R.' new leaseholds are further defined according to Design Conditions A through D as follows:

3.1 Design Condition A

This applies to new retails spaces which are enclosed with full height walls and have storefronts defined by closures, walls or glass. For example Space F14, refer to applicable LOD plans and elevations.

3.2 Design Condition B

This applies to new open 'arcade' or 'kiosk' retail spaces which have an open grille or grid type ceiling and their perimeter is principally defined by side folding or overhead roll down grilles. For examples Spaces R11, R12 and R13, refer to applicable LOD plans and elevations.

3.3 Design Condition C

This applies to new, enclosed food service retail space D03 for which the storefront is enclosed by means of solid walls, glass partitions and glass doors, refer to LOD plans and elevations.

3.4 Design Condition D

This applies to open café' or restaurant seating areas defined by low walls or by other flexible or moveable barriers. For example see café seating area D18C or seating area adjacent to restaurant Space F2. Refer to applicable LOD plans and elevations.

3.5 GENERAL REQUIREMENTS

3.5.1 Floors

The level of the finished floor within the concession spaces shall align with that of the adjacent public area finished floor.

The Concessionaire is required to patch adjacent concourse terrazzo or carpet if it is damaged during construction. Floors in kitchen, food preparation and storage areas, including under counter and beverage service areas must have a quarry tile or welded sheet vinyl non-slip surface. Where a quarry tile finish is proposed a fully waterproofed membrane must be applied under the quarry tile to prevent leakage to areas below. A 6-inch high cove base in quarry tile or welded vinyl is required. Floor drains, grease traps are to be installed per code.

3.5.1 Floors Continued

If the space requires floor penetrations, the Tenant's contractor is required to follow procedures noted in Section 1.0 above. This applies to conditions should the penetrations be required outside the Tenant's space for example in the routing of services to the space in need.

The Tenant is not permitted to construct mezzanines or raised platforms in the leased premises.

3.5.2 Ceilings

The overall ceiling height within the lease space is to be a minimum of 8 feet. Open ceilings or exposed structure treatments are not acceptable except as specifically shown in the Design Guidelines, Design Condition B for example. Ceilings are required to be installed in all areas to maintain return-air plenums. All ceiling materials must be noncombustible, equal to Class A installation. Ceiling finishes shall have a flame spread rating not exceeding 200. The plenum must be accessible when base building or Concessionaire piping and/or equipment are located above.

Ceiling furrdowns or bulkheads are permitted. However, furrdowns or soffits must not restrict access to plumbing or HVAC equipment. Access doors are not permitted in gypsum board furrdowns or soffits. All damage to existing ceilings will be repaired at the Tenants expense. Ceilings in food and beverage spaces are to comply with all City of New York Health Department requirements.

3.5.3 Roofs

All required penetrations of the existing terminal roof for exhaust hoods, vent stacks, supplemental HVAC equipment or any other equipment are to be performed by the Tenant's Contractor, at the Tenant's expense. The Tenant must consider the following in dealing with roof-top equipment

1. Roof access
2. Existing roof warranties and specific Owner requirements to maintain such coverage.
3. Security clearances are required to inspect and undertake work on the roof, see Section 1 above.
4. Equipment shut-offs
5. Walkway access
6. Concealed piping
7. Existing equipment and penthouse clearances
8. Roof protection during construction
9. Temporary weatherproof protection of openings during construction
10. Lifting and hoisting of equipment
11. Structural calculations of penetrations and reinforcing of openings if required
12. Effects on roof drainage
13. Storage of equipment and materials on the roof during construction
14. Protection of roofing material from oil and grease emitted by kitchen exhaust equipment

All modifications or installations of additional equipment require review and consultation by the Owner's consultant team including the D&CC, structural engineer and MEP/FP engineer. The installation of such equipment will be at the Tenant's expense.

3.5.4 Walls

All interior demising walls between Concessionaires shall be gypsum board on metal stud framing. Partitions between multiple Concessionaires and any common, public or service corridor will extend to the structure above. The partitions between Concessionaires must have a one hour fire rating and must go to the underside of structure above. All demising partitions will be constructed by the Concessionaires at the Concessionaire's expense. All interior partitions are to extend 8 inches above the finished ceiling. All interior walls are to be constructed by the Concessionaire at the Concessionaire's expense. Permanent attachment to concrete columns with mechanical fasteners or adhesives is not permitted. The Concessionaire is permitted to furr columns with systems that are self-supporting or free standing within the leasehold. If heavy shelving, or attachments, is to be installed, the demising or Concessionaire's wall must be reinforced.

If fire-rated walls or other existing construction must be opened or cut through to extend services into a leasehold, the Concessionaire must preserve the original rating and construction.

3.6 Security

The Concessionaire is required to provide a means of securing the leasehold during non-operational hours.

3.7 IMAGERY – FOOD CONCESSIONAIRE

3.7.1 Food Concessionaire - Display

Creative display of food and beverages is required. The presentation must be clean, well-organized and devoid of clutter. Sneeze guards must be set back a minimum of 6 inches from the edge of counter and be a maximum height of 4'-6" above the finished floor. All horizontal joints are to be butt-glazed for maximum visibility. Glazing must be either tempered or safety glass. No acrylic glazing is permitted.

3.7.2 Food Concessionaire - Equipment

Concessionaire equipment on counters is to be set back a minimum of 6 inches from the front counter edge and recessed into the counter top so that no portion exceeds 42 inches in height. Beverage machines and other miscellaneous equipment on the counter are subject to design review. No simulated wood finishes will be permitted on equipment within public view.

Napkins, condiments, utensils, straws and trays must be set back from the front of the counter and must be dispensed from permanent holders recessed into the front counter top.

All paper goods and supplies are to be stored in areas not visible to the public. All equipment is to be furnished, installed and maintained by the Concessionaire at the Concessionaire's expense.

3.7.3 Food Concessionaire - Lighting

Lighting within the Concessionaire's leasehold and outside the leasehold area – as shown on the Design Guideline Drawings - is to be provided by the Concessionaire.

3.7.4 Food Concessionaire - General Signage

In addition to the basic signage, additional signage is normally required of the food Concessionaire. Menu boards and other signs must convey information in an organized, simple, straightforward manner.

The design and graphics of the signage are an integral part of the store concept. All supplemental menu graphics must be professionally produced and attractively displayed. Temporary displays are not allowed. See Section 2.5 for additional signage information.

3.7.5 Food Concessionaire - Menu Boards

The Concessionaire is to provide one or more menu boards designed as an integral part of the design concept. Menu boards must have changeable price and menu graphics. Graphics depicting food items or a supporting overall image are encouraged.

Internally illuminated menu boards are acceptable. Also acceptable are illuminated menu boards using a supplemental light source. The use of photographs for food displays is encouraged. Photographs must be produced by a professional.

"Daily Special" signs or signs for seasonal or temporary promotions must be integrated into the overall design of the menu board and of the back wall.

3.7.6 Food Concessionaire - Pick Up/Order Signage

The food Concessionaire has the option to have "Order Here" and "Pick Up Here" signs. The design and materials must be consistent with the overall design and colors used in the space. All "Order Here" signs must be supported from the counter top and may not be suspended from the ceiling.

3.7.7 Food Concessionaire - Storage

The Concessionaire's supplies must be stored on appropriate racks or in cabinets within the Concessionaire's leasehold. Such storage must be concealed from public view with doors or sliding panels.

3.8 IMAGERY - RETAIL CONCESSIONAIRE

3.8.1 Retail Concessionaire - Display

The zone behind the storefront where merchandise is displayed is where the customer receives their first full impression of the store. It is critical that special attention be paid to the area through the use of fixturing, props, furniture, and/or mannequins. These elements are to be consistent with the space in both design and materials.

3.8.2 Retail Concessionaire - Signage

All signage on and within the Concessionaire's space is subject to design review and approval, including all signs for sale promotions, seasonal promotions, product displays and brand displays. See Section 3.14 below for Storefront Signage and Appendices for detail signage information.

3.8.2 Retail Concessionaire – Signage Continued

Signage must be professionally designed, attractively displayed and produced in colors and materials consistent with the overall store image.

3.8.3 Retail Concessionaire - FF&E

All fixtures, furnishings and equipment shall be provided by the Concessionaire, at the Concessionaire's expense. Fixtures and furnishings play an important role in establishing the character of the store. They should be made of high quality, durable materials similar or complementary to those in the space. Simulated wood grain or other simulated materials on fixture or furniture is not acceptable.

The fixture layout should accommodate passengers with hand-held luggage, bag carts and baby strollers, as well as persons in wheelchairs who require maneuvering clearances.

Any equipment used in the store that is visible to the public is to be compatible with the store design.

All interior finishes are required to meet ASTM E-84, Type 1, Class A fire retardant requirements. All floor finishes shall also meet DOC FF1 (methanine pill test) and ASTM E648 (critical radiant flux test) with a minimum critical radiant flux of 0.5 watts per square centimeter.

3.9 STOREFRONT / PRIMARY SIGNAGE

Signage is an integral part of the overall design of the Terminal experience. Accordingly, the signage of the Concessionaire's space must be designed to maintain that consistency. The Concessionaire is permitted to use the corporate logo, sign type and lettering styles, when compatible with design criteria. The Concessionaire is required to coordinate primary and secondary signage into a complementary design. The Concessionaire must avoid obstructing Terminal way-finding and information signage. See Section 2.4 for specific signage guidelines for food and retail concession leaseholds.

3.9.1 General Signage Standards

The Concessionaire is fully responsible for the design, workmanship, installation and grammatical correctness of the signs and for coordinating the work of the sign contractor.

The Owner reserves the right to reject any signage that it deems inappropriate for the Terminal.

No exterior signage will be permitted on any part of the Terminal nor shall any signage be positioned so as to be visible from outside any window.

3.9.2 Primary Sign Element

Each Concessionaire is required to design, fabricate, install and maintain one primary sign above the entrance to the space – where a soffit/fascia condition exists - or incorporated into the storefront - if a soffit condition does not exist. The sign shall be limited to the Concessionaire's trading name only.

Any Concessionaire having storefronts on more than one side may use one sign on each storefront. The Concessionaire must comply with the following criteria:

- Etched, beveled, or sandblasted glass, dimensional metal and other materials with permanent appearance are encouraged. Three-dimensional illuminated halo or back-lit individually mounted letters are not acceptable. Letters may be milled metal / Lexan or acrylic and spray painted but can not be thicker than 1-1/2" when pinned to the fascia. The storefront signage will be front lit by the Tenant per details shown in the Appendices.

- For signs occurring on soffits or fascias, the maximum field height for signage (i.e. individual letters, double line of letters and/or sign backgrounds) is 12" overall. See applicable details.

3.9.3 Supplemental Signage

The Concessionaire is encouraged to integrate supplemental signage into the storefront design to support the overall store image and to provide greater visibility. End walls and columns may not be used for secondary signage.

No displays or signs are permitted outside the lease line, except where specifically shown in the Guideline Drawings.

All signs are subject to the approval of British Airways. Note the following:

1. Letters or logos applied or painted directly on the inside face of glass storefronts are not permitted.

2. Supergraphic treatment of large amounts storefronts is not permitted.

3. Hand-lettered non-professional signs and newspaper advertisements are not permitted.

4. Advertising for brand names (soft drinks, for example) is not permitted.

5. Animated, flashing or sound-producing elements are not permitted.

6. All graphics must have a non-glare, matte finish. The type must be large enough and its style simple enough to make the text clearly legible.

3.10 INTERIOR FINISHES

The selection and application of finishes will define the Concessionaire's image. Establishing a standard for quality, durability and aesthetic value is essential and the finishes will be evaluated and considered on that basis. The Concessionaire's image does not end at the storefront or at the front of counter, but continues to all areas exposed to the public. It is important to develop a color and finish palette that is both inviting and complementary to the overall image. Quality craftsmanship is a critical component of good finish applications.

3.10.1 Flooring

High quality, durable materials must be selected to withstand heavy traffic. Stone, ceramic tile, marble, wood or durable carpet are acceptable options. The Concessionaire must provide a continuous base around the perimeter of the lease space with material that is similar to the flooring as well as compatible with the storefront. Rubber or vinyl base is discouraged.

3.10.2 Ceilings / Walls / Doors

The Concessionaire is to use high quality, durable products for ceiling, walls and doors. Specific requirements include the following

1. Ceilings must be accessible for maintenance whenever piping or equipment, by base building or Concessionaire, occurs.

2. The following materials are not permitted:

    a. rough-sawn cedar or other unfinished woods
    b. imitation of natural materials, such a simulated wood, brick or laminates
    c. pegboard walls or fixturing systems
    d. painted drywall surfaces below 9 feet
    e. window coverings
    f. slat wall material

3. Concessionaire's interior doors must be solid core or hollow metal with a finish quality similar to the quality of the walls.

3.11 LIGHTING

The Concessionaire is encouraged to be creative in lighting design to maximize the quality and uniqueness of the environment. Energy efficient lighting is required. All lighting locations, specifications and product data sheets, including light source, must be submitted for review.

3.12 ACOUSTICS

The Concessionaire is encouraged to use materials and designs that minimize the transmission of sound to the concourse and adjacent spaces.

Food and beverage Concessionaires must isolate noises from food preparation, dishwashing and cleaning areas, using demising walls if necessary.

Music systems are permitted within leaseholds, but sound levels must be controlled to limit the sound to the leasehold boundaries.

3.13 CONSTRUCTION PROCEDURES

These construction procedures are intended to allow flexibility and accessibility to the Concessionaire's contractor for the timely execution of his work without compromising airline operations, passenger flow or airport security. Airport and airline operations and security must not be affected during any sequence of Concessionaire's construction. Therefore, some

3.13 Construction Procedures Continued

construction may be required during restricted working hours and during evening hours.

3.13.1 Concessionaire Examination of Site

By executing lease documents, the Concessionaires represent that they have:

1. Visited the site.
2. Made due allowances for difficulties and contingencies to be encountered.
3. Compared contract documents with work in place.
4. Informed themselves of existing conditions and work being performed by others.
5. Notified the D&CC of any inconsistency, or error discovered within the lease or between Lease Exhibit and existing conditions.
6. Agreed to inspection terms during construction
7. Agreed to provide verified as-built drawings to the D&CC.

3.13.2 Temporary Partitions

In most cases, construction by Concessionaire will occur behind temporary partitions which are to be constructed by the respective Concessionaire according to approved plans. In some cases, where such temporary partitions are not practical, the Concessionaire is to provide and maintain temporary dust partitions to seal-openings to all adjacent areas, provide temporary security and protection to the public during construction. The following points also apply:

1. Temporary construction partitions must be located a maximum of 2 feet beyond the lease line.

2. Partitions must extend full height to the existing structure or ceiling to positively seal off the construction area. Partitions in view of the public are to be vinyl-covered gypsum board on metal studs.

3. All finishes are to be returned to their original condition when temporary partitions are removed.

3.13.2 Temporary Partitions - continued

4. Construction signage – approved by British Airways - is required on temporary partitions.

5. Access doors into construction areas must be solid core or hollow metal doors with commercial grade hardware and must be mounted in hollow metal frames.

3.13.3 Security

The Concessionaire is entirely responsible for the security of the leased premises during construction and must take all necessary steps to maintain airport security. The Owner shall have no liability for loss or theft of any property.

The Concessionaire's contractor shall enter the building at landside entrances approved by the Owner.

Access by air-side or AOA ramp is strictly prohibited. Access to construction areas within the building must be through passageways and corridors as approved by the Owner or the designated D&CC. The access route must be shown on construction documents.

3.13.4 Construction Coordination

The following rules and regulations apply to the Concessionaire's contractors performing work at the Terminal.

In general, the Concessionaire's contractor is to confine his operations to the construction area defined by his Contract Limit Lines (CLL). Where operations require work or staging beyond those limits, such work is to be coordinated with the Owner or their designated D&CC using the following guidelines:

1. All work to be installed beyond the CLL, such as bracing, support steel, installation of conduits or lines etc., is to be coordinated with the Owner, their designated D&CC or with other contractors of the Concessionaire, where applicable.

   The Concessionaire's contractor shall attend the Terminal's mechanical coordination meetings. The contractor must sign off the coordination with other mechanical trades, if work is occurring beyond the CLL's.

3.13.4 Construction Coordination - continued

2. Where the Concessionaire's contractor's work precedes any Terminal mechanical work, the Concessionaire's contractor will furnish accurate as-builts, tying back dimensionally to building steel to locate their work. As-built documents of this work will be forwarded to British Airways or their designated D&CC within five (5) working days of work being performed in the field, for use by others in coordination of subsequent work.

3. Where the Concessionaire's contractor's work occurs after the Terminal's coordination of mechanical work in adjacent spaces, the Concessionaire's contractor will obtain copies of the "Coordination Drawing(s)" for the area and shall indicate his work on the plan. This drawing will be forwarded ten (10) working days prior to any work proceeding in the field outside their CLL and will be submitted to the Owner's D&CC for review.

4. No core drilling will occur in the Terminal outside the CLL. Any damage which occurs due to such activity will be the responsibility of the Concessionaire's contractor. Any necessary repairs not completed by the Concessionaire's contractor will be performed by a contractor selected by the Owner and applicable costs will be back-charged to the Concessionaire's contractor.

5. All shutdowns or tie-ins to existing services are to be made with a minimum of 48 hours written notice to the Owner. The Concessionaire's contractor is responsible to drain down and refill any systems affected and to furnish valves and dampers to isolate their work from the Terminal's systems, whether or not specifically indicated.

6. The Concessionaire's contractor will coordinate all deliveries with British Airways through their designated D&CC. Indicate the date, time and duration of deliveries and coordinate the location of all drop-offs. Minimum 48 hour notices will be given for all standard deliveries, and five (5) days written notice for all deliveries requiring cranes, boom equipment or requiring coordination to or blocking of roadway access.

7. The Concessionaire's contractor is required to provide competent job site supervision, full time while any of their work-force is present at the job site.XXXXXXXXXXXXXX capable and authorized to make binding decisions on behalf of the Concessionaire's contractor. , and who will be present

8. The Concessionaire's contractor will provide British Airways or their designated D&CC with emergency contact numbers for this individual and also for all major mechanical subcontractors working for them at the site.

3.13.4 Construction Coordination – continued

9. The Concessionaire's contractor is required to make available a competent representative of his firm to attend a weekly coordination meeting with British Airways to coordinate all operations and schedules and to give notice of upcoming work or deliveries.

10. All builders' materials, gang boxes, rubbish containers, etc. are to be kept within the confines of the CLL or at pre-approved locations outside the CLL.

11. The Concessionaire's contractor will coordinate all rubbish removal, storage of mini containers, placement of roll-off pickups and drop-off times with British Airways.

12. The Concessionaire's contractor is responsible for lockup and protection of all his builders' materials, tools and equipment during the course of construction.

13. The Concessionaire's contractors are responsible for procurement of their own security badges from the Port Authority and shall coordinate procurement with British Airways.

14. The Concessionaire's contractor is aware that all work will be performed by union personnel of trades claiming jurisdiction. The Concessionaire's contractor is advised that all additional labor which results from their construction activities such as costs for stand-by trades, master machinists, laborers, teamsters, either for work completed during or beyond normal working hours, will be their responsibility and should be arranged for and paid directly by the Concessionaire's contractor.

15. The Concessionaire's contractor shall establish and obtain approval of any required axis lines and benchmarks for performance of their work. The contractor shall coordinate back to these benchmarks, axis lines and starting points as applicable.

16. The Concessionaire's contractor will be responsible for the damage caused by its own personnel or by any of the subcontractors, including suppliers and vendors of the Concessionaire's contractor, to existing construction equipment, fixtures, finished surfaces, adjacent area of construction, existing buildings, properties or utilities. The Concessionaire's contractor is responsible for protection of the preceding work in the vicinity of its work. Any disturbance or impairment resulting directly or indirectly from the work of the Concessionaire's contractor will be immediately restored, repaired, or replaced to the satisfaction of British Airways and without additional cost to British Airways. Refusal by the Concessionaire's contractor to correct the damaged work after notice from the Owner's contractor will necessitate correction by others with all related costs charged to the Concessionaire's contractor.

3.13.4 Construction Coordination – continued

17. The Concessionaire's contractor shall make all efforts to coordinate his work with Terminal Base Building construction at the interface of the CCL (Contract Limit Line).

18. The Concessionaire's contractor must be aware of the structural capacities of areas to be used for the Concessionaire's contractor's equipment and material storage and shall not exceed rated capacities without taking appropriate steps to compensate for the imposing of loads which may exceed the design limits. All storage of materials outside the CLL must be coordinated with British Airways. Any modifications to the structure must be analyzed and detailed by the Concessionaire's contractor's engineer, a professional engineer licensed in New York State, and must be submitted for review by a structural engineer selected by British Airways. All related costs including costs of the engineering review shall be included in the Concessionaire's contract price for such work.

19. The Concessionaire's contractor shall include all costs related to any and all required laboratory testing including controlled inspections required by the Port Authority.

20. The Concessionaire's contractor should note that no elevators or personnel/material hoists are available for their use on the Terminal jobsite. Use of any of the Terminal's service elevators – when permissible - shall be coordinated in advance through British Airways.

21. The Concessionaire's contractor will provide any signs, warning devices, barricades, fences and guardrails which are required for the safe performance of its work, and to control vehicular and pedestrian traffic required by its operation in accordance with applicable codes. Any fines levied against the Owner's contractor by OSHA due to failure of the Concessionaire's contractor to comply with OSHA requirements shall be paid by the Concessionaire's contractor.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS

The Terminal has in place an MEP infrastructure adequate to accommodate the needs of the concessions program. Based on the extent and nature of the work proposed by the respective Concessionaires in this phase of the work, the utility capacities shall be verified by the Concessionaire's engineering consultants. Supplemental requirements or unusual circumstances caused by the Concessionaire's development may require that supplemental equipment be installed by an approved contractor at the Concessionaire's expense. Modifications, tie-ins to existing services and supplemental equipment construction must be engineered by a professional engineer registered in New York State. See Appendix 1 - Design Condition Drawings, for graphic layout of services available to the leaseholds.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS - continued

Plans must show all routings and connections of new services to existing lines, ductwork, piping, telephones, switchboards or motor control centers. The Concessionaire must provide complete heat loss/gain and electrical power calculation forms. See Appendix 2-Schedules for calculation forms.

3.14.1 HVAC

The Terminal is served with chilled and heated water from the Port Authority's central utility plant. Air handling units are currently in place to provide a standard design capacity. The base building supply air provided by British Airways is 1.0 cfm/ft^2 at 57°F. The Concessionaire must verify the existing air supply to the leasehold and determine how much more, if any, is needed.

The existing primary air ductwork may be used to cool the leasehold, provided engineering calculations show that it is adequate to meet new leasehold design loads.

The Concessionaire's HVAC design for each leasehold must meet the following criteria:

1. Heating - Winter inside comfort design temperature: 75°F db -
2. Cooling - Summer inside comfort design temperature: 78°F db
3. Outside design temperatures - as indicated in the current edition of the ASHRAE Handbook of Fundamentals, 2 1/2 percent conditions
4. The existing maximum supply air to conditioned building areas is calculated at 1.0 cfm/ft^2. The Concessionaire is responsible for supplying supplemental HVAC if additional air-conditioned air or make-up air is required because of increased loads in the leasehold.

The Concessionaire must provide the design, engineering and installation of the HVAC system including the following:

1. All medium pressure ductwork from the main trunk ducts to the VAV boxes including duct taps and control dampers
2. All low-pressure ductwork, including that necessary for supply, return air, exhaust, and make-up air
3. All grilles and diffusers for supply, return air, exhaust and make-up air

3.14.1 HVAC - continued

4. Controls: All Concessionaire's equipment must have direct digital controls (DDC); the Concessionaire's control equipment must be compatible with those installed in the Terminal (manufactured by Trend). The Concessionaire is responsible for providing all DDC control panels required for their installation and for connecting to the existing Terminal BMS system and should contact:

   Trend Controls Group
   200-214 West 4th Street
   Plainefield, NJ 07061
   (908.755.9500)

5. A heating system using fan powered VAV boxes or induction boxes with hot-water coils and the required hot-water piping
6. A kitchen hood exhaust and tempered make-up air systems package that includes both exhaust fans and make-up air fans which must be installed by an approved Contractor. The submitted design must include sizing of roof penetrations
   a. Roof exhaust fans must be of the belt drive, up-blast, vertical discharge type and must bear the AMCA certified ratings seals for air and sound performance. There must be a built-in grease drain.
   b. The filtered make-up air unit should have belt-driven double width/double inlet, forward curved centrifugal supply fans.
   c. The pre-wired control center must include, but not be limited to, an integral master disconnect switch with fuse blocks for main power connection, magnetic motor starters with thermal overloads and manual reset, a fused 115 volt control transformer and a distribution terminal control strip for connecting the control wiring. Wiring must be complete, requiring only one-point field connection for power service and one-point field connection for low voltage.

7. All supplemental cooling and heating service must be designed by the Concessionaire's engineer and installed by an approved contractor. Supplemental chilled and heating water air-handling units may be installed within the Concessionaire's lease space or, with written approval, may be installed on the roof.

8. Supplemental DX units are not desirable and will be subject to Owner approval. All other resources must be considered first and approval will be granted only if documented evidence shows that the units are necessary and unavoidable. Location and size of rooftop equipment penetrations will be subject to Owner review and approval.

3.14.2 Electrical

Base building power provided by British Airways includes one separate disconnect switch per leasehold. The feeder (all 3ph, 4 wire, 60Hz) and switch are sized at 10 VA/per ft^2 for retail Concessionaire leaseholds and 24 VA/per ft^2 for food Concessionaire leaseholds. Food Concessionaires will be required to reimburse the Owner for electrical service based on a flat rate fee per square foot or based on meter readings, as determined by British Airways.

The Concessionaire is responsible for the design, engineering and installation of electrical service within the lease space and for all connections and coordination with base building electrical systems. This includes panels, transformers, wire and conduit, light fixtures, switches, outlets and any other items required to complete a functional system.

3.14.3 Plumbing

The Concessionaire must provide the design, engineering and installation of any required plumbing at the concessionaire's expense including the following:

1. All domestic cold water piping
2. All domestic hot water piping including hot water beaters
3. All sanitary sewer (waste) piping, including floor drains and grease interceptors to be connected to the base building waste connection
4. All sanitary sewer vent piping
5. Water heaters when required - they must be accessible and include T&P relief-valve piping to the nearest floor or hub drain in the lease space; all water heaters shall be gas-fired
6. Domestic hot water heaters for hand sinks, if required, can be electric or gas, fully insulated and designed for a service water temperature not to exceed 140°F

All sanitary, vent and cold-water piping must connect to existing lines in the immediate Concessionaire area and be furnished and installed by the Concessionaire.

For food service areas, all Concessionaire drainage piping must be connected to a grease waste line extending to a grease interceptor. Locations should be coordinated with existing conditions, as described above, and with Concessionaire operations.

The Concessionaire must test all existing waste lines for capacity and is responsible for any necessary cleaning or repairs to existing plumbing before connections are made.

3.15 Lighting

All temporary lighting at 10 foot candles and any final required additional lighting shall be provided by the Concessionaire at the Concessionaire's expense in accordance with the Manual. Reference Section 2.0, General Design Criteria.

3.16 Fire Protection

All Concessionaire's leaseholds must be equipped with a sprinkler system except for kiosks or open-ceiling retail spaces which are positioned below ceilings which are presently equipped with sprinklers. The Concessionaire must provide the engineering design modification and installation of the fire sprinkler system for the leasehold, which includes:

1. The design, modification and installation of wet-pipe fire sprinkler systems
2. The design, modification and installation of new and/or existing fire sprinkler heads for lease space layout
3. The design and installation of adequate fire protection systems for such equipment as kitchen grease hoods, as required.

The Concessionaire is responsible for the design, engineering and installation of the sprinkler system within their leasehold and for connecting the sprinkler system to the existing Terminal fire protection system. Contact the following contractor:

Sirina Fire Protection Corporation
151 Herrick Road
Garden City Park, NY 11040
(516.942.0400)

The kitchen hood fire protection system should be connected, by the Concessionaire, at the Concessionaire's expense, to the base building fire alarm system.

If the Concessionaire adds new ductwork for supply, return or exhaust or if the Concessionaire adds supplemental air handling units to the lease space, the Concessionaire's contractor shall install duct-mounted smoke detectors that are connected to the base building's fire alarm system. The Concessionaire's contractor shall install new devices, wiring, etc., and the final connections to the base building's fire alarm system shall be made by the Owner's fire alarm system vendor, at the Concessionaire's expense.

The base building fire alarm system, provided by the Owner, at the Owner's expense, includes one fire alarm horn/strobe per open space (minimum) plus one additional horn/strobe per 400 square feet in accordance with NFPA 72. Fire alarm devices are not generally required in leaseholds, except for in large leases where audio-visual devices must be installed. The designation of the fire alarm devices will be handled on a case-by-case basis in coordination with the Concessionaire's leasehold. It will be the responsibility of the Concessionaire, at the Concessionaire's expense, to provide any required fire alarm devices required for adequate visibility based on the design of the leasehold.

Lease spaces are not independent fire protection zones. Fire protection zones are based on column locations, and several leaseholds may be in the same fire protection zone.

3.17 Telephone

The Concessionaire will be responsible for ordering voice and data circuits from the various Telecommunications Service Providers (e.g. Bell Atlantic, AT&T, Sprint). For routing the Telecommunications circuits to the leasehold, the Concessionaire must use the building cable plant, provided by the British Airways. Originating from the nearest Communications Support Room (SCR), a fifty pair category five (CAT5) cable shall be installed by the Concessionaire terminated within the leasehold.

3.18 Natural Gas

For any natural gas supply lines required for cooking or for hot water heating appliances, the concessionaire is responsible for the design, engineering and installation within their leasehold and for connecting the gas line to the existing natural gas supply in the terminal. Any venting required shall also be provided by the concessionaire as will any required metering.

3.19 Structural

The Base Building structure will accommodate floor loading of 100 psf live load, which cannot be exceeded by the Concessionaire.

END OF SECTION

THE PORT AUTHORITY OF NY & NJ

AVIATION DEPARTMENT

TENANT ALTERATION PROCEDURES AND STANDARDS GUIDE

FOR

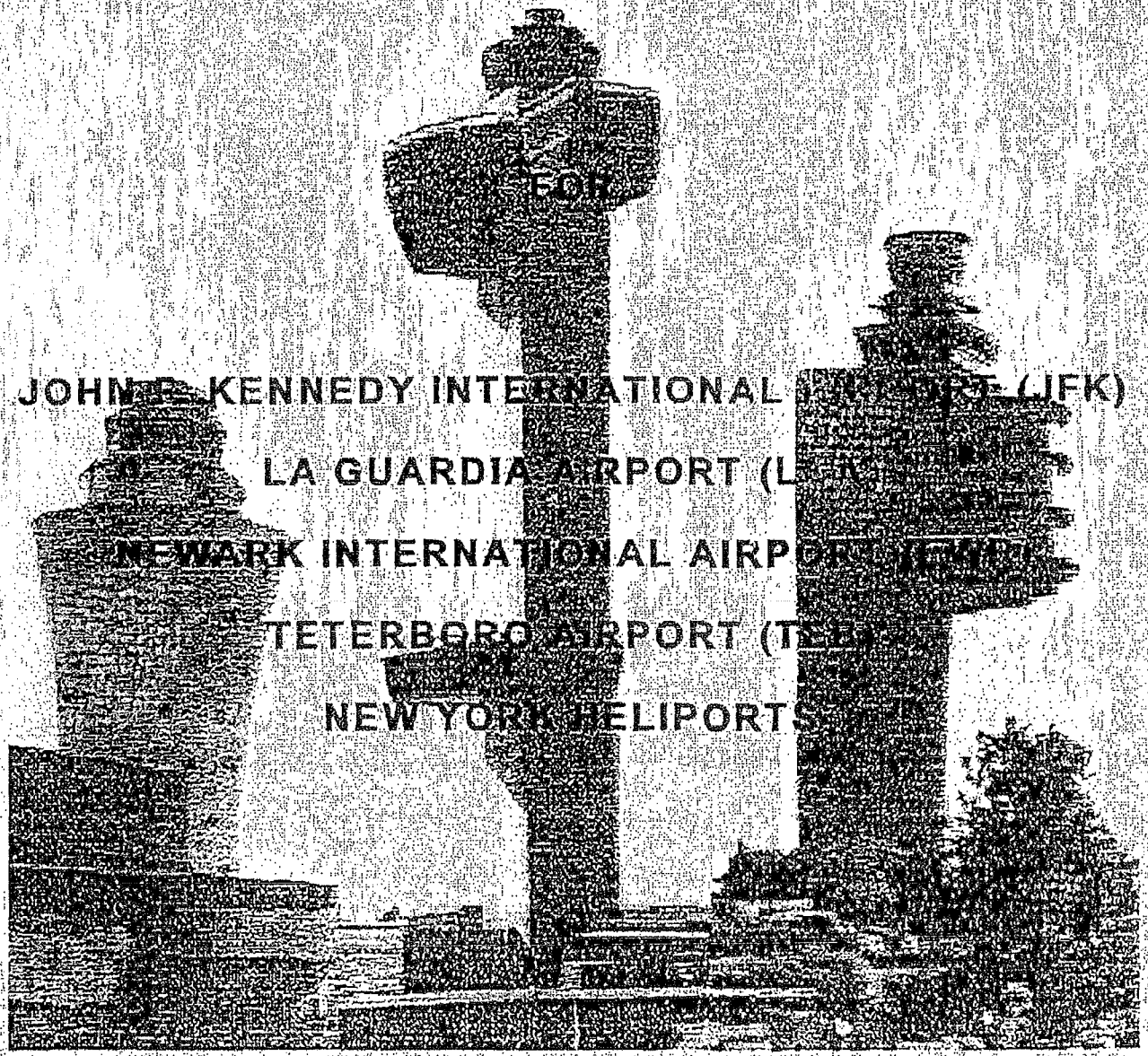
JOHN F. KENNEDY INTERNATIONAL AIRPORT (JFK)

LA GUARDIA AIRPORT (LGA)

NEWARK INTERNATIONAL AIRPORT (EWR)

TETERBORO AIRPORT (TEB)

NEW YORK HELIPORTS (HPN)



MARCH 1998

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SECTION III. CONSTRUCTION PROCESS

Introduction

Upon approval of design documents, M/WBE Participation Plan and Asbestos Certification, the Manager, Airport Facilities Division will transmit to the Tenant, copying the A/E of Record, an "Approval to begin construction" letter with any unresolved "Basic" comments, if applicable. This letter will authorize construction to proceed and direct the Tenant to contact the Resident Engineers' Office (REO) to schedule a Pre-Construction Conference.

The Resident Engineers Office (REO) for Tenant Construction is a field unit of the PA Engineering Department. The REO is responsible for oversight of the Tenant activities with regard to (i) construction quality assurance and safety; (ii) compliance with the approved plans, specifications, and applicable Codes; (iii) controlled inspections as required by the Code; and (iv) material certifications. The Resident Engineer coordinates project close-out through receipt of appropriate certifications from the Tenant, the Tenant's contractor and A/E, and coordinates the PA audit inspections and tests of the life safety elements and installed systems for conformance with the approved plans, Codes, and PA Standards. Once construction begins, the primary contact with the Tenant will be the REO. If during construction certain changes to the approved design documents are required which necessitate additional reviews by the PA, the REO will direct the Tenant's consultant to resubmit the revised design documents to the TLO for review.

A. Pre-Construction Conference

1. **Approval to Construct** - Once the PA TAA review process yields an approval to construct, or an approval subject to conditions; a letter is issued from the Airport Facilities Manager (sample letter - Figure V-13) indicating that construction may begin. This letter further refers the Tenant to the Resident Engineers' Office (REO) to schedule a Pre-Construction Conference.

2. **The Resident Engineers' Office** - This office performs audit inspections throughout the construction process. The Tenant's A/E is responsible for adequately inspecting and monitoring the work; ensuring the contractor constructs the improvement project in accordance with the PA approved plans and specifications; ensuring that all controlled inspections are performed as required by the applicable Building Codes; certifying that all life safety and code requirements are constructed/installed and tested properly; that all special PA construction requirements/permits are obtained (cutting and burning permits, hot work permits, etc.) and that all required Tenant A/E certifications are provided.

3. **Tenant Responsibilities** - The REO expects the Tenant and their A/E of Record, (the primary entity responsible for inspections), to have an appropriate construction Quality Assurance Program, including the necessary on-site inspection capabilities, for the size of the project, which will allow the A/E of Record to certify that the work is complete as described in Subsection III-C.

   The PA also expects the Tenant and their A/E to monitor all construction activities to ensure the safety of construction workers, tenant employees and the general public.

4. **Pre-Construction Conference Requirements** - Required attendees include the Tenant, A/E of Record, prime and sub-contractors. Information required for the Preconstruction conference includes:

   a) Approval letter from the Airport Facilities Division (Figure V-13) authorizing construction.

   b) Contractors Insurance certificates (Figure V-24).

   c) Certification that no asbestos exists (Figure V-7) or an asbestos abatement program completion certification (Figure V-27).

   d) A letter from the Tenant identifying the A/E firm/individuals who will inspect the construction and who will certify its completion (Figure V-16) and a letter of understanding from the A/E (Figure V-17).

   e) Complete set of PA approved drawings and specifications for the REO.

   f) A review of all proposed construction staging areas, haul routes and delivery routes, including any needed modifications of existing conditions.

   g) An acceptance of the M/WBE Participation Plan (Figure V-6) by the airport AAO.

   h) A list of Contractor and sub-contractor emergency telephone numbers. A listing of PA emergency telephone numbers will be furnished to the Tenant at the Pre-Construction Conference (Figure V-15).

   i) A written compliance program by the Tenant's contractor for projects in which lead containing material will be disturbed.

   j) The REO will provide to the Tenant an Alteration Permit Placard (Figure V-14) at the Pre-Construction Conference which shall be prominently displayed at the site during construction.

5. **FAA Notice of Construction** - The Tenant shall pay special attention to the need to submit completed Notice(s) of Construction (FAA Form 7460-1). See Sample Notice in Figure V-30 for proposed permanent structure (i.e., building addition) and/or temporary structure (i.e., crane/pile driver) as directed by the PA Aviation Project Management and Technical Services Division (PMTS). The Tenant shall submit the Notice(s) to PMTS via the TLO. PMTS will review these Notices and file with FAA. Data provided must be correct and exact. Latitude and Longitude coordinates must be expressed in North American Datum 1983 (NAD 83), and all related elevations shown in feet above mean sea level at Sandy Hook, N.J. Early processing is urged as the FAA review process can take from 30 to 90 days, and construction cannot proceed without FAA approval.

B. Insurance

When Tenant contractors perform construction work on site, they must have adequate insurance, as follows:

1. Any TAA (or construction alteration) with a cost of $1,000,000 (one million dollars) or more will be submitted to Risk Management through the REO for written approval of the certificates of insurance prior to the commencement of any construction work.

2. Any Minor Work (Maintenance) request or TAA with a cost of less than one million dollars will be reviewed by the REO using the following guidelines:

   a) Workers' Compensation is required for all tenant alterations.

   b) Commercial General Liability Insurance on an occurrence basis with limits as follows:

      (1) Rampside (Aeronautical) $3,000,000 (General Aggregate, Products - Completed Operations Aggregate, Each Occurrence)

      (2) Roadside (non-aeronautical) $1,000,000 (General Aggregate, Products - Completed Operations Aggregate, Each Occurrence)

   c) Automobile Liability (if Autos are used) for (Any) or (owned, Hired, Non-Owned) autos with limits as follows:

      (1) Rampside (Aeronautical) $3,000,000 Combined Single Limit

      (2) Roadside (non-aeronautical) $1,000,000 Combined Single Limit

d) For Commercial General Liability and Automobile Liability, the PA of NY & NJ and the Tenant must be included as an additional insured. (Certificate holder is not the additional insured unless it says so.)

e) If the cost of the TAA (or construction alteration) is less than one million dollars and the work to be done will be near aircraft (such as runways, taxiways, ramps and apron areas, or where the contractor would be in the same location as aircraft), then the alteration must be submitted to Risk Management in the same manner as stated in B.1 above.

f) The Certificate of Insurance must include the TAA# and will be retained in the TAA or Minor Work (Maintenance) Request file by the REO. A sample certificate annotated to indicate the required information is shown in Figure V-24.

C. Construction Activities

1. General

a) During construction, there are no meetings required with the REO. However, the REO is available to attend job site meetings, if requested. Meetings can be scheduled by either the Tenant or the REO to address specific problems.

b) Changes in construction due to field conditions which require redesign must be brought to the attention of the REO. The REO will determine if the change requires formal resubmission of documents to the PA for review.

c) On alteration projects in occupied buildings, the Tenant must maintain the existing life safety systems in occupied areas until new systems are installed or modified and are operational. Temporary shutdown of sprinkler systems in occupied areas are permissible as long as the system is reactivated by the end of the work day. Any modification work on existing fire protection and alarm systems by the Tenant's contractor shall be cleared through the REO. Proper advance notification must be given prior to the shut down of any fire protection system at any time.

d) Expansion of construction beyond the PA approved documents, workscope changes, or the undertaking of other construction not approved by the PA will be subject to an "unauthorized construction" notification, whereupon the work will be stopped and the Tenant's contractor may be required to remove the unauthorized construction.

2. **Safety Procedures**

a) The contractor must adhere to all general safety procedures and those specifically identified by the appropriate PA operating divisions and/or tenant facility managers, for the particular conditions in the area.

b) Tenant construction, where unsafe practices are observed, can be shut down by the REO or PA Police.

3. **Inspections and Certifications**

a) During construction, the airport Fire Marshal may visit the construction site and do spot checking for welding permits, certifications, and construction fire safety conditions. The Fire Marshal can stop the construction for unsafe fire conditions at any time and during final inspection may withhold occupancy approval if fire and life safety systems and/or code requirements are not met.

b) Controlled Inspections are to be performed as required by the applicable Building Code. Copies of signed and sealed reports must be submitted to the REO as they are performed, under cover letter from the A/E of Record indicating acceptance.

c) Other inspections and certifications that may be required to be submitted to the REO prior to the REO recommending that a Permit to Occupy or Use be issued include:

(1) Concrete job mix formulas report
(2) Concrete test cylinder reports
(3) Soil compaction reports
(4) Concrete plant reports
(5) Pile driving logs and resurvey drawing, including deviations from design location and bearing capacity
(6) Backfill density tests including trenches
(7) Screenings density tests
(8) Asphalt density tests
(9) Structural steel erection certification by a PE
(10) Structural steel high strength bolts certification by PE
(11) Structural welds test report
(12) Structural steel mill certification
(13) Structural steel spray-on fireproofing certification.

(14) Fire watch report including duration each day, duty list for each shift with telephone numbers and fire watch procedures to be followed

(15) Suspended ceiling concrete anchors certification and suspension system components, if different from that approved by PA

(16) Carpeting flammability test reports

(17) Drapery flammability test reports

(18) Flammability test reports on all other materials required by code

(19) Electrical "HI-POT" tests and inspection reports on electrical power feeder

(20) Roof warranties, guaranties or bonds.

(20) Ground rod resistance test report at aircraft location

(21) Aircraft fueling systems cathodic protection certification.

(22) Vehicle fueling systems cathodic protection certification.

(23) Copy of sprinkler drawings approved by tenant's fire protection underwriter.

(24) Shatter-proof glass certification

(25) Fuel tanks fire suppression system certification

(26) Fuel tanks test inspection reports

(27) Gas piping pressure test reports and certification

(28) HVAC Balancing report

(29) Hydrostatic test reports of sprinkler, plumbing and HVAC piping systems

(30) Potable water analysis and purification test report

(31) NYC Fire Department alarm box test certification (for JFK and LGA)

(32) Smoke detectors velocity and sensitivity test report

(33) Heat rise of detectors certificate of satisfactory performance

(34) Certification letter from electrical engineer for fire protection systems, fire control panels, and transmission of alarms to the Police Fire Board signed and sealed

(35) Certification letter from mechanical engineer for HVAC systems and other controlled inspected mechanical systems, signed and sealed.

(36) Certification letter from A/E signed and sealed (Figure V-25 for a partial completion and/or Figure V-26 for a final project completion)

4. **Operational Considerations**

The REO will coordinate construction activities with the appropriate PA airport operating divisions and/or tenant facility managers for review of construction staging, work hours and maintenance of traffic (vehicular and pedestrian/passenger) as required. For example, at JFK, these include JFK Landside Services, the IAB Building and/or the Unit Terminal Managers.

For work in the vicinity of the EWR Monorail - any construction or surveying operation within 20 ft. horizontally measured from the center line of each guideway requires a Permit. A permit (see Figure V-31) from AEG (the Monorail Operation and Maintenance Contractor) may be issued subject to the location and nature of the activity in relation to the Monorail operation. The permit must be applied for, through the REO, at least 48 hours prior to the start of work. AEG and/or the PA reserves the right to deny or rescind the permit at their discretion at any time.

5. Cranes and Pile Drivers

a) The REO shall be notified at least 48 hours prior to the arrival of any crane (or pile driver) at the work site.

b) If on the Airside, on the day of arrival of the crane (or pile driver) at the work site, and every day the crane (or pile driver) is at the work site, the Aeronautical Operations Duty Supervisor will be notified of its presence and location, the time work will be started, and a second notification at the end of each work day. The current telephone number of the Aeronautical Operations Duty Supervisor will be provided to the Tenant at the Pre-Construction Conference.

c) The following information for each crane (or pile driver) shall be given to the REO and/or the Aeronautical Operations Duty Supervisor:

(1) Boom height and its location with respect to the nearest adjacent Runway centerline.

(2) Weight

d) Crane (or pile driver) must be grounded.

e) Crane (or pile driver) must have an up-to-date Certificate of Inspection from the appropriate local authority (eg., New York City).

f) Crane (or pile driver) operator must have a current Operator's License from the appropriate local authority (eg., New York City).

g) All cranes and pile drivers shall be appropriately marked and lighted.

h) Equipment taller than 25 feet shall be lighted and marked in accordance with FAA requirements, and as directed by the PA.

i) At EWR, a PA engineer must be on site for all pile driving.

6. **Required Construction Permits**

a) Cutting and Welding Permits - (Figure V-19) are issued by the REO to individuals on specific projects by name & TAA identification number. The individual must request these permits from the REO. For a burning permit, the individual must have a Fire Department Permit or Certificate of Fitness for Burning from the appropriate local authority. For a Welding Permit, if non-structural, the requirements are the same as a burning permit. For a structural welding permit, the requirements are the same as a burning permit plus either a local Building Department license for welding or AWS certified permit for welding.

b) Hot Work Permits - (Figure V-20) are required on ramp-side and areas near fuel lines. A Hot Work Permit is required to be obtained on a daily basis from the REO.

c) Electric arc welding must be pre-cleared with the FAA indicating the type of equipment to be used due to electronic interferences. Contact with the FAA shall be made through the TLO or the REO.

d) Any surfaces coated with lead based paint which are to be cut or welded either by gas or electric arc must be stripped of paint in the affected area and the residue properly disposed of prior to proceeding with the work.

7. Security

For non-airside work, workers are required to wear identification which indicates which contractor they are working for.

For Work on the Airside:

a) All Tenant contractor personnel shall have numbered badges (pouches). The contractor shall submit a list of employees by name, badge number, and social security number to the Aeronautical Services Division via the REO on a daily basis.

b) Employees riding on contractor shuttles traveling onto the Airside will be checked against approved employee badge lists at access gates.

c) Contractor employees driving unescorted on airside or ramp areas must have an airside drivers permit based on attendance at and successful completion of a special Airport Security Division driving class. Contact the REO for information on class schedules.

d) All unescorted vehicles operating in the ramp area must display proper PA identification. Such identification is obtained from the PA Police through the REO.

e) Maintaining security on the ramp as per Federal Air Regulation (FAR) Part 107 is a requirement.

f) Tenants may erect a fence around their leasehold work area to separate the site from the airside. The area within the fence may be then considered landside and may not fall under the security requirements of airside work. Any gates onto airside would have to be manned by a guard and be adequately secured. Fences must comply with FAA Advisory Circular #107-1 requirements.

8. **Asbestos**

a) Asbestos abatement construction regulations are different from normal construction activities. Different requirements are implemented for preconstruction meetings and close-out activities for asbestos projects.

b) During abatement work, the PA Engineering Department and the airport Environmental Services Unit field representatives audit the contractor's and Tenant's Environmental consultant's work. There are a series of inspections performed by the environmental consultant. The PA field representative will also perform confirmation inspections after the environmental consultant's approval of the contractor's work.

c) The environmental consultant collects final air clearance samples and based on the results will notify the REO whether or not to commence the breakdown of the work area. The consultant will then provide a letter certifying the area is ready for occupancy. (Figure V-27) The PA field representative will also conduct a final visual inspection in the presence of the

environmental consultant after the certification is received from the consultant by the REO.

d) A final and all inclusive compliance report completed by the contractor and certified by the environmental consultant must be given to the PA to become part of the record for future facility use.

9. **Lead Paint**

Prior to construction activities, it must be determined if lead based paint is present in the work area. The PA requires that all contractors comply with EPA, OSHA, and State Regulations in the handling, removal and disposal of lead based paint. Contractors shall provide a written compliance program as required by OSHA and include a proposed plan for the containment and disposal of disturbed lead to the REO. Most susceptible problems occur with workers burning and/or cutting steel with lead paint or scraping or blasting lead paint. Lead must be contained, collected, and disposed of properly. Refer to Subsection IV-F for further information.

10. **Materials Control**

a) **Material Storage** - The storage of construction materials shall be controlled in Tenant construction to avoid unsightly appearance and to prevent winds and/or jet blast from scattering materials on airside. Appropriate storage areas and tie-downs must be provided by the contractor and approved by the REO.

b) **Removal of surplus materials** - Fill, dirt, etc., shall be done as the work progresses. No material will be stockpiled on the site without prior written approval by the REO. Excess useable fill material shall be delivered to a location designated by the REO and shall become the property of the PA, unless the PA directs the Tenant to remove and dispose of it. The Tenant shall request this determination by the TLO at the time of the initial submittal of the TAA.

c) **Contaminated Soils and Ground Water** - Contaminated soils and ground water are also an issue that must be addressed by Tenant A/Es and Contractors. Removal or abatement must meet all local, state and federal laws and regulations. Refer to Subsection IV-F for further information.

11. **Dewatering**

Dewatering in Tenant Construction must be carefully coordinated with the PA airport Environmental Services Unit through the REO or TLO. Refer to Subsection IV-F.

12. **Construction Deliveries Through the Airside**

a) Normal deliveries should be scheduled for off-peak hours. Deliveries of oversize materials or equipment via airside routes shall be requested by the Tenant to the REO not less than 24 hours prior to the requested time, over a pre-approved route, and should usually take place at night. Delivery times are to be arranged at the Pre-Construction meeting.

b) An assigned escort and monitored haul route will be established through secured areas by the REO when frequent deliveries are anticipated, such as concrete deliveries.

c) In cases where there are frequent deliveries for a limited time period the contractor may request numbered badges for delivery personnel. The Contractor shall submit a list of numbered badge with names and social security numbers of employees on a daily basis. These are checked at the time the delivery comes though the airside gate. All drivers must have an airside drivers permit as noted in paragraph 7 of this Subsection.

d) Any construction activity proposed that will impact taxiway clearances or aircraft operations must be coordinated through the REO at least 24 hours in advance.

e) Airlines or other Tenants who have escort privileges can provide for their own escort of normal deliveries on the Airside Service Road. The REO must be notified in advance of all Airline or Tenant escorts.

13. **Construction - Utilities**

a) For JFK and LGA, all utility services for primary (high tension) and secondary, electrical, water, sewage connections, and aircraft fueling are provided to the Tenant site. The Tenant's contractor makes connections to the Utility Systems. Coordination with the Maintenance Services Division (MSD) for access road connections is handled through the REO. The exception to this is for natural gas, which is handled directly with Brooklyn Union Gas Company and telephone which is handled directly with Bell Atlantic. Any access to utility manholes and temporary construction power service must be arranged through the REO.

b) For EWR, all utility services for water, sewage. and aircraft fueling are provided to the Tenant site. Connections for electrical service is handled directly with PSE&G Co. and for telephone with Bell Atlantic. For natural gas, the TLO should

be contacted to determine whether the Tenant should deal with PSE&G or Elizabethtown Gas Co.

c) For TEB, the Tenant's contractor should arrange with local utilities for all connections.

d) The appropriate 800-number should be called before digging to install underground utilities (see Figure I-1).

14. **M/WBE Requirements during Construction**

On a monthly basis, M/WBE Reports (MEUR) are required and are to be sent directly to the airport Affirmative Action Office (see Figure I-1), as follows:

a) Statement of M/WBE Payments Reports - In order to assure that the planned goals are being met, a monthly Statement of M/WBE Payments Report must be submitted directly to the AAO throughout the construction period. (Figure V-23)

b) Monthly Employment Utilization Report (MEUR) - Submit a Monthly Employment Utilization Report (Figure V-21) which itemizes the minority and female participation in the construction work force by specific trade description (Figure V-22) during project construction.

c) Submission - Both the Statement of M/W/DBE Payments Report and the Monthly Employment Utilization Report should be submitted to the Affirmative Action Office (AAO). TAA project numbers must be shown on the reports. Both reports should be submitted by the 15th of each month reflecting the preceding month's activity.

15. **Miscellaneous**

a) **Fuel Storage Tanks** - The PA requires that all aboveground and underground storage tank installations and closures comply with the applicable code and environmental regulations (See Subsection IV-G). In addition, it is PA policy that all underground storage tanks may not be abandoned in place and must be removed regardless of regulatory guidelines. This applies to both new construction and replacement projects. A tank installation and/or closure plan must be submitted with the TAA. Specific inquiries must be coordinated with the airport Environmental Manager.

b) **Construction Site Appearance** - During the contract design preparation and at the Preconstruction Conference the TLO and the REO will discuss and transmit to the participants, PA standards regarding the maintenance and upkeep of

construction sites, both interior and exterior, including dust control.

c) **Construction Site Access** - The construction contractor must provide the airport Operating Divisions staff with the ability to access work areas for periodic site review. This may be coordinated through the REO.

d) **Contractor Employee Conduct** - Contractor employees must conduct themselves in a manner appropriate for public areas; i.e. proper dress, no foul language, etc..

D. Final Inspection and Close Out Requirements

1. **Certifications** - A/E certification of completed construction will not be accepted or a final inspection scheduled if there are any unresolved Rider comments. The Tenant's A/E is to certify by letter (Figure V-26) that the work has been constructed in accordance with the PA approved plans and specifications; that applicable Code requirements are met and; that all life safety systems are complete and operational. Two original copies of the letter are required, both signed and sealed by the A/E of Record. One copy is sent to the REO and can serve to request a final inspection by the PA and the second original is sent to the TLO. Partial occupancies may be requested but will be subject to the discretionary approval of the PA. In these cases, the A/E shall provide certifications as to the partial area involved. (Figure V-25) All fire safety requirements must be met in the partial occupancy area.

2. **Separate A/E's** - If there are separate A/E consultants, each consultant must certify their area of responsibility. These consultants must be identified at the Preconstruction meeting and in the initial letters submitted to the REO by the Tenant.

3. **Final Inspection** - Once construction is complete, and the Tenant's A/E letter so states and certifies; all Rider comments have been resolved; all life safety systems are operational and tested; all controlled inspections are complete; and all other reports and submissions to the REO have been provided, the REO will evaluate the project as to its completion. If satisfied that the construction is complete and meets all PA requirements for completion, the REO will schedule a final PA inspection to be attended by the Tenant's A/E, by the REO staff, and by other appropriate PA review groups.

4. **Inspection Support** - The Tenant and/or the A/E(s) of Record must ensure that the proper A/E and contractor personnel are available and present to conduct the required final inspection testing. In addition, the appropriate subcontractors shall be available to operate, test, demonstrate, and repair, if necessary, all systems including fire alarm, sprinklers, HVAC, life safety, and fire protection systems and provide equipment, tools, ladders, etc. for access to all areas. The A/E of Record will be notified by the REO what tests are required during the final inspection.

5. **As-Built Plans & Specifications - Record Documents** - After all Rider comments and field as-built conditions are incorporated into the construction documents, the Tenant shall deliver two reproducible sets of final "As-Built" drawings to the REO for the PA's records along with two copies of the operations and maintenance manuals, specifications and manufacturer's O&M instructions for equipment and systems in the facility. The Tenant is encouraged to submit the drawings in a PA-compatible CADD format (see Subsection IV-I). The documents are required from Tenant's A/E in advance of the PA Final Inspection (one set for the REO final inspection and one set for the TLO).

6. **Life Safety Systems Inspection** - The airport Fire Marshal and the PA Risk Management, Fire Protection groups require extensive testing of the fire protection and alarm systems during final inspection. Frequent problems include systems that are not complete at the time of inspection and inadequate personnel available from the Tenant's A/E, Contractor or Sub-Contractor to perform the test or to reset elements during the testing. PA inspection staff will concentrate on, but are not limited to the testing of the following items related to fire and life safety:

   a) Automatic Sprinkler Systems - All tamper and water flow alarms for sprinkler systems must be tested for operation. Depending on the type of sprinkler system, other features may have to be tested or demonstrated including trip tests for dry pipe sprinkler systems or actuation of pre-action and deluge sprinkler system valves.

   b) Area Smoke Detection Systems - Area smoke detectors will normally be tested on a random basis depending on the amount of detectors. Smaller installations may require testing of all detectors. There is no minimum amount of detectors that are predetermined as acceptable. Satisfactory installations depend on the quality of work performed, results for tests on all fire

protection systems, and the overall condition of the areas inspected.

c) Duct Smoke Detection Systems - All duct smoke detectors must be tested to verify fire alarm signal transmission and shutdown of HVAC equipment. The duct detector must shutdown the unit for which it is installed.

d) Manual Fire Alarm Stations - As with area smoke detectors, manual fire alarm stations (manual pull stations, break glass stations, etc.) are tested randomly until PA Risk Management fire protection staff are satisfied with the system operation.

e) Fire Alarm Signal Transmission - Verification that fire alarm signals are transmitted to a remote monitoring station.

f) Other aspects of fire and life safety - are evaluated including fire resistant construction, means of egress, emergency lighting, exit signs, special fire suppression, and the operation of essential fire protection equipment such as fire pumps and standpipe systems.

7. **Inspection Punch List** - The REO generates a punch-list during the Final Inspection. If the punch list is minor and no life safety items exist, the REO will recommend to the Manager, Airport Facilities, the Engineer of Construction and the Engineer of Projects, CSQA that a Temporary Permit to Occupy or Use be issued.

8. **Authorization to Occupy or Use** - The Manager, Airport Facilities Division will, based upon the recommendation of the REO and concurrence of other members of the final inspection team, request a Permit to Occupy or Use from the PA Chief Engineer. The Tenant will be notified of approval to occupy by the Manager, Airport Facilities Division or his designated representative in the TLO.

9. **Final Inspection Approval Time** - The minimal time between satisfactory completion and acceptance of the Final Inspection at the site to the issuance of the authorization to occupy from the Manager, Airport Facilities is 48 hours, assuming all required approvals/certifications from the Tenant and the A/E of Record are in place. Fax communications may be used to expedite approval of a Temporary Permit.

10. **Types of PA Authorized Occupancies** -

a) **T nporary Permit to Occupy (TPO)** - A TPO is generally issued when there are open PA punch list items which have

resulted from the final inspection. TPOs have a term, generally 90 days, and as such Tenants are encouraged to work with the REO and TLO to rectify/resolve punch list items as soon as possible. A TPO can be issued 48 hours after the final inspection.

b) **Final Permit to Occupy (FPO)** - A FPO is issued upon satisfactory completion of all construction activities, submission of "as built" drawings and resolution of PA punch list items and outstanding Rider comments.

c) **Partial Completion/Occupancy**

(1) The feasibility of partial inspections/occupancies are determined by the REO. However, where proposed, the individual areas and all related life safety systems that serve that area must be completed and operational.

(2) The Engineer of Projects, CSQA can issue a Temporary Permit to Occupy, but will do so only if all critical comments and all Code and life safety issues are resolved to the satisfaction of all PA review and inspection groups and upon receipt of certifications of the A/E and other PA entities.

d) **FAA Facilities** - Different procedures are used where the FAA is a Tenant regarding certifications. Sample copies and detailed procedures are available from the TLO.

NOTE: This is an instruction sheet only.
(Please remove before completing alteration application)

PREPARATION OF TENANT CONSTRUCTION OR ALTERATION APPLICATIONS

1. Prepare 3 original copies of form PA 531AV, accompanied by 12 complete sets of drawings and specifications showing the proposed construction.

2. **All 3 application forms must bear original signatures** of a Corporate Officer (Vice President or above) of the tenant whose company name appears on the lease.

3. All 3 application forms must bear original signatures and seal of Engineer or Architect of record employed by the tenant.

TENANT CONSTRUCTION PLAN AND SPECIFICATION GUIDELINES

The following comments are to assist your engineer or architect in preparing drawings of proposed work. Use of the guidelines, where pertinent, will minimize Port Authority review time and resultant comments.

1. Locate area of construction with respect to existing conditions, (i.e., column numbers, coordinates, dimensions to existing structures, etc.), and provide a "Plot Plan."

2. Indicate existing structures and facilities in area affected and adjacent areas; also indicate all demolition and removals. For demolition projects where the wrecking or taking out of load-supporting structural members of the facility together with related handling operations, or the intentional burning of the facility is required, the U.S. EPA shall be notified in accordance with 40 CFR Part 61, Section 61.145(a)(b).

3. Include on drawings the plans, sections, elevations and details of proposed work.

4. Show arrangement of equipment and furniture, which might constitute an obstruction of passage to exits.

5. Provide floor plans to include that area beyond the limits of proposed work area necessary to show the entire means of ingress and egress.

6. Indicate where prescribed occupancy count for all area.

7. Give location and specifications for all fire protection equipment, i.e. fire doors, fire dampers, smoke detectors, sprinklers, fire alarm systems, hose cabinets, extinguishers, etc.

8. Include a note on the drawings requiring all work to be done in accordance with the National Electrical Code and the applicable code of the City, or municipality in which work occurs. F.I.R.O. and Employers Group of Insurance Companies approval required for sprinkler and fire protection items.

9. Indicate power requirements and source of power. Also indicate size and type of all electrical equipment, i.e. conduit, wire, panels, control devices, etc.

10. Provide details of all built-in equipment.

11. Provide complete specifications for all materials.

12. Show all new and modified ventilating systems including that portion outside the area of proposed work necessary to indicate the complete circulation cycle.

13. Provide design computations for major structural members including all existing members receiving additional loads.

14. **All drawings must bear the stamp of a Registered Architect or Professional Engineer** licensed in the state in which the work is to be performed.

15. Asbestos and Demolition Certification Letter, Form PA 3677, is to be submitted with Form PA 531AV.

16. If Form PA 3677, Asbestos and Demolition Certification Letter, indicates that asbestos will be disturbed, Form PA 3678 is to be submitted with Form PA 531AV.

17. If Form PA 3677, Asbestos Certification Letter, indicates that asbestos will be disturbed and the tenant is waiving his/her right to participate in the Port Authority's litigation, Form PA 3679 is to be submitted with Form PA 531AV.

18. Asbestos work (abatement and consulting) must be performed by a state licensed abatement contractor approved by the Port Authority.

19. All materials used for the construction of this project, whether building materials or appurtenances, shall be non-asbestos containing materials.

20. All environmental services required to be performed with respect to tenant construction, including and without limitation, surveys, monitoring, laboratory analysis and waste removal, must be performed by a contractor/consultant, approved in advance by the Port Authority.

21. If proposals require resubmission, clearly indicate change from original on the resubmitted drawings.

22. An MBE/WBE Participation Plan must be submitted and accepted by the P.A. prior to approval of this application.

23. An MBE/WBE Participation Report must be submitted monthly during construction.

24. "As Built" Drawings are to be furnished after completion of this work.

PA 531AV / 11-01

THE PORT AUTHORITY OF NY & NJ
225 Park Avenue South
New York, New York 10003

TENANT CONSTRUCTION OR ALTERATION APPLICATION

For Port Authority Use Only	
Facility	APP. No.
Date	Applicant's Name

APPLICANT MUST READ THE TERMS AND CONDITIONS INCLUDED WITH THIS FORM

The Applicant shall not commence performance of any of the said work prior to the receipt by Applicant of a copy of this application duly signed in Part Three hereof on behalf of the Port Authority of New York and New Jersey. Upon receipt thereof, the Applicant agrees to perform said work in accordance with the following "Information to be Furnished by Applicant" and to comply with and be bound by all requirements and conditions set forth below under the remarks, if any, in Part Three hereof and the terms and conditions set forth in this form.

Minimum Insurance Limits Unless Specified to be Greater – Bodily Injury $500,000 each person; $500,000 each occurrence; Property Damage $500,000 each accident; $500,000 aggregate.

PART ONE: Information to be furnished by Applicant (Refer to your lease or permit for required information)

Permission is hereby requested to perform the following described work on the space occupied by the Applicant.

At (Facility)	Pursuant to (Lease, Space, Permit) No.	Location (Building No. or Area) of Space to be Altered

Description of Work and Reason

Estimated Cost of Work $	Estimated Time to Complete (Days)	Starting Date	Completion Date

Plans: Prints of each drawing must be submitted with copies of application. Include floor plan and show area affected by proposed Work (size 8 ½" x 11" or larger).

TITLE OF DRAWING	DRAWING NO.	DATED

Name & Address of Contractor (If Not Known, Submit Later)	Name & Address of Engineer or Architect	Telephone No. / License No.

Send Correspondence To:
(Name & Address of Employee in Charge of Work)

Telephone No.

Applicant's Name (As it Appears on Lease or Permit)

ENGINEER OR ARCHITECT CERTIFICATION

I have supervised the preparation of plans and specification f or the entire work represented herein and hereby certify that they conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the City, town or municipality in regard to construction and maintenance of buildings and structures and in regard to health and fire protection which should be applicable if the Port Authority were a private corporation.

By (Signature of Authorized Rep.)	Title	Date	Signature of Licensed Prof. Engineer or Architect	Date

PART TWO: MBE/MBW PROGRAM INFORMATION

A Minority/Women Business Enterprise (MBE/WBE) Plan must be submitted and accepted by the P.A. prior to approval of this application. Forms and instruction for the preparation of the MBE/WBE Plan are attached to this application. In addition, a contact person responsible for this project's MBE/WBE Program should be designated below by the tenant.

MBE/WBE Contact Person (Name and address): Telephone No.:

PART THREE: Prepared by Port Authority and returned to applicant.

The above Application is ☐ Approved ☐ Disapproved. Subject to the following conditions:

☐ Continued on attached Rider

Please advise the undersigned in writing, when this work has been completed.

The Port Authority of New York and New Jersey

By:

Inspected By	Date	Title	Date

TERMS AND CONDITIONS

1. In the performance of work covered hereunder the Applicant shall, unless otherwise directed in writing by the Port Authority, conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the city, town or municipality in which the Facility is located in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation. The Applicant's obligations to comply with the above governmental requirements is for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and is not to be construed as a submission by the Port Authority to the applications to itself of such requirements or any of them.

2. The Applicant shall comply also with such federal, state and municipal laws, statues, orders and regulations, if any, as may be legally applicable to the work or the performance thereof or its employees therein. The Applicant shall consult with the Facility Manager with respect to the applicability of any and all laws, statutes, enactments, ordinances, resolutions and regulations and as to the procedures to be followed before taking any other action with respect thereto, and shall follow the instructions and procedure prescribed by said Facility Manager with respect thereto.

3. The Applicant shall also observe and obey (and compel its officers, employees, agents and contractors to observe and obey) the rules and regulations of the Port Authority now in effect which are applicable to the performance of the work and such further applicable rules and regulations which may from time to time during the said performance 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.

4. The Applicant shall procure and maintain bodily injury and property damage liability insurance in its own name in at least the limits specified in the preamble to this Application and Workmen's Compensation insurance; or if the work is to be done by an independent contractor, the Applicant shall require such contractor to procure and maintain such insurance in the contractor's name. A certificate evidencing such insurance shall be furnished to the Port Authority Facility prior to the commencement of the work.

5. The Applicant shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees, against and from (a) the risk of injuries (including wrongful death) or damage direct or consequential, to it or them or to its or their property, arising out of or in connection with the performance of the work, and (b) the risk of claims and demands by third persons arising or alleged to arise out of the performance of the work, whether such risks arise out of acts of omissions or the Applicant its contractors, the Port Authority, or otherwise.

6. The Applicant shall pay all claims lawfully made against it by 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 all contractors and subcontractors to pay all such claims lawfully made against them.

7. Only first-class materials and workmanship shall be used in the performance of the work, which shall be done in accordance with the drawings described in Part 1 of this Application and to the satisfaction and subject to the inspection of the Facility Manager; the Applicant shall re-do or replace at its own expense any work not approved by him.

8. The Applicant shall notify the Facility Manager no less than two days prior to the commencement of the work, and shall complete the same within the number of days specified in Part 1 of this Application; and upon completion shall notify the Facility Manager.

9. In the performance of the work, (a) the Applicant shall not do or permit to be done any act affecting the operation of the existing plumbing, heating, fire-protection, fire-alarm, sewerage, drainage, water supply, electrical, sprinkler, ventilating, refrigerating, fuel or communication system at the Facility, or other such service system thereat, including all pipes, tubes, lines, mains, wires, conduits, equipment and fixtures, except with the express written approval of the Facility Manager or the Port Authority resident engineer; (b) the Applicant shall obtain a Port Authority permit from the Facility Manager prior to any cutting or welding and shall comply with the conditions which form a part of said permit, a sample of which may be examined in the office of the Facility Manager.

10. (a) Prior to the commencement of the work and throughout the performance thereof, the Applicant shall erect and maintain at its own expense in or about the space such barriers, shields and other suitable protective devices for the protection of the public and others and their property as in the opinion of the Facility Manager may be necessary or desirable for the purpose. The work shall be performed in such manner as will cause the minimum inconvenience to members of the public and others at the Facility. During the performance of the work, the Applicant shall not permit the accumulation in or about the space of any debris, rubbish or liter of any sort resulting from such performance and shall make such arrangements for the frequent removal thereof from the Facility, by means of facilities to be furnished by the Applicant, as may in the opinion of the Facility Manager be necessary to prevent such accumulations.

(b) In the performance of the work covered by this permit, the Applicant shall not employ any contractor nor shall the Applicant or any of its contractors employ any persons or use or have any equipment or materials or allow any condition to exist if any such shall, or in the opinion of the Port Authority, may cause or be conducive to any labor troubles at the Facility which interfere, or in the opinion of the Port Authority, are likely to interfere with the operations of the Facility by the Port Authority or with the operations of others at the Facility or with the progress of other construction work thereat. The determinations of the Port Authority shall be conclusive on the Applicant and, upon notice from the Port Authority, the Applicant shall immediately remove such contractor or withdraw or cause its contactors to withdraw from the Facility the persons, equipment or materials specified in the notice and replace them with unobjectionable contractors, persons, equipment and materials and the Applicant shall or shall cause it contractor to immediately rectify any conditions specified in the notice in the event of failure by the Applicant or any of its contractors to immediately comply with the requirements of this paragraph (whether or not such failure is due to the Applicant's fault) the Port Authority shall have the right to suspend this permit and the permission thereby granted, without prior notice when the labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority, by notice to the Permittee, shall reinstate this permit 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.

(c) Not withstanding the approval of this permit by the Port Authority, the Applicant shall not perform or permit to be performed any work hereunder, the performance of which or the subsequent use or occupancy of which will (1) invalidate or conflict or conflict with any insurance covering the Facility or any part thereof, or in any property located therein or thereon, or (2) increase the rate of any fire insurance, extended coverage, rental insurance or other insurance on the Facility, or any part thereof or upon any property located therein or thereon. The Applicant shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders, directions and standards of the National Board of Fire Underwriters as interpreted by the New York Fire Insurance Rating Organization as to work performed in New York State, or as interpreted by the Fire Insurance Rating Organization of New Jersey as to work performed in New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the performance of the work or to the completed work (including use or operation (hereof) and the Applicant shall make any and all structural and non-structural improvements, alterations or repairs of the work that may be required at any time hereafter by any such present or future rule, regulation, requirement, or order or direction. If because of the work done or by reason of any failure on the part of the Applicant to comply with the provisions of this paragraph any such insurance shall at any time be limited, cancelled or invalidated, then the Applicant shall immediately remove the work, or if the rate of premium for any such insurance shall be higher than it otherwise would be, then the Applicant shall pay to the Port Authority on demand that part of all premiums which shall have been charged because of such work or by reason of such failure by the Applicant. The Applicant shall furnish to the Port Authority evidence of approval of the work by the insurance authority having jurisdiction.

11. Title to any installation, improvement, alteration, modification, addition, repair or replacement resulting from work done pursuant hereto shall immediately upon completion vest in the Port Authority (or in the Port Authority's lessor, if any and if the agreement between such lessor and the Port Authority so provides) without execution of any further instrument. The Applicant shall not remove or change the same unless the Port Authority, on or prior to the expiration or termination of the lease or permit described in Part 1 of this Application or within sixty (60) days after such expiration or termination, shall give notice to the Applicant requiring removal or restoration, in which case the Applicant (on or prior to the expiration or termination date or, if the notice is given after such date, then immediately after receipt of the notice) shall complete the removal of all of the same (or as much thereof as may be required by the notice) and the restoration (to the extend required by the notice) of the space affected by the work to the same condition as it was in prior to the commencement of the said work. If the Applicant shall fail to comply with such notice, the Port Authority may effect the removal and restoration and the Applicant shall pay the cost thereof to the Port Authority upon demand.

12. A certificate of completion shall be issued be issued to the Applicant by the Facility Manager upon request of the Applicant on completion of the work hereunder in accordance with the Terms and Conditions hereof and inspection thereof by the Facility Manager. Issuance of such certificate shall not preclude the Port Authority from showing that Applicant has failed to comply with his obligations hereunder nor shall it release Applicant from such obligations.

Exhibit F

INTENTIONALLY OMITTED

Exhibit G
Affirmative Action Policy

EXHIBIT G

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 _____of Port Authority Agreement No.____ (herein called the "Lease") with _____ (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 circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which

assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at lease as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security

number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor

associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority 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.

Exhibit H
Terminal Rules

Concessionaire covenants and agrees that it shall conform with each of the following rules and regulations and each modification, revision, deletion, or addition thereto made by the Sublandlord, in the exercise of the reasonable judgment of the Sublandlord, and shall cause similar conformance by its employees, agents, contractors, and all others over whom Concessionaire has any right to control or direct while in the Airport. Notwithstanding the foregoing, in, the event there is an inconsistency or conflict between any one or more of the Terminal Rules and Laws, then the Laws shall control and prevail. Sublandlord shall not be responsible to Concessionaire for the non-compliance by any other concessionaire with the Terminal Rules.

1. Concessionaire shall not place, construct, or maintain on the store front of the Concessionaire Premises, the doors, the exterior walls, the Common Areas or any portion thereof any signs, advertisements, names, insignias, trademarks, descriptive materials, or similar items without Sublandlord's prior written consent. All signs, promotional material and displays within the Concessionaire Premises must, at all times, be attractively displayed and professionally produced. Sublandlord, at Concessionaire's expense, as Additional Rent, may remove any sign placed, constructed or maintained that does not comply with the provisions hereof. Further, Concessionaire shall not, without Sublandlord's prior written consent, place, construct or maintain in or for the Concessionaire Premises any search lights, flashing lights, loud speakers, phonographs, or other similar visual or audio media which may be heard or otherwise experienced outside the Concessionaire Premises.

2. Concessionaire shall not, by itself, or through any officer, salesperson, employee, agent or otherwise solicit business in the vestibules, entrances, elevator lobbies, corridors, hallways or elevators of the Terminal.

3. Quality and Character of Merchandise

   a) Merchandising. Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sale a full and complete stock of merchandise consistent with only the Permitted Operations. Concessionaire shall ensure that all such merchandise is at all times attractively and logically arranged and that all merchandise displays are fully stocked with product.

   b) Product Selection. Concessionaire may from time to time, with written approval of the Sublandlord, or its designee, add or delete items from its merchandise offerings provided that such additions or deletions shall be consistent with those authorized in this Sublease, as amended, and do not conflict with the rights of other concessionaires at the Terminal as may be determined by Sublandlord, in its sole discretion.

   c) Quality of Merchandise. Concessionaire shall offer for sale only high quality products and those which are safe, sanitary, properly labeled and as advertised. Upon written notice to Concessionaire by Sublandlord of any violation of this

provision, Concessionaire shall forthwith correct the condition objected to within four (4) hours after receipt of such notice.

d) Sublandlord's Right to Object. Concessionaire shall upon written demand from Sublandlord cease selling any item that Sublandlord shall determine is objectionable for sale or display at the Terminal and immediately remove such item from its inventory and not thereafter offer such item for sale at the Terminal.

e) Replacement and Refunds. Concessionaire shall, at all times during the term of this Sublease, as amended, and without any additional charge to customers, replace any merchandise determined by customers to be unsatisfactory, flawed or defective or shall provide customers a full refund therefore provided said customers have complied with any applicable warranty and use provisions applicable to the merchandise.

4. Concessionaire shall accept as payment for goods and services all nationally recognized credit or charge cards including, at least, American Express, Master Card, VISA and Discover. Concessionaire shall provide, without charge, change-making services at each cashier's location in the Concessionaire Premises. Such service shall be equally provided to all persons, regardless if any purchase has been made or not.

5. Concessionaire shall not use or permit the use in the Concessionaire Premises of anything that may be dangerous to life or limb. Concessionaire shall not in any manner deface or injure the Terminal or any part thereof, or overload the floors of the Concessionaire Premises. Concessionaire shall not do anything or permit anything to be done in the Concessionaire Premises in any way tending to create a nuisance, or tending to disturb any other concessionaire in the Terminal.

6. Adherence to Standards.

a) Concessionaire shall ensure that all requirements of the Port Authority and County and/or State Boards of Health, and health and sanitary regulations adopted by the Authority, County, State or any governmental legal authority, are fully complied with in all Facilities. Concessionaire shall give access for inspection purposes to any duly authorized representatives of such governing bodies and to Sublandlord. Concessionaire shall provide Sublandlord with copies of all inspection reports within forty-eight (48) hours of receipt. This paragraph does not require Concessionaire to waive any applicable attorney-client or attorney work product privileges.

b) Additional Compliance. Concessionaire shall comply with all applicable governmental laws, ordinances and regulations in the conduct of its operations under this Sublease, as amended.

c) Concessionaire's Standards. Concessionaire shall submit to Sublandlord a copy of any of its own customer service, operations, etc. standards, plans and/or manuals,

and shall ensure continuous adherence to Concessionaire's own standards in addition to Sublandlord's standards as set forth herein.

7. Concessionaire, at its sole cost and expense, shall provide exterminating service for the Concessionaire Premises, which services shall be performed as needed, and in all events, upon demand by the Sublandlord or Port Authority.

8. Trash and Refuse.

a) Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling of all trash, grease and other refuse caused as a result of the operation of the Concessionaire Premises and shall provide for its timely removal. Piling of boxes, cartons, barrels or other similar items in view of a public area is prohibited. Concessionaire shall keep any areas used for trash and garbage storage prior to removal from Terminal in a clean and orderly condition so as not to attract rodents, pests and birds or create an offensive odor.

b) In transporting trash, grease and other refuse from the Concessionaire Premises, Concessionaire shall use only carts, vehicles or conveyances that are covered, leak proof and equipped with wheels suitable for operating without damage to the Terminal. Such disposal shall take place during hours as may be directed by Sublandlord.

c) The plumbing facilities, within the Concessionaire Premises and elsewhere in the Terminal, shall not be used for any purpose other than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. If installed in connection with the Concessionaire Premises, Concessionaire shall, at its own expense, check and clean at least monthly all grease traps and grease receptors. The expense of any breakage, stoppage, or damage resulting from a violation of this provision, wherever such occurs, shall be borne by Concessionaire who may, or whose employees, agents, or invitees may, have caused it.

d) If at any time during the Term, the Port Authority establishes a Terminal-wide recycling program, Concessionaire agrees to participate in any such program at its own cost.

9. The portion of the Common Areas, if any, immediately adjoining the Concessionaire Premises shall be kept clean and free from Concessionaire's dirt and rubbish by Concessionaire to the reasonable satisfaction of Sublandlord. Concessionaire shall not encumber or obstruct the corridors or stairways of the Terminal with furniture, equipment, boxes, crates, floor mats, merchandise, goods or otherwise. In the event of a violation, Sublandlord may move such objects into the Concessionaire Premises or to any other suitable location.

10. Personnel

a) The management, maintenance and operation of the Concessionaire Premises and the concession conducted thereon shall be at all times during the Term under the supervision and direction of an active, qualified, competent and experienced manager, who shall at all times be authorized to represent and act for Concessionaire. Said manager shall have full authority to make day-to-day business decisions on behalf of Concessionaire, with respect to the concession operations contemplated by this Agreement, and shall represent the Concessionaire in dealings with Sublandlord, and coordinate all concession activities with Sublandlord. Concessionaire shall cause such manager to be assigned a duty station or office in the Concessionaire Premises at which he or she shall be available during normal business hours. During the absence of such manager, Concessionaire will, at all times during Store Hours, assign or cause to be assigned, a qualified subordinate to assume and be directly responsible for the carrying out of his or her duties.

b) Concessionaire shall recruit, train, supervise, direct and deploy the number of representatives, agents and employees, collectively referred to as "personnel" necessary to promptly provide services to all customers and to meet all of the requirements of this Sublease, as amended. Concessionaire shall be continuously responsible for actively managing personnel levels to ensure that changes in passenger activity, due to schedule changes, load factor changes or flight delays are adequately accommodated through increased levels of personnel. Any actual or perceived degradation in (i) the customer service requirements set forth in this Sublease or other duties, rights or responsibilities set forth in this Sublease provided by Concessionaire in the course of conducting Concessionaire's permitted uses; or (ii) the training and competence of Concessionaire's personnel shall be conveyed to the Concessionaire and Concessionaire hereby agrees that it shall promptly institute training programs and/or add additional adequately trained and capable staff to the satisfaction of Sublandlord.

c) In addition to the staffing level requirements set forth herein, Concessionaire shall ensure that all personnel utilized in the Concessionaire Premises shall conform to the following:

i) All personnel employed by the Concessionaire shall be neat, clean and courteous at all times.

ii) No loud, boisterous or otherwise improper actions or language shall be permitted while on or about the Terminal.

iii) Concessionaire shall designate for each member of the sales staff a dress code, to be approved by Sublandlord in its discretion, with which said staff shall comply whenever in the Concessionaire Premises.

iv) Personnel shall prominently display nametags, Airport Identification badges and any other specified airport badges and/or pins while on duty in the Terminal.

v) All personnel shall be actively working while on the sales floor in view of the public. No personnel shall be engaged in personal conversation (via telephone, etc.) or activities such as reading, writing, eating, etc.

vi) All personnel shall be attentive to customer needs, display a positive attitude and refrain from discussing personal issues/problems within the sales areas of the Concessionaire Premises.

vii) All personnel shall know and utilize practices of good customer service such as (1) assisting customers with purchase decisions; (2) identify product alternatives; (3) posses and display good product knowledge; and (4) utilize appropriate suggestive selling.

viii) All personnel shall provide warm, friendly, smiling, prompt and courteous service.

ix) All personnel shall be proficient with and trained in the required operations of all equipment and devices used in the Concessionaire Premises to facilitate sales (i.e. point of sale devices, credit card transaction equipment, etc.).

x) All personnel shall be familiar with all applicable policies of this Sublease, the Terminal and Concessionaire.

xi) All personnel engaged in sales activities shall speak and comprehend English, at a level appropriate to their duties.

d) Sublandlord shall have the right to object to the demeanor, conduct, and appearance of any employee of Concessionaire or any of its invitees or those doing business with it, whereupon Concessionaire shall take all steps necessary to remedy the cause of the objection. If requested by Concessionaire, Sublandlord shall present its objections in writing and provide the opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

11. The delivery or shipping of merchandise, supplies, and fixtures to and from the Concessionaire Premises shall be subject to such rules and regulations as in the reasonable judgment of Sublandlord are necessary for the proper operation of the Terminal.

12. Concessionaire acknowledges that all locks and similar devices on and to the Concessionaire Premises are to be keyed or otherwise within the control from or by a master key or other device within the possession and control of the Sublandlord. At no time during the Term, shall the Concessionaire have the right to place any locks or similar devices on or to any portion of the interior or exterior of the Concessionaire Premises without each being capable of being opened by the master key or other controlling device of the Sublandlord. To the extent that the Concessionaire shall desire to install, within the Concessionaire Premises any combination or other form of locks, no such equipment may be installed without first obtaining the prior written consent and approval of the

Sublandlord, and providing to Sublandlord the key, combination, or other means of opening same at any time.

13. Concessionaire's Maintenance Obligations.

a) Concessionaire will maintain the Concessionaire Premises and every part thereof in good appearance, repair and safe condition. Concessionaire shall maintain and repair all leasehold improvements on the Concessionaire Premises and all furnishing, fixtures and equipment therein, whether installed by Concessionaire or by others, including repainting or redecorating as necessary and replacing or repairing worn carpet, tile, fixtures or furnishings. All such maintenance and repairs shall be of quality equal to or better than the original in materials and workmanship and all work, including paint colors, shall be subject to the prior written approval of both Sublandlord and the Port Authority.

b) Concessionaire shall, without cost to Sublandlord, provide all janitorial services for the Concessionaire Premises. Concessionaire shall ensure that the Concessionaire Premises, and the public areas adjacent to the Concessionaire Premises, are kept free from all rubbish, filth and refuse.

c) On or about each anniversary of the Commencement Date, representatives of Sublandlord and Concessionaire shall tour the Concessionaire Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Concessionaire Premise in first-class condition, and Concessionaire shall promptly undertake such refurbishment at its sole cost and expense. For purposes of these Terminal Rules, refurbishment shall mean the routine repainting or redecoration of public areas within the Concessionaire Premises, including the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures or finishes.

d) Concessionaire agrees to employ sufficient personnel, and provide necessary equipment to keep the Concessionaire Premises and all furniture, furnishings, fixtures and equipment clean, neat, safe, sanitary and in good working order and condition at all times pursuant to the maintenance requirements of these Terminal Rules.

e) Sublandlord shall be the sole judge of the quality of maintenance. The Port Authority, Sublandlord, or their designees, may at any time, without notice, enter upon the Leased Premises to determine if satisfactory maintenance is being performed. If it is determined that said maintenance is not satisfactory, the Port Authority and/or Sublandlord shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire within fifteen (15) days after receipt of written notice, British Airways or its designee thereafter shall have the right to enter upon the Leased Premises and perform the maintenance therefore, and Concessionaire agrees to promptly reimburse British Airways for the cost thereof, plus fifteen percent (15%) for administrative overhead.

f) The Sublandlord and the Port Authority and their respective agents shall have the right to enter the Concessionaire Premises for the purpose of making repairs, alterations, or additions which Sublandlord shall deem necessary and take all materials into and upon said Concessionaire Premises that may be required to make such repairs, improvements additions or alterations, without in any way being deemed or held guilty of an eviction of Concessionaire and the Rent reserved herein shall in no wise abate while said repairs, alterations or additions are being made. Concessionaire shall not be entitled to maintain a setoff or counterclaim for damages by reason of loss or interruption to the business of Concessionaire because of the prosecution of any such work.

14. Hours of Operation.

a) Concessionaire shall ensure that all portions of the Concessionaire Premises are continuously and uninterruptedly open for business and provide all services and sales activities as required by this Agreement at such hours as may be established from time to time by Sublandlord, in its sole and absolute discretion (hereinafter referred to as "Store Hours"). Concessionaire hereby understands and agrees that the Store Hours may be seven (7) days per week, including local, state and federal holidays, twenty-four (24) hours per day.

b) In the event of delayed flights within those portions of the Terminal in which any portion of the Concessionaire Premises are located, Concessionaire shall remain continuously open and provide all services and sales activities as required by the Agreement in any such Facility until said flights depart the gate or Sublandlord otherwise instructs, even if such period is beyond the current Store Hours for said portion of the Concessionaire Premises.

c) If Sublandlord deems it necessary, on an emergency basis, to serve the public during other than Store Hours, Concessionaire shall remain continuously open and provide all services and sales activities in such portion of the Concessionaire Premises as required by Sublandlord during the emergency period.

d) Concessionaire shall prominently post in each of the Facilities, in an area visible to customers, the current listing of the Facility's hours of operation.

15. Concessionaire shall be required to respond to any complaints in writing within 10 days of receipt, with a good faith effort to explain, resolve or rectify the corresponding problem. Concessionaire shall provide Sublandlord, or its designee, with a copy of any complaint received the same day it is received by the Concessionaire and shall provide Sublandlord with a copy of the written response the same day it is sent. Complaints received by Sublandlord shall be forwarded to the Concessionaire, who shall respond utilizing the above procedure. Concessionaire shall be required to implement and utilize a customer comment system (cards, telephone, web, etc.). All such completed comments and Concessionaire's summary reports shall be provided to the Sublandlord within 10 days of receipt and/or completion.

16. Sublandlord reserves the right, to make such other and further reasonable rules and regulations as in its judgment may, from time to time, be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other further rules and regulations shall be binding upon the parties with the same force and effect as if they had been inserted herein at the time of the execution hereof.

Exhibit I
Permitted Operations and Branded Concepts

Consistent with Section 5.1, Concessionaire is permitted to offer products from the Brookstone catalog, including all categories of products regularly found therein.
In accordance with Section 5.1 hereof, such products may not be substituted without BA's express written consent. Concessionaire agrees that it has or will obtain all necessary rights, titles and licenses to permit such designated brand to be installed at the location herein and provide BA with proof of such as requested. Concessionaire agrees that it will retain, to the extent reasonably possible, the ability to retain such brands for the duration of this Agreement.

BA may, in the reasonable exercise of its discretion, request a review of the performance of the location set forth herein. The basis for such review may be either or both of a location's financial performance or its suitability for the designated location or the Terminal in general. In the event BA determines after such review that the location's merchandise mix is performing in a materially unsatisfactory fashion or is otherwise no longer appropriate for the Terminal, BA and Concessionaire will enter into good faith negotiations to consider and agree a revised merchandise mix. The capital investment required for such remerchandising and which party will be responsible therefore will be a component of such good faith negotiations.

THIS AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE LESSEE AND THE SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Agreement No. AYE-161
Lease No. AYB-876
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of May 1, 2011 (the "Effective Date"), by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), BRITISH AIRWAYS PLC (hereinafter called the "Lessee") and DUTY FREE AMERICAS AIRPORTS, INC. (hereinafter called the "Sublessee"), a corporation organized and existing under the laws of the State of Maryland with an office and place of business at 6100 Hollywood Blvd, Seventh Floor, Hollywood, Florida 33024 whose representative is Mr. Joseph Kearney.

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have heretofore entered into an agreement of lease dated as of January 4, 1988 and identified by Port Authority Agreement No. AYB-876 (which agreement, as the same has been or may hereafter be supplemented and amended, is hereinafter called the "Lease") pursuant to which the Lessee hired and took from the Port Authority certain premises at John F. Kennedy International Airport (herein called the "Airport") all as more particularly described in the Lease (said premises being hereinafter referred to as the "Premises");

WHEREAS, the applicable provisions of the Lease require, and the Sublease Agreement provides, that the Sublease shall be subject and subordinate to the Lease as the same may be amended, supplemented or extended and, further, that it shall not take effect without the prior written consent of the Port Authority thereto embodied in an instrument signed by the Port Authority;

WHEREAS, the Lessee has requested the consent of the Port Authority to the attached proposed concessionaire sublease agreement, made as of May 1, 2011, between the Lessee and the Sublessee (hereinafter called the "Sublease") covering portions of the premises under the Lease (such portions, being hereinafter collectively sometimes called the "Space");

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Lessee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Lessee or the Sublessee, on the earliest to occur of the day preceding the date of expiration or earlier termination of the Lease, the effective date of any revocation of this Consent Agreement pursuant to Paragraph 8 hereof, or such earlier date as the Lessee and the Sublessee may agree upon subject to the terms and provisions hereof. Notwithstanding the foregoing, however, no termination of the Sublease shall diminish, limit, alter, affect, modify or impair the obligations, liabilities, or responsibilities of the Lessee under the Lease or release or relieve the Lessee from the same or from any of the terms, provisions, covenants and conditions of the Lease on its part to be kept, performed or observed. The Sublessee shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Lessee shall at any time be in default of its obligations under the Lease, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent Agreement but all such payments shall be credited against the obligations of the Lessee or of the Sublessee, as the Port Authority may determine for each payment or part thereof.

4. (a) Neither this Consent Ageement, nor anything contained herein nor the consent granted hereunder shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Lessee under the Lease, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Lease nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Lessee under the Lease, nor shall the same affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Lessee under the Lease nor constitute or be deemed to constitute a release of the Lessee from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent Agreement nor anything contained herein nor the consent granted hereunder shall constitute an agreement between the Port Authority and the Lessee that the provisions of the Sublease shall apply and pertain as between the Lessee and the Port Authority, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent Agreement and those of the

Sublease, this Consent Agreement shall be controlling. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent Agreement or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Lease as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Lessee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease (in whole or in part) the Space or any part thereof, be deemed to imply or infer that Port Authority consent or approval thereto pursuant to the Lease will be given or that Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) (i) The Sublessee acknowledges and agrees that it shall pay directly to the Port Authority Ex. 2.a. of the Base Rent and Additional Rent, as such terms are defined in the Sublease.

(ii) The Sublessee and the Lessee acknowledge and expressly agree that the Port Authority shall have the right to enforce the sublease directly against the Sublessee, including but not limited to all insurance provisions thereof.

(iii) Notwithstanding anything to the contrary stated in Section 13.01 (a) of the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

5. Notwithstanding anything to the contrary stated in the Sublease, Section 6.4 shall be, and be deemed, deleted in its entirety and the following Section 6.4 shall be substituted in lieu thereof:

"Section 6.4 Operation and Maintenance Fee ("O&M Fee").

"Concessionaire shall pay to Sublandlord an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of concessionaires in the operation solely of the concession space within the Terminal ("O&M Costs"). O&M costs include, but are not limited to: all costs and expenses incurred in the trash removal, operation, maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage changes; and all other direct costs and expenses properly chargeable to the operation, maintenance and repair of such _____ and services, all of the aforesaid as they relate to the Concession space within the Terminal."

"Concessionaire's proportionate share of the O&M costs shall be a fraction, the numerator of which shall be the Weighted Floor Area of the Concessionaire Premises, as that term is herein defined, and the denominator shall be the sum of the weighted floor areas leased and occupied by concessionaires to which O&M costs are allocated by Sublandlord. The calculation of the amount of costs and expenses incurred by Sublandlord in connection with the operation of the concession space within the Terminal, which shall be an allocation which is derived from the total costs and expenses incurred by Sublandlord in connection with the Terminal as a whole, shall be determined by the Sublandlord in good faith, in a consistent manner from year-to-year, and, in addition, in a manner capable of substantiation. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual) O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid. For purposes of this Sublease, the weighted Floor Area of the

Concessionaire Premises is 100% of the Floor Area of the Concessionaire Premises."

6. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Lease.

7. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

8. The granting of the consent hereunder by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease or other agreement (by the Lessee or by the Sublessee) with respect to the use or occupancy of the Space or any other portion or area of the Premises under the Lease, or to any assignment of the Lease or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

9. The Port Authority shall have the right to revoke this Consent Agreement at any time without cause, on thirty (30) days' notice to the Sublessee, which notice shall be jointly subscribed by the Port Authority and the Lessee, as to any one or more of the Spaces at the Premises at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby.

10. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent Agreement and the Sublease or the use and occupancy of the Space thereunder.

11. The Lessee and the Sublessee hereby represent and covenant to the Port Authority that they have complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Lessee and the Sublessee under the Sublease or its or their use and/or occupancy of the Space or the Premises. The obligation of the Lessee and the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

12. If the Sublessee shall fail to pay any amount required under this Consent Agreement 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 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent Agreement. 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 Paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent Agreement, or (ii) any obligations of the Sublessee under this Consent Agreement. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent Agreement shall be payable instead at such legal maximum.

13. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees and also others on the Space covered by the Sublease or at the Premises or on the Airport with the consent of the Sublessee.

14. It is hereby acknowledged and agreed by the Lessee and the Sublessee that the Port Authority has no obligation under the Lease, this Consent Agreement or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Premises whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Lease or upon revocation of this Consent Agreement with or without cause (in accordance with the terms of Paragraph 9 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said capital investment.

15. (a) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent Agreement and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements as if it were the Lessee under the Lease. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Agreement by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the

Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Lessee under the Lease and the Lessee shall also be severally responsible therefor including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

16. (a) In addition to the insurance required to be maintained by the Lessee under the Lease, the Sublessee in its own name as insured and including the Port Authority and the Lessee as additional insureds shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability and Commercial Automobile Liability insurance, including premises operations, products liability and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or the Lessee, or both, and with respect to any claim or action against the Port Authority or the Lessee, or both, by the Sublessee as though the Port Authority and the Lessee were the named insureds thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority and the Lessee thereunder as additional insureds. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under subparagraph (a) above.

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000
Commercial Automobile Liability	

Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

17. Without limiting the generality of the provisions of this Consent Agreement, the terms, provisions, conditions and agreements of the Lease shall, in all respects,

be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Lease or this Consent Agreement then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Lease.

18. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

19. Nothing contained in this Consent Agreement nor in the Sublease, including, without limitation, the payment obligation of the Sublessee under Section 2 (entitled "Rental") of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Lease. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied, notwithstanding the provisions of Section 2 (entitled "Rental") of the Sublease.

20. Nothing contained in this Consent Agreement or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including, without limitation, the installation of any signs at the Airport. The Lessee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Lease and an approved Alteration Application which the Lessee shall prepare and submit to the Port Authority.

21. (a) The Sublessee shall deliver to the Port Authority, as initial security for all obligations under this Consent Agreement, 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 District, in favor of the Port Authority in the amount of Two Hundred Eighty-seven Thousand Five Hundred Dollars and No Cents ($287,500.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective letting under this Consent Agreement 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. Upon notice of cancellation of a letter of credit, the Sublessee

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 cash or bonds 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. Failure to provide such a letter of credit at any time during the effective letting, 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 Consent Agreement on the part of the Sublessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Sublessee made thereafter, the Port Authority will return the security deposit, if any, thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of this paragraph. The Sublessee 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 permission under this Consent Agreement and fulfillment of the obligations of the Sublessee hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Sublessee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(b) The Sublessee hereby certifies that its Federal Tax Identification Number is Ex. 1/4 for the purposes of subparagraph (a), above.

(c) The Sublessee acknowledges and agrees that the Port Authority reserves the right, at its sole discretion, to adjust at any time and from time to time upon fifteen (15) days notice to the Sublessee, the security deposit amount as set forth in paragraph (a). Not later than the effective date set forth in said notice the Sublessee shall deposit with the Port Authority the new security deposit amount as set forth in and in such form as requested by said notice which new amount (including without limitation an amendment to or a replacement of the letter of credit) shall thereafter constitute the security deposit subject to this paragraph.

22. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Lessee and their respective offices shall be as set forth in the Lease. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent Agreement as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent Agreement as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

23. (a) The Lessee specifically agrees, as part of its obligation to comply

with all applicable laws, governmental rules, regulations and orders during the term of this Consent Agreement, that it shall comply with 49 CFR Part 26 (Participation by Disadvantaged Business Enterprises in the Department of Transportation Financial Assistance Programs) and 49 CFR Part 23 (Participation by Disadvantaged Business Enterprises in Airport Concessions), as the same may be amended from time to time. In addition, the Port Authority may from time to time, by notice to the Sublessee, provide to the Sublessee specific provisions which it determines may be required by the afore-stated Part 26 and/or Part 23, to be attached to and form a part of this Consent Agreement. Such specific provisions, from the effective date of such notice, shall be deemed to constitute an integral part of this Consent Agreement.

(b) This Consent Agreement is subject to the requirements of the United States Department of Transportation's regulations, 49 CFR Part 23. The Sublessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement or any management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Par 23. The Sublessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Sublessee agrees to comply with the terms and provision of Schedule G, attached hereto and hereto made a part hereof.

24. City Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent Agreement is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Consent Agreement for more than one (1) month in advance (excluding security and other deposits required under this Consent Agreement);

(iii) With respect to this Consent Agreement, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent Agreement, which shall provide the Port Authority with the right to revoke this Consent Agreement and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent Agreement.

25. Without in any way limiting the provisions hereof, unless otherwise notified by the Port Authority in writing, in the event the Sublessee shall continue to perform the operations permitted under this Consent Agreement and/or the Sublease, after the expiration, revocation or termination of the term granted under this Consent Agreement or the Sublease, as such effective term may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Consent Agreement or other remedies the Port Authority may have by law or otherwise, the Sublessee 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 Sublessee shall cease to perform the operations at the Airport under the Sublease, equal to twice the sum of the monthly amount due to the Port Authority under the Sublease. Nothing herein contained shall give, or be deemed to give, the Sublessee any right to continue to perform the privilege granted under this Consent Agreement at the Airport after the expiration, revocation or termination of the term granted under this Consent Agreement and/or Sublease. The Sublessee acknowledges that the failure of the Sublessee to cease to perform the operations at the Airport from and after the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Sublessee 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

Sublessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

26. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under this Consent Agreement, the Lessee and the Sublessee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Sublessee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Sublessee shall immediately give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all impending or existing labor-related disruptions and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Sublessee at the Terminal, or against its operations thereat pursuant to this Consent Agreement, which in the opinion of the Port Authority (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Consent Agreement.

(b) Labor peace agreement. The Sublessee represents that, prior to or upon entering into this Consent Agreement, it has delivered to the Port Authority evidence of a signed labor peace agreement, in the form attached hereto as Exhibit X or, if Exhibit X is inapplicable, a written notification from an officer of the Sublessee on the Sublessee's letterhead that no labor organization (as defined by 29 U.S.C. Section 152(3)) has sought to represent the employees of the Sublessee at the Airport or of the date of such notification.

(c) Employee Retention. If the Sublessee's concession at the Concession Area is of the same type (i.e., food, retail, news/gifts or duty-free concession) as that of the immediately preceding concession operator at the Space (the "Predecessor Concession"), the Sublessee agrees to offer continued employment for a minimum period of ninety (90) days, unless there is just cause to terminate employment sooner, to employees of the Predecessor Concession who have been or will be displaced by cessation of the operations of the Predecessor Concession and who wish to work for the Sublessee at the Concession Area. The foregoing requirement shall be subject to the Sublessee's commercially reasonable determination that fewer employees are required at the Space than were required by the Predecessor Concession; except, however, that the Sublessee shall retain such staff as is deemed commercially reasonable on the basis of seniority with the Predecessor Concession at the premises. The Port Authority shall have the right to demand from the Sublessee documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. In the event the Sublessee fails to comply with this provision, the Port Authority have the right at any time during the continuance thereof to take such actions as the Port Authority may deem

appropriate including, without limitation, revocation of this Consent Agreement.

(d) Applicability of Provision. The provisions of this section shall apply to concession operators which employ ten (10) or more persons at the Space.

27. The Sublessee and Lessee specifically agree not to interpose any claims as counterclaims in any summary proceeding or in any action for non-payment of rents, fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

28. This Consent Agreement and any claim, dispute or controversy arising out of, under or related to this Consent Agreement the relationship of the parties hereunder, and /or the interpretation and enforcement of the rights and obligation of the parties hereunder shall be governed by, interpreted and construed in accordance with the laws of the State of New York, without regard to conflict of law principles.

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

IN WITNESS WHEREOF, the Port Authority, the Lessee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

DAVID KABAN

(Title) Assistant Director

(Seal)

ATTEST:

Secretary

SVP FINANCE

Neil Evans

BRITISH AIRWAYS PLC

By

(Title) KEITH WILLIAMS ~~President~~ Chief executive officer

(Corporate Seal)

ATTEST:

Secretary

DUTY FREE AMERICAS AIRPORTS, INC.

By

(Title) Jerome Falic ~~President~~ Chief Executive Officer

(Corporate Seal)

APPROVED FOR TRANSMITTAL

FORM	TERMS
	SP

EXHIBIT X

EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

DUTY FREE AMERICAS AIRPORTS, INC. (the "Company") has complied with Board Resolution "All airports – Labor Harmony Policy" passed October 18, 2007, which stipulates that the Company must sign a Labor Peace Agreement with a labor organization that seeks to represent the Company's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Company's operations.

FOR THE COMPANY:
DUTY FREE AMERICAS AIRPORTS, INC.

BY:_____

DATE:_____

FOR THE UNION:
[Insert Name of Labor Organization]

BY:_____

DATE:_____

Initialed:

_____
For the Port Authority

_____
For the Sublessee

_____
For the Lessee

SCHEDULE G

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

In accordance with regulations of the US Department of Transportation 49 CFR Part 23, the Port Authority has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) program under which qualified firms may have the opportunity to operate an airport business. The Port Authority has established an ACDBE participation goal, as measured by the total estimated annual gross receipts for the overall concession program. The goal is modified from time to time and posted on the Port Authority's website: www.panynj.gov.

The overall ACDBE goal is a key element of the Port Authority's concession program and Concessionaire shall take all necessary and reasonable steps to comply with the requirements of the Port Authority's ACDBE program. The Concessionaire commits to making good faith efforts to achieve the ACDBE goal. Pursuant to 49 CFR 23.25 (f), ACDBE participation must be, to the greatest extent practicable, in the form of direct ownership, management and operation of the concession or the ownership, management and operation of specific concession locations through subleases. The Port Authority will also consider participation through joint ventures in which ACDBEs control a distinct portion of the joint venture business and/or purchase of goods and services from ACDBEs. In connection with the aforesaid good faith efforts, as to those matters contracted out by the Concessionaire in its performance of this agreement, the Concessionaire shall use, to the maximum extent feasible and consistent with the Concessionaire's exercise of good business judgment including without limit the consideration of cost competitiveness, a good faith effort to meet the Port Authority's goals. Information regarding specific good faith steps can be found in the Port Authority's ACDBE Program located on its above-referenced website. In addition, the Concessionaire shall keep such records as shall enable the Port Authority to comply with its obligations under 49 CFR Part 23 regarding efforts to offer opportunities to ACDBEs.

Qualification as an ACDBE

To qualify as an ACDBE, the firm must meet the definition set forth below and be certified by the New York State or New Jersey Uniform Certification Program (UCP). The New York State UCP directory is available on-line at www.nysucp.net and the New Jersey UCP at www.njucp.net.

An ACDBE must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed $47.78 million and it must be (a) at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it. The personal net worth standard used in determining eligibility for purposes of

part 23 is $750,000.

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State or New Jersey UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but

which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, 233 Park Avenue South, 4th Floor, New York, New York 10003 or such other address as the Port Authority may designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee, the term Concessionaire shall mean the Lessee herein.

Initialed:

For the Port Authority

For the Lessee

For the Sublessee

CONCESSIONAIRE SUBLEASE AGREEMENT

(hereinafter referred to as the "Sublease")

between

BRITISH AIRWAYS PLC
a company registered in England under number 1777777, with offices at Waterside, P.O. Box 365, Harmondsworth, UB7 0GB; and Americas office located at 75-20 Astoria Boulevard, Jackson Heights, New York 11370;

(hereinafter referred to as "Sublandlord")

and

DUTY FREE AMERICAS AIRPORTS, INC.
a company registered in the United States under number 62-1494607, with offices at 6100 Hollywood Boulevard, 7th Floor, Hollywood, Florida 33024

(hereinafter referred to as "Concessionaire")

hereinafter referred to jointly as the "Parties"

FOR A PORTION OF TERMINAL 7 IN JOHN F. KENNEDY INTERNATIONAL AIRPORT

SUBLEASE FOR COACH AND ARMANI CONCEPTS, PROVIDED BY DUTY FREE AMERICAS

NOTICE ADDRESS:

SUBLANDLORD:
75-20 Astoria Boulevard
Jackson Heights, New York 11370
Attention: Steve Clark, Senior Vice-President, Customer Service

With a copy to:
James B. Blaney
Senior Counsel, Americas
75-20 Astoria Boulevard
Jackson Heights, New York 11370

PORT AUTHORITY:
Manager of Central Business
Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003

With copy to:
Chief, Leases Division
Port Authority of New York and New Jersey
Law Department
225 Park Avenue South
New York, New York 10003

CONCESSIONAIRE:
Duty Free Americas
Simon Falic
6100 Hollywood Boulevard, 7th Floor
Hollywood, Florida 33024

With copy to:
David Taney, Esq.
6100 Hollywood Boulevard, 7th Floor
Hollywood, Florida 33024

SCOPE OF SUBLEASE

This Sublease sets out the terms and conditions applicable to the Concessionaire for the rental of space at Terminal 7, John F.Kennedy Airport as confirmed by the Sublandlord.

It is agreed that the details set out in this Sublease and the Appendices to form the Sublease between the parties.

SUBLEASE PERIOD:

British Airways Plc and Duty Free Americas Airports, Inc.. enter into this Sublease, effective **May 1, 2011** until **'October 31, 2015'** inclusive.

By signing below, the Company's authorised representative confirms that he/she has authority to act on behalf of the Company and that the Company has agreed to the details set out in this Sublease:

For and on behalf of
BRITISH AIRWAYS PLC

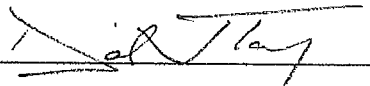
Signature:

Print Name: NEIL EVANS

Title: SVP FINANCE

Date: 7 APRIL 2011

For and on behalf of
DUTY FREE AMERICAS AIRPORTS, INC.

Signature: 

Print Name: David Taney

Title: General Counsel

Date: 4/5/11

DEFINITIONS AND INTERPRETATIONS

In this Agreement, except where the context otherwise requires, the following terms shall have the following meanings:

Additional Rent: The collective term for all sums of money required to be paid by Concessionaire to Sublandlord or the Port Authority, other than Base Rent, as that term is defined below, and including, without limitation, the Operations and Maintenance Fee and Marketing Fee, as those terms are hereinafter defined.

Address for payments to Port Authority: P.O. Box 17309, Newark, New Jersey 07194.

Address for payments to Sublandlord: British Airways, Concessions Management Team Terminal 7, JFK International Airport, Jamaica, New York 11430

Airport: John F. Kennedy International Airport.

Annual Statement: A statement from, and certified as being true, accurate and complete by, Concessionaire and delivered to the Sublandlord and the Port Authority, stating the amount of Gross Receipts from the Concessionaire for the previous calendar year or partial calendar year.

Audit: A complete audit to be made, by an independent certified public accountant selected by Sublandlord or the Port Authority, as the case may be, of the Records of the Concessionaire for the period covered by any Monthly Statement or Annual Statement.

Bond: Letter(s) of credit for the benefit of the Sublandlord and the Port Authority, respectively, issued by a party or parties approved by the Sublandlord and the Port Authority, as the case may be, as to the surety or letter of credit in its respective favor, which provides Sublandlord or the Port Authority, as the case may be, the right to make an immediate demand upon the issuer thereof for any Rent that may be owned to Sublandlord, or the Port Authority, as the case may be, by the Concessionaire.

Sublease Commencement Date: May 1, 2011

Common Areas: All portions of the Terminal, except for those portions (I) included within each of the premises subleased to Concessionaires including, but not limited to, the Concessionaire Premises; and (2) not open or available for use by the general public, as more fully set forth in Section 6.1.

Concessionaire Premises: That portion of the Premises subleased to the Concessionaire and depicted on Exhibit A, comprised of the following Spaces:

R8	644 Sq Ft	Coach Concept
R81	644 Sq Ft	Armani Concept

Concessionaire Sublease: This Sublease, which shall be void *ab initio* and of no force and effect unless and until such time as the Concessionaire, Sublandlord, and the Port Authority have executed a consent agreement in the form of a so-called " Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, which issuance is within the sole and absolute discretion of the Port Authority.

Concessionaires: All third parties to whom the Sublandlord subleases or licenses portions of the Premises.

CPI: The twelve (12) month average of the Consumer Price Index [U.S. -All Items in Commodity Groups-New York Area Only, Urban Wage Earners and Clerical Workers of the U.S. Department of Labor 1982-84= 100].

Default Rate: A rate of interest being the lesser of (a) the Prime Rate, plus four percent (4%); and (b) the highest rate then allowed under the usury laws of the State of New York.

Delivery Date: As it applies to any portion of the Concessionaire Premises, the date on which possession of said portion of the Concessionaire Premises is delivered to Concessionaire by British Airways.

Delivery Service: Federal Express or similar nationally recognized overnight courier service.

Disadvantaged Business Enterprise or DBE: An individual or entity meeting the requirements of a disadvantaged business enterprise as defined in US Department of Transportation Regulations Title 49, Code of Federal Regulations, Part 23, and certified as an ACDBE by the Port Authority.

Enplanement or **Enplaned Passenger:** Any local originating, connecting or through passenger that boards a flight from the Terminal, excluding passengers who have disembarked and reboarded for the purpose of continuing their journey on the same aircraft with the same flight number.

Event of Default: Certain failures by the Concessionaire, as more fully set forth in Section 13. I.

Expiration Date: October 3 1, 2015, unless sooner terminated in accordance with the provisions of this Sublease. as amended.

Federal Aviation Administration or FAA: The United States Federal Aviation Administration, and any successor agency, office or department thereof.

Floor Area of Concessionaire Premises:

R8	644 Sq Ft	Coach Concept
R81	644 Sq Ft	Armani Concept

Food Court Common Areas: That portion of the Common Areas primarily intended for (a) public circulation to and from certain food and beverage Concessionaires and (b) a public seating area containing tables and chairs for use by passengers, employees and other visitors to the Terminal to consume purchases from said food and beverage Concessionaires, as further depicted in Exhibit A.

GAAP: Generally Accepted Accounting Principles.

Governmental Authority or Governmental Authorities: The United States of America, the 3 States of New York and New Jersey, any political subdivision of either and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, or any quasigovernmental authority (to the extent the rulings of such quasi-governmental authority have the force of law), including the Port Authority, now existing or hereafter created, having jurisdiction over the Airport or any portion thereof.

Gross Receipts: As that term is defined in Section 2.1 (b)(iv), below.

Initial Build Out Costs: The aggregate of the so-called hard and soft costs incurred by the Concessionaire in connection with the development, design, construction, furnishing, fixturing and equipping of the Concessionaire Premises.

Initial Improvements: that work to be undertaken by Concessionaire in any portion of the Concessionaire Premises, following the Delivery Date of said portion of the Concessionaire Premises, as further described in Section 1.2(b) below.

Laws: All present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any applicable fire rating bureau or other body exercising similar functions, affecting the Airport or any portion thereof.

Master Lease: That certain Agreement of Lease dated as of January 4, 1988 between the Sublandlord as the Lessee therein and The Port Authority of New York and New Jersey, and all amendments, supplements and revisions thereof, whether heretofore or hereafter made (collectively "Supplements") and known as Lease No. A Y8-876.

Minimum Annual Guaranteed Rent: Ex. 2.a. per annum, subject to the adjustment, as set forth ID Section 2. I (a) for space R8/R81

Minimum Annual Guaranteed Rent Commencement Date: May 1st, 2011

Monthly Statement: A statement from and certified, as being true, accurate and complete by the Concessionaire to the Sublandlord and the Port Authority stating the amount of Gross Receipts from Concessionaire for the previous calendar month, and such other information as Sublandlord may reasonably request, each such statement to identify each location operated by Concessionaire within the Premises, irrespective of whether or not all such locations (if more than one) are operated under one or more Concessionaire Subleases.

Percentage Rent: That portion of the Gross Receipts of the Concessionaire to be paid as a component of Rent by the Concessionaire to the Sublandlord or Port Authority, as the case may be.

Percentage Rent Rates: Those rates identified as such in Exhibit D.

Permitted Operations: Operation of Coach and Emporio Armani retail stores for the sale of merchandise on a duty-free and/or tax-free and/or duty-paid basis.

Such brands may not be substituted or moved between locations without Sublandlord's express written consent, which consent shall not be unreasonably withheld or delayed. Concessionaire agrees that it has or will obtain all necessary rights, titles and licenses to permit such designated brands to be sold at the locations herein and provide Sublandlord with proof of such as requested. Concessionaire agrees that it will retain, to the extent reasonably possible, the ability both to retain such brands for the duration of this Agreement and to replace such brands as is necessary.

Either party may, in the reasonable exercise of its business judgment, request a review of the performance of any of the locations set forth herein. The basis for such review may be either or both of a location's financial performance or its suitability for the designated location or the Terminal in general. In the event Sublandlord and Concessionaire determine after such review that a particular brand is performing in a materially unsatisfactory fashion or is otherwise no longer appropriate for the Terminal, Sublandlord and Concessionaire will enter into good faith negotiations to consider a replacement brand. The reimbursement for unamortized capital and the capital investment required for such brand substitution and which party will be responsible therefor will be a component of such good faith negotiations.

Plans and Specifications: The plans and specifications approved by Sublandlord and the Port Authority, by which the Concessionaire will (a) design; (b) furnish; (c) fixture; and (d) equip the

Concessionaire Premises. All plans and specifications must comply with the Port Authority's Tenant Alteration Application process, a copy of said form of said Application is attached hereto as Exhibit E.

Port Authority: The Port Authority of New York and New Jersey, a body corporate and politic as established by compact between the States of New Jersey and New York with the consent of the Congress of the United States of America.

Port Authority Consent: A written consent agreement in the form of a so-called "Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, or amendments thereto, which issuance is within the sole and absolute discretion of the Port Authority.

Port Authority Percentage Rent: An amount equal to fifty percent (50%) of the Percentage Rent.

Premises: Those portions of the Terminal which are, from time-to-time, designated as such by the Sublandlord, but in no event shall it consist of less than the aggregate of (a) the Concessionaire Premises; (b) all other portions of the Terminal subleased to other concessionaires; and (c) and the Food Court Common Areas.

Prime Rate: That which is published, from time to time, in the Wall Street Journal as being the prime rate.

Protected Parties: All officers, directors, employees, agents and shareholders of the Sublandlord and its successors and assigns.

Records: Those records and books or account recording all transactions of the Concessionaire at, through, or in anyway connected with the Concessionaire Premises.

Rent: The collective term for Minimum Annual Guaranteed Rent, Percentage Rent and Additional Rent.

Sublandlord Percentage Rent: An amount equal to fifty percent (50%) of the Percentage Rent.

Sublandlord's Work: That work to be done by or on behalf of the Sublandlord as more fully set forth in Exhibit B.

Substantial Completion: That stage in the process of the Sublandlord 's Work when such is sufficiently complete, as reasonably determined by Sublandlord, so that the Concessionaire may beneficially occupy the Concessionaire Premises for its intended use,

Term: The period beginning on the Commencement Date and ending on the Expiration Date, unless sooner terminated pursuant to the terms of this Sublease.

Terminal: That portion of the Airport currently and commonly known as Terminal 7 or the British Airways Terminal.

Transportation Security Administration or **TSA**: The United States Transportation Security Administration, and any successor agency, office or department thereof

TABLE OF EXHIBITS:

A	Depiction of Concessionaire's Premises
B	Description of Sublandlord's Work
C	Disadvantaged Business Enterprise Provisions
D	Percentage Rent Rates
E	Form of Port Authority Tenant Alteration Application
F	Form of Guaranty
G	Affirmative Action Policy
H	Standards of Operation

SUBLEASE TERMS AND CONDITIONS

SECTION 1 – GRANT AND PREMISES

1.1: GRANT AND PREMISES

(a) Sublandlord, in consideration of the Rent to be paid and the covenants to be performed by Concessionaire, does hereby, demise and lease unto Concessionaire, and Concessionaire hereby rents and hires from Sublandlord, the Concessionaire Premises for the uses and purposes hereinafter set forth, subject, at all times, to the terms and conditions of the Master Lease and the Port Authority Consent, provided however, this Sublease shall be void ab initio until receipt of the executed Port Authority Consent.

(b) The foregoing grant and demise to Concessionaire includes the non-exclusive right of the Concessionaire and its officers, shareholders, partners, members, contractors, agents, employees and invitees and others acting by, through or under the Concessionaire to use the Airport, pursuant to the terms of the Master Lease, including, but not limited to, Section 6 (Common Area), thereof, in common with all others permitted to use the Airport by the Port Authority.

1.2: DELIVERY OF PREMISES; WORK OF SUBLANDLORD AND CONCESSIONAIRE

(a) Sublandlord will perform or cause to be performed, the Sublandlord's Work, if any, as more fully set forth in Exhibit B. Concessionaire, by its execution of this Sublease, represents, warrants and agrees that Sublandlord has no obligation, duty and has made no agreement with Concessionaire to do or cause to be done any other work in or to the Concessionaire Premises except as expressly set forth herein.

(b) Concessionaire covenants and agrees that, to the extent not required to be completed by the Sublandlord, Concessionaire and / or its retail brands shall (i) undertake, at no cost to the Sublandlord or Port Authority, improvement of the Concessionaire Premises, which improvement shall include the (I) design; (2) furnishings and fixtures; (3) leasehold improvements and; (4) equipping of the Concessionaire Premises (said work herein referred to as the " Initial Improvements"), and shall expend for said Initial Improvements an amount not less than as defined in Exhibit J) and Concessionaire will provide to Sublandlord such documentation as is reasonably required to evidence and support such expenditure. Subject to delays beyond Concessionaire's control, Concessionaire shall cause the Initial Improvements to proceed diligently to completion in accordance with the Plans and Specifications. Concessionaire agrees to complete the Initial Improvements within 60 days of the Date of Delivery, except as such date may be extended by Sublandlord. Concessionaire covenants that it will, at all times, conform with all Laws, the Master Lease and the Tenant Alteration Application process of the Port Authority. Sublandlord will take reasonable steps to assist Concessionaire to secure all necessary Port Authority approvals.

SECTION 2 – RENTAL

2. 1: BASE RENT

For each calendar year, Concessionaire shall pay to Sublandlord and Port Authority, or such other party or parties as the Concessionaire is from time-to-time notified in writing, as Base Rent, an amount equal to the greater of the (I) Minimum Annual Guaranteed Rent, without regard to any waiver or abatement as set forth herein and (2) Percentage Rent. All payments of Base Rent shall be due and payable without prior demand or notice.

(a) MINIMUM ANNUAL GUARANTEED RENT.

(i) Calculation of Minimum Annual Guaranteed Rent

(A) Minimum Annual Guaranteed Rent shall be due and be paid in twelve (12) equal monthly installments, in advance, on the first day of the first month following the Minimum Annual Guaranteed Rent Commencement Date and continue through the remainder of the Term thereafter.

(B) Notwithstanding anything herein contained to the contrary, in the event the Concessionaire does not initially open for business on or before the Minimum Annual Guaranteed Rent Commencement Date, then, for the period commencing on the Minimum Annual Guaranteed Rent Commencement Date, until the date such Concessionaire initially opens for business ("Stub Period"), Concessionaire shall pay to Sublandlord, as liquidated damages, and not as a penalty, an amount equal to the Minimum Annual Guaranteed Rent for such Concessionaire Premises ("Stub Rent") pro rated, on a daily basis, and paid, in advance, on the first day of the first calendar month following the Stub Period. Upon the initial opening for business by such Concessionaire, the Minimum Annual Guaranteed Rent shall thereafter begin to accrue in accordance with the terms of this Sublease and be paid in accordance with the terms set forth herein.

(ii) Concessionaire acknowledges and agrees that, of the Minimum Annual Guaranteed Re thereof is due and payable by Concessionaire to the Port Authority and fifty s due to the Sublandlord, on a monthly basis (as a Minimum Annual Guaranteed Rent).

Therefore, the Minimum Annual Guaranteed Rent as defined above shall be paid, directly to Port Authority and Sublandlord in equal monthly installments, on the first day of the month following the Minimum Annual Guaranteed Rent commencement Date, and the Minimum Annual Guaranteed Rent for the first calendar year shall be prorated on a per diem basis. Subsequent to the Minimum Annual Guaranteed Rent Commencement Date, the Concessionaire shall deliver to the Sublandlord a statement confirming the Minimum Annual Guaranteed Rent Commencement Date.

(iii) During each calendar year that an amount equal to eighty- five percent (85%) of the Percentage Rent therefor shall exceed the Minimum Annual Guaranteed Rent for the same calendar year, then the Minimum Annual Guaranteed Rent for the next succeeding calendar year shall be an amount equal to said eighty-five percent (85%) of the Percentage Rent.

(b) PERCENTAGE RENT.

(I) Percentage Rent from Concessionaire shall be equal to the product of the Percentage Rent Rates applicable to the merchandise sold or services offered by the Concessionaire within the Concessionaire Premises, multiplied by the Gross Receipts.

(ii) Commencing with the second (2nd) month of the Term, Percentage Rent shall be paid by Concessionaire to Sublandlord, as to the Sublandlord Percentage Rent, and the Port Authority, as to the Port Authority Percentage Rent, without prior notice or demand, within fifteen (15) days after the end of each month of the Term ("Percentage Rent Payment Date"); provided however, in no event shall either the Sublandlord Percentage Rent or Port Authority Percentage Rent be less than the amount due to the Sublandlord or Port Authority, as the case may be, as Minimum Annual Guaranteed Rent.

(iii) If, for any calendar year or partial calendar year, as the case may be, the total amount of monthly installments of Percentage Rent for such period is less than the total amount of Percentage Rent required to be paid for said period, Concessionaire shall pay to the Sublandlord or the Port Authority, or both, as the case may be, the amount of such deficiency together with the delivery of the Annual Statement. If, at the end of any calendar year or partial calendar year, as the case may be, the total amount of Percentage Rent paid by Concessionaire for such period was in excess of amount of Percentage Rent required to be paid hereunder for said period, then such excess shall be deemed to be prepaid Rent and shall be applied as a credit against Rent thereafter becoming due and payable by Concessionaire to Sublandlord or Port Authority, or both, as the case may be, until such credit is exhausted. This obligation shall survive the expiration or sooner termination of this Sublease. In the event the Percentage Rent paid in the final Sublease year exceeds the amounts owed to Sublandlord hereunder, such excess sum will be promptly repaid to Concessionaire following conclusion of the Sublease term.

(iv) The term Gross Receipts, for each calendar year or partial calendar year, shall mean and include all monies paid or payable to Concessionaire for sales made and, services rendered at or from the Concessionaire Premises, regardless of (A) when during a calendar year sales are made and (B) where the order is filled or from where it is shipped, if the order was taken at the Concessionaire Premises, provided however the following shall be excluded, or, if included, may be deducted therefrom: (I) taxes imposed by law which are separately stated to and paid by a customer and directly payable to the taxing authority by the Concessionaire; (2) receipts of Concessionaire which arise from its operations, if any, under any other agreement with the Port Authority and which are subject to a percentage rental or fee under that agreement; (3) refunds for merchandise returned by customers; (4) the amount of gratuities paid or given by patrons or customers to employees of Concessionaire or others employed at or serving at any of the facilities being operated by Concessionaire; (5) bona fide transfers of merchandise to or from the Concessionaire Premises to any other stores or warehouses of Concessionaire; (6) sales of Concessionaire's fixtures and store equipment not in the ordinary course of such Concessionaire's business; (7) returns to shippers, suppliers or manufacturers; and (8) insurance proceeds received from the settlement of claims for loss of or damages to merchandise, fixtures and other personal property of the Concessionaire other than the proceeds of business interruption insurance. During all time periods for which Gross Receipts are computed, in the event the foregoing definition produces a negative number, Gross Receipts shall be deemed to equal zero. The full amount of any payments received by Concessionaire from any third party as consideration for (i) promotions,(ii) advertising, or (iii) the prominent display of merchandise and/or the placement of promotional material in the Concessionaire Premises from a supplier of goods (such latter promotional considerations commonly referred to as "Retail Display Allowance") shall be included in the Gross Receipts for the year within which such payment was earned, irrespective of when received; provided that contributions received by Concessionaire from any third party for salary support and store improvements/fixtures shall not be included in Gross Receipts. The amount of Gross Receipts shall be determined and based upon the amount that Concessionaire reports to Sublandlord and the Port Authority as the Gross Receipts for each such reporting period, as adjusted, thereafter after examination of Concessionaire's books and record and/or Audit by either or both of the Sublandlord and the Port Authority. Except as otherwise provided for herein, if any charge for any of the products or services provided hereunder is not assessed, charged or collected, irrespective of the reason therefore, the proper amount of such charge shall, nevertheless, be included in Gross Receipts.

Further, no deduction shall be made from Gross Receipts by reason of any credit loss, charge or deduction that may be incurred by reason of the acceptance or use of credit cards or other credit or charge arrangements.

2.2: ADDITIONAL RENT.

Additional Rent, if any, shall be paid within ten (10) days after receipt of a bill therefor.

2.3: LATE CHARGE, DEFAULT RATE, LOCATION FOR PAYMENTS

(a) Unless specifically stated otherwise in this Sublease, Rent shall be due and payable as indicated herein. The parties hereby agree that late payment by Concessionaire of any Rent may cause Sublandlord to incur certain costs and expenses not contemplated under this Sublease; the exact amount of which costs are extremely difficult to determine. In the event Concessionaire fails to pay any Rent to Sublandlord on or before the 5th business day after same is due to Sublandlord, then Concessionaire shall pay to Sublandlord a late charge of five percent (5%) of the amount not so paid as damages for the failure to make prompt payment. In the event Concessionaire pays said late charge, but fails to pay contemporaneously therewith all unpaid amounts of Rent then due to Sublandlord and payable, Sublandord's acceptance of this late charge shall not constitute a waiver of Concessionaire's failure with respect to Concessionaire's nonpayment or prevent Sublandlord from exercising all other rights and remedies available to Sublandlord.

(b) Late Charges

(i) Any amount due from Concessionaire to Sublandlord, which is not paid when due (including, without limitation, amounts due as reimbursement to Sublandlord for costs incurred in performing obligations of the Concessionaire) shall bear interest at the Default Rate from the date due until paid (such interest hereinafter referred to as " Interest Charges"), unless otherwise specifically provided herein, but the payment of such Interest Charges shall not excuse or cure any failure or default under this Sublease. Interest Charges shall not accrue with respect to disputed items being contested in good faith by Concessionaire; however, Interest Charges shall accrue on any disputed item not paid within five (5) business days from the date of resolution computed from the date of resolution.

(ii) If Concessionaire should fail to pay any amount required under this Sublease or the Port Authority Consent to the Port Authority, including without limitation any payment of any Rent, 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 (herein below described) during the entirety of II which such amount remains unpaid, each such late charge not to exceed an amount equal to eighteenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four 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 (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. Each late charge shall be payable immediately upon demand made at any time therefore 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 this subsection with respect to such unpaid amount. Nothing herein is intended to, or shall be deemed to affect, alter, modify or diminish in any way any rights of the Port Authority under this Sublease or the Part Authority Consent, as the case may be. In the event that any late charge imposed pursuant to this subsection shall exceed a legal maximum

applicable to such late charge, then, in such event, each such late charge payable hereunder shall be payable instead at such legal maximum.

(c) Rent and all other sums payable by Concessionaire shall be paid in currency of the United States or other customary commercial manner at the Address for Payments to Sublandlord or Port Authority, as the case may be, or such other place as either or all may designate, from time to time, without any deductions or offsets, except as otherwise specifically permitted in this Sublease.

SECTION 3 – RECORDS AND BOOKS OF ACCOUNT, AUDIT

3. 1: RECORDS

a) Concessionaire covenants and agrees to maintain all Records in accordance with GAAP during the Term, and for two full calendar years after the expiration or earlier termination of the Term or the Port Authority Consent ("Records Term"). The Records shall be kept at all times within the Port of New York District. Without implying any limitations on the rights of the Port Authority, but in addition thereto, if any Records are maintained outside of the Port of New York District, but within the continental United States, the Port Authority or the Sublandlord, in their respective discretion, both, may (i) require that such Records be produced within the Port of New York District; or (ii) examine such Records at the location at which they have been maintained and in such event, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or both, as the case may be, when billed, all travel and related expenses, as determined by the Port Authority and the Sublandlord, for the Port Authority's and Sublandlord's auditors and other representatives, employees and officers in connection with such examination and audit, or, if any such Records have been maintained outside the continental United States, then, in addition to the costs set forth in (ii), above, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or all, as the case may be, when billed, all other costs of the examinations and audits of such Records, including, without limitation, salaries, benefits, travel costs and related expenses, overhead costs and fees and charges of third-party auditors retained by the Port Authority or the Sublandlord, or both, as the case may be, for the purpose of conducting such examinations and audits. The foregoing auditing costs, expenses and amounts due to the (i) Port Authority shall be deemed fees and charges under the Port Authority Consent, payable to the Port Authority with the same force and effect as all other fees and charges payable thereunder; or (ii) Sublandlord, as Additional Rent, and be payable upon demand therefor.

b) Notwithstanding anything contained in this Sublease to the contrary, for purposes of this Sublease, Records shall exclude any books and records relating to any other locations owned or occupied by Concessionaire located at the Airport or any other business operations of Concessionaire, provided however, that this exclusion shall neither bind nor apply to the Port Authority and its right to inspect and Audit as herein provided. The Port Authority shall also be entitled to examine and audit the books and records of account of any company or entity which is owned or controlled by Concessionaire, or which owns or controls Concessionaire, or which is under common control with the Concessionaire, if said company performs services similar to those performed by the Concessionaire, and the Concessionaire shall make available such books and records to the Port Authority for such purposes to the same extent as would be required pursuant to paragraph (c) of this section and solely to the extent that such books and records relate or pertain to operations at the Airport.

c) Concessionaire shall permit during the Records Term, (i) the examination and audit of the Records by the officers, employees and representatives of either or both of the Sublandlord and Port Authority ("'Audit"). Concessionaire shall make available to the Port Authority with in the Port of New York District for examination and Audit pursuant hereto all of the Records; (ii) the inspection by the officers, employees and representatives of either or both of the Port Authority and Sublandlord of any equipment used by Concessionaire including, but not limited to sales registration and tracking devices such as cash registers, sales slips, invoicing machines and any other equipment or devices for recording orders taken, or services rendered, as may be appropriate to Concessionaire business and necessary or desirable to keep accurate records of Gross Receipts.

d) In the event Concessionaire shall fail to maintain, keep or make available for examination and Audit the Records in the manner and at the times or location as provided herein then, in addition to all and without limiting any other rights and remedies of the Sublandlord or the Port Authority, either or both may:

(i) Estimate the Gross Receipts of the Concessionaire on any basis that the Port Authority or the Sublandlord, in their respective sole discretion, shall reasonably deem appropriate, such estimation to be final and binding on the Concessionaire (but not on the remaining party having the benefit of this provision) and Concessionaire's Percentage Rent based thereon to be payable to the party conducting the Audit; or

(j) If any such Records have been maintained outside of the Port of New York District, then the Port Authority or the Sublandlord, or all, may, in the exercise of the sole discretion of either, may require, on ten (10) days notice to Concessionaire, that such Records to be produced and made available within the Port of New York District for the Port Authority 's or Sublandlord's, or both, auditors and other representatives, employees and officers in connection with such examination and Audit.

3.2: REPORTS BY CONCESSIONAIRE

(a) Concessionaire shall furnish to Sublandlord and the Port Authority (i) the Monthly Statement by the Percentage Rent Payment Date, for the preceding month; and (ii) the Annual Statement on or before April 1st of each calendar year, for the preceding calendar year.

(b) Concessionaire shall timely provide to the Sublandlord and the Port Authority a Monthly Statement and Annual Statement together with all other documents, Records and materials requested or required to be delivered by Concessionaire to the Port Authority or Sublandlord.

3.3: SUBLANDLORD AUDIT ADJUSTMENTS; COSTS

If any Audit conducted by the Sublandlord of the Concessionaire discloses that the Gross Receipts as previously reported for the period audited were understated and additional Percentage Rent is due, then the Concessionaire shall be required to pay to (i) Sublandlord the additional Percentage Rent due thereto for the period audited within five (5) days after receipt of a statement therefor (together with a copy of the results of the Audit indicating the understatement); and (ii) if such understatement exceeds three percent (3%), within five (5) days of an invoice therefor, all reasonable and actual costs of each such Audit.

SECTION 4 – INITIAL CONDITION OF CONCESSIONAIRE PREMISES

4.1: ACCEPTANCE

(a) Upon Substantial Completion, Concessionaire shall accept the Concessionaire Premises in their then-current condition, subject to such work as may be necessary to complete the work, if any, to be done by the Sublandlord, which work shall be completed by Sublandlord as soon as is reasonably possible.

(b) Concessionaire, by the acceptance of the tender of delivery by Sublandlord of the Concessionaire Premises at the date of execution hereof, shall be deemed the unequivocal representation, warranty and agreement by the Concessionaire that (a) Substantial Completion of the Sublandlord's Work has occurred; (b) Concessionaire has, subject to full completion of Sublandlord 's Work, accepted the Concessionaire Premises in all respects; and (c) Sublandlord has no obligation, duty or has made any agreement to do or cause to be done any other work in or to the Concessionaire Premises except to the extent otherwise set forth in this Sublease.

(c) Sublandlord makes no warranty, either express or implied, as to the condition of the Concessionaire Premises or the suitability of the Concessionaire Premises for Concessionaire's purposes or needs. If during the construction of Improvements, latent defects are discovered, Sublandlord and Concessionaire shall negotiate in good faith with respect to the costs for which each shall be responsible.

4.2: CHANGES TO PREMISES

(a) The Initial Improvements with respect to each portion of the Concessionaire Premises shall be made only in accordance with the provisions of Exhibits B and E.

(b) Changes, if any, made to the Concessionaire Premises from and after the completion of the Initial Improvements shall be made only in accordance with the Plans and Specifications and, in all events, in compliance with the Port Authority's Tenant Alteration Application process, which process must be complied with, in addition to, and not in lieu of, the provisions of this Section 4.2.

(c) Full and complete plans and specifications for all work, facilities, improvements and finishes, and the time required to complete same (" Plans and Specifications"), shall be first reviewed and approved in writing by Sublandlord and then submitted and approved by the Port Authority before any work or construction is commenced. Approval of Sublandlord shall include architectural and aesthetic matters and Sublandlord reserves the right to reject any layout or design proposal submitted and to require Concessionaire to resubmit any such layout or design proposal until it meets Sublandlord's approval.

(d) All improvements, furniture, fixtures, equipment and finishes, including the plans and specifications thereof, constructed or installed by Concessionaire, its subtenants, agents or contractors shall conform in all respects to applicable Laws including, but not limited to, the Americans with Disabilities Act of 1990, as amended. Any approvals given by Sublandlord shall not constitute a representation or warranty as to such conformity; responsibility therefor shall at all times remain with Concessionaire.

(e) All designs, colors, materials and construction shall be furnished as set forth in the Plans and Specifications. Concessionaire acknowledges that Sublandlord, or its designee, may from time to time inspect the progress of the work for conformance to the Plans and Specifications. In the event Sublandlord, or its designee, determines, in their sole judgment, there is a material deviation from the Plans and Specifications, Concessionaire agrees, upon notice

from Sublandlord, to promptly effect repairs or modifications to the improvements so as to conform to the Plans and Specifications. Concessionaire acknowledges and agrees that the any improvements to the Concessionaire Premises are subject to the inspection and acceptance of Sublandlord and the Port Authority.

4.3: CHANGES TO THE TERMINAL

Concessionaire acknowledges that it is aware that Sublandlord and the Port Authority each have the right, without compensation, or reimbursement to Concessionaire, or abatement of Rent, to make alterations to the Terminal, including any modifications of the Common Areas and, in connection with such alterations, may erect temporary scaffolds and other temporary aids to construction on the exterior of the Concessionaire Premises, and to install, maintain, use, repair and replace within the Concessionaire Premises pipes, ducts, conduits, wires and all other mechanical equipment serving other parts of the Terminal or Airport. Sublandlord will not unreasonably interfere with Concessionaire's business in the event of any changes pursuant to this provision. During the time that any such scaffolding exists, Sublandlord, at its sole cost and expense, shall install signage on such scaffolding prominently displaying Concessionaire's tradename and other related wording required to indicate continued store operations.

SECTION 5 – CONDUCT OF BUSINESS BY CONCESSIONAIRE

5.1: PERMITTED OPERATIONS

(a) Concessionaire shall use the Concessionaire Premises only for the purpose of conducting the Permitted Operations and for no other use or purpose, without first obtaining the prior written consent of the Sublandlord and the Port Authority, as set forth in the Port Authority Consent. If any governmental license or permit shall be required for the proper and lawful conduct of any business or other activity conducted in the Concessionaire Premises, then Concessionaire shall duly procure and thereafter maintain each such license or permit and submit the same for inspection by Sublandlord or the Port Authority upon request therefor by Sublandlord and Port Authority, as the case may be

(b) Notwithstanding the foregoing, the Permitted Operations shall exclude any operation that:

(i) Materially interferes with the reasonable use, by third-parties, of the Common Areas;

(ii) Hinders emergency personnel (including, but not limited to police. fire and rescue personnel);

(iii) Constitutes a condition hazardous to the safety or health of the general public;

or

(iv) Is contrary to rules, regulations, policies or directives of the Port Authority.

(c) In addition to the uses excluded by (b), above, Concessionaire agrees that it may not receive any revenues or profits with respect to any of the following uses, operations or installations which the Port Authority has reserved to itself and its designees exclusively in the Terminal: VIP lounges, airline clubs, monorail facilities, if any, advertising (including, without limitation, static display, broadcast and other), pay telephones, rental of cellular phones intended for use solely within the Airport, facsimile transmission machines and other public communication services, concierge services (i.e., a center or location which offers a variety of services for passengers, including, but not limited to hotel reservations, sale of entertainment events tickets and lottery tickets, luggage storage and delivery, sightseeing tours, business services and provision of touring information), ground transportation, including vehicle rentals, hotel and other lodging reservations, vending machines dispensing anything, including but not limited to, catalog and electronic sales, (save and except for those owned and operated by Concessionaire within the Concessionaire Premises selling goods and services by Concessionaire from the Concessionaire Premises), other than products specifically permitted to be sold in the Concessionaire Premises pursuant to this Sublease and, if approved by the Port Authority, on-airport baggage carts or other on-airport baggage-moving devices, electronic amusements, and public service airport operation information, messages and announcements.

(d) Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sales a full and complete stock of merchandise consistent with only the Permitted Operations as more fully set forth in the Terminal Rules (Exhibit H). Upon request, Concessionaire must promptly provide Sublandlord, or its designee, with a complete list of all merchandise and prices. Concessionaire understands that its rights hereunder are nonexclusive and agrees that Sublandlord has the right to grant privileges under separate agreements for other concession services that may or may not be similar to the privileges granted herein to Concessionaire. In the event of a dispute between Concessionaire and any other

lessee, licensee or concessionaire as to the respective rights of the respective lessees, licensees or concessionaires, Sublandlord shall determine the rights of each lessee, licensee or concessionaire and Concessionaire agrees to be bound by such decision.

5.2: OPERATION OF BUSINESS

(a) Concessionaire agrees and covenants to be open for business and diligently conduct its business (I) in a commercially reasonable manner, fully staffed with personnel that have been trained and are qualified for the positions held and duties to be discharged; (2) on such days and during such hours as determined from time to time by the Sublandlord; and (3) in accordance with the rules and regulations promulgated from time to time by the Sublandlord to regulate the use, occupancy and operation of the Concessionaires in the Premises, all of the foregoing being the " Standards of Operation" as more fully set forth in Exhibit H.

(b) Concessionaire shall promptly comply with all present and future Laws of all Governmental Authorities and shall neither (i) do or permit anything to be done in or about the Concessionaire Premises which will violate any Laws; nor (ii) cause or knowingly permit anything to occur in the Concessionaire Premises which constitutes a violation or breach of the Master Lease or cause Sublandlord to be in breach or violation of said Master Lease.

(c) Concessionaire shall maintain a street pricing policy whereby certain goods, services, food or beverages, shall be subject to the restrictions and policies of the Port Authority.

(d) Concessionaire covenants and agrees to (I) assist and support all efforts of the Sublandlord and others to provide deliveries from the public access areas of the Terminal to and from the Premises and the Concessionaire Premises to and from the secure areas of the Terminal; and (2) coordinate with Sublandlord and others in matters essential to the efficient operation of the Premises and the Terminal.

(e) Sublandlord's Right to Monitor Performance

(i) Concessionaire shall maintain and operate the concessions granted hereunder in an orderly, proper and first-class manner which, in the sole judgment of Sublandlord. does not annoy, disturb or offend others at the Terminal. Sublandlord shall have the right to raise reasonable objections to the condition of the Concessionaire Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, the appearance and performance of service personnel and to require any such conditions or practices objectionable to Sublandlord to be remedied by Concessionaire. If requested by Concessionaire, Sublandlord shall reduce its objections to writing and provide Concessionaire an opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

(ii) Concessionaire hereby acknowledges and agrees that Sublandlord shall have the right, at its cost, to audit, review, monitor, inspect or test all Concessionaire' s operations at anytime during normal business hours through the use of its own direct review, the use of third parties and/or other means that do not unduly interfere with Concessionaire's operations. Concessionaire acknowledges that such audits and reviews will be conducted by Sublandlord, or its designee, and hereby agrees to cooperate with any such performance audit. Said performance audits may include minimum objective standards in the areas of (1) product quality, (2) customer service and (3) cleanliness and maintenance. If Concessionaire fails to meet minimum standards in any of these areas, Sublandlord may, at its reasonable discretion, assess liquidated damages as set forth herein.

(iii) Repeated violations and deficiencies in performance by Concessionaire, or its permitted sublessees, may be cause, at Sublandlord 's sole discretion, to terminate this Sublease.

(f) Failure to Comply with Standards of Operation

(i) Concessionaire acknowledges Sublandlord 's desire to provide the public and air traveler with the level and quality of service as described herein. Accordingly, Sublandlord has established a series of fees, as set forth in Table I of this Section 5.02(g), that it may assess, in its sole discretion, for various violations of this Sublease, as amended, as additional Marketing Fee (as said term is defined herein). Concessionaire and Sublandlord agree that the fees set forth herein are reasonable, and Concessionaire further agrees to pay to Sublandlord such fees in accordance with the rates or in the amounts specified herein upon written demand by Sublandlord. Concessionaire further acknowledges such fees are not exclusive remedies and Sublandlord may pursue other remedies, as allowed for in this Sublease, as amended, at its sole discretion.

(ii) Multiple Violations. Except for violations of requirements regarding operating hours, health code violations, and delivery and vendor access in fraction, which shall accrue immediately and without notice upon violation, other fees shall not be assessed unless the violation continues for more than three (3) calendar days after Sublandlord has given to Concessionaire written notice of the violation; provided, however, after Sublandlord has given Concessionaire notice of a violation of the same operating requirement more than twice during any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, the fee shall be immediately assessed with no opportunity to cure. Further, if more than two (2) violations of the same operating requirement occur within any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, Sublandlord reserves the right, in its sole discretion, to deem said repeated violations a default hereunder and to seek any other remedies available to it under this Sublease, as amended, including, but not limited to, termination of this Sublease.

Table I - Performance Standard Fines

Infraction	Fee Schedule
Significant quantities of required merchandise as evidenced by empty shelves (resulting in loss of sales and customer service)	Ex. 2.a.
Premises unclean, trash not picked up	
Signage policy infraction	
Pricing policy infraction (following one Notices)	
Late Market Basket Survey	
Delivery and vendor access infractions	
Operating Hours infraction (Per location, in line with Terminal Operating Hours)	
Inadequate Staffing (per location, resulting in impacts to customer service or closure of Concession)	
Health Code Violations (per location, in line with audits by the Sublandlord and Health Inspectors) Scores below 90% Scores below 80% Scores below 70%	
Performance Audit Scores (per location, in line with Sublandlord performance standards) Scores below 90% Scores below 80% Scores below 70%	

(g) In addition to its general obligation to comply with applicable Laws, Concessionaire specifically agrees to comply with all Port Authority, Transportation Security Administration, Federal Aviation Administration and Sublandlord security directives, rules and regulations, in effect as of the Commencement Date or as may be modified or enacted from time to time throughout the Term. Concessionaire understands and agrees that fines and/or penalties may be assessed by the TSA or FAA for Concessionaire's noncompliance with the provisions of 49 CFR Parts 1540 and 1542 entitled "Airport Security" or by other agencies for noncompliance with regulations applicable to Concessionaire's operations. In the event the Port Authority or Sublandlord shall be subject to any fine or penalty by reason of any violation at the Terminal of any such rule, regulation or standard, the Port Authority or Sublandlord may conduct an investigation and make a determination as to the identity of the party responsible for the violation. If it is determined by the Port Authority or Sublandlord that Concessionaire, or any party for which Concessionaire is liable under this Sublease, as amended, is responsible for all or part of the fine or penalty, the Concessionaire shall pay said amount of the fine or penalty.

5.3: HAZARDOUS MATERIALS

(a) For the purposes of this Sublease, the following terms shall have the following meanings: (i) the term "Hazardous Materials" shall mean: (A) any materials or substances that, whether by its nature or use, are subject to regulation under any Environmental Requirement, or (B) any materials, substances or wastes which are toxic, ignitable, explosive, corrosive or reactive, or (C) asbestos, or (D) petroleum and petroleum-based products, or (E) formaldehyde, or *(F)* polychlorinated biphenyls (PCB's), or *(G)* freon and other chlorofluorocarbons or (H) such other materials as are designated in a notice from Sublandlord to Concessionaire (whether such notice is provided before or after Concessionaire first commences to use any such materials and;

(ii) the term "Environmental Requirement" shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U. S..C. §960 I et seq.), the Hazardous Materials Transportation Act (49 U. S..C. § 180 I et seq.), the Resource Conservation and Recovery Act (42 U. S..C.. §6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U. S..C.. §7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), all as presently in effect and as the same may hereafter be amended, any regulation pursuant thereto, or any other present or future law, ordinance, rule, regulation, order or directive addressing environmental, health or safety issues of or by any Governmental Authority.

(b) Both Concessionaire and Sublandlord acknowledge that one or more Governmental Authorities may require that employees of each and others be made aware of the conditions within which they are being asked to work and, in an effort to disclose such conditions to said employees, Sublandlord hereby (i) represents to Concessionaire that, other than those Hazardous Materials to which Sublandlord has notified Concessionaire in writing, there are no Hazardous Materials in the Terminal; and (ii) agrees that, if any Hazardous Materials are generated, manufactured, sold, transported or located at, on, in, under or about the Terminal, other than as a result of an act or omission of the Concessionaire, then Sublandlord shall at no cost, expense or liability to Concessionaire, (I) clean up and take whatever corrective action of any kind required under any Environmental Requirement; and (2) indemnify and hold harmless the Concessionaire from all losses, costs, expenses and liabilities therefrom, provided however the foregoing prohibition concerning Hazardous Materials shall not prevent the use of regular consumer products which contain amounts of such Hazardous Materials that are not prohibited by any law applicable thereto.

(c) Concessionaire covenants and agrees that by, through or under it (i) no Hazardous Materials will be generated, manufactured, sold. transported or located at, on, in, under or about the Concessionaire Premises; (ii) no Hazardous Material will be generated, manufactured, sold, transported or located at, in, on, under or about the Concessionaire Premises in a manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement and (iii) no Hazardous Materials will be transported, released, emitted, sold, discharged, leached, dumped or disposed of from the Concessionaire Premises onto or into the Common Areas.

(d) Concessionaire covenants and agrees that it shall (i) notify the Port Authority and Sublandlord promptly in the event of any spill or other release of any Hazardous Materials at, in, on, under or about the Concessionaire Premises which spill or release is required to be reported to a Governmental Authority under any Environmental Requirement; (ii) promptly forward to the Port Authority and Sublandlord copies of any notices it receives relating to the alleged violations of any Environmental Requirement; (iii) promptly pay when due any fine or assessment as a result of its acts or omissions or those of any party acting under its control or direction; and (iv) defend, indemnify, and hold harmless the Sublandlord and the Port Authority and their respective affiliates, subsidiaries, partners, members, management company, successors and assigns, and the employees, agents, officers, directors and Commissioners of any of them from and against any and all loss, claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) directly or indirectly arising out of, or in any way related to (I) any breach by it or any party acting under its control or direction of any of the provisions of this Section 5.03; (2) the presence, use, generation, transportation, disposal , spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Materials which are at, in, on, under, about, from or affecting the Concessionaire Premises, including, but without limitation any damage or injury resulting from any such Hazardous Materials to or affecting the Concessionaire Premises or any soil, water, air, vegetation, buildings, personal property, persons or animals; (3) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to

any such Hazardous Materials; or (4) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Materials. The obligations set forth in this Section 5.3 shall survive the expiration or sooner termination of the Sublease.

SECTION 6 – COMMON AREAS

6.1: DEFINITION OF COMMON AREAS

For the purpose of this Sublease, the term "Common Areas" shall mean, all portions of the interior of the Terminal, save and except for those portions included within each of the Concessionaire Premises, intended to be used and used by either (a) the public or (b) the Sublandlord or Concessionaires in the course of receiving and making deliveries to the Premises. The Common Areas shall include but are not limited to: (i) ticketing areas and facilities, gate seating areas, hallways, elevators, escalators, stairs, restrooms and comfort stations, service areas, passageways and other public areas, amenities, facilities and improvements in the Terminal; and (ii) those areas within the Terminal as may be provided by either the Sublandlord or the Port Authority, from time to time for the convenience and use by the public or the Sublandlord or Concessionaires.

6.2: USE OF COMMON AREAS

Upon payment of the Rent and the performance and observance of all terms and conditions in this Sublease to be performed and observed by the Concessionaire, the right to possession of the Concessionaire Premises shall also include the non-exclusive right to the use of the Common Areas with all others for whose convenience and use both the Common Areas have been or may hereafter be provided by the Port Authority or the Sublandlord, or both, subject however, to such rules and regulations for the use thereof as may be prescribed from time to time by either or both of the Sublandlord and the Port Authority.

6.3: OPERATION AND MAINTENANCE; TERMINAL AND COMMON AREAS

Sublandlord agrees, at no cost to Concessionaire, to keep all portions of the Terminal in good order and repair, and in full compliance with all Laws, including but not limited to all HVAC equipment, plumbing (including sewage systems), electrical, fire protection (including any sprinkler systems in the Terminal) and other systems and facilities servicing the Terminal, foundations, and the structural soundness of the floors and exterior walls in good order, repair and condition provided however the provisions of this section shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of the Sublandlord shall be controlled by either Article XI or XII, respectively, of the Master Lease and further provided that Sublandlord shall have the obligation to maintain or cause to be maintained the cleanliness and orderliness of the Food Court Common Areas, but such limited obligations shall not impose any obligation on the part of the Concessionaire to repair, restore, refurbish, correct, install , or in any other manner make any changes, alterations, improvements or the like to any portion of said Food Court Common Areas. The foregoing obligations of the Sublandlord shall include, but are not limited to, the responsibility and liability for the repair, maintenance, replacement and restoration of all systems servicing the Premises or all portions thereof, save and except for, and to the extent of, those systems installed within any of the Concessionaire Premises, by the Concessionaire to the extent that such system services only the Concessionaire Premises.

6.4: OPERATIONS AND MAINTENANCE FEE

Concessionaire shall pay to Sublandlord, as Additional Rent, an Operation and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of Concessionaire in the operation of the Terminal ("O&M Costs"). O&M Costs include, but are not limited to: trash removal; operation,

maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage charges; and all other direct costs and expenses properly chargeable to the operation, maintenance or repair of such systems and services. Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Floor Area of the Concessionaire Premises and the denominator shall be the sum of the weighted floor areas leasable to concessionaires to which O&M Costs are allocated by Sublandlord in the exercise of its business judgment. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M Costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount Concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to he paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid.

SECTION 7 – MAINTENANCE OF PREMISES

(a) Concessionaire shall keep the Concessionaire Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Concessionaire. Any liens will be treated in the same manner as liens pursuant to the Master Lease.

(b) Concessionaire shall cause the Concessionaire Premises to be, at all times, in a first-class condition, relative to the appearance thereof as of the date the Concessionaire initially opened for business in the Concessionaire Premises, ordinary wear and tear excepted. Concessionaire covenants and agrees that it shall refurbish and renovate the Concessionaire Premises (in accordance with the terms of this Sublease and the Tenant Alteration Application) as reasonably necessary before the expiration of the Term and in accordance with the performance requirements of this agreement. The scope and extent of necessary refurbishment and renovation for each portion of the Concessionaire Premises shall be jointly determined by Sublandlord and Concessionaire, where it particularly links to the appearance of the store, signage, quality of the fixtures and in line with the initial build out categories as defined within exhibit j.

SECTION 8 – INSURANCE AND INDEMNITY

8. I: CONCESSIONAIRE'S INSURANCE

Concessionaire shall obtain and keep in full force and effect (i) an "all risk" insurance policy for its property at the Concessionaire Premises in an amount equal to one hundred percent (100%) of the replacement value thereof, and (ii) a policy of commercial general liability (including premises, operations, product liability, liquor liability and automobile liability, if vehicles will be used on the airside portions of the Airport) on an occurrence basis, (with a broad form contractual liability endorsement under the general liability policy). Such policies shall provide that Concessionaire is named as the insured and Sublandlord and the Port Authority shall be added as additional insureds, as their respective interests may appear with respect to the insurance required to be carried pursuant to (i) above. Such policy described in (ii) above shall include a provision under which the insurer agrees to insure Concessionaire with respect to any cost, expense and liability arising out of, or based upon, any and all claims, accidents, injuries and damages for which Concessionaire is required to indemnify Sublandlord or the Port Authority under the provisions of this Sublease. In addition, such policy shall contain a provision that (a) no act or omission of the Port Authority, Sublandlord or Concessionaire shall affect or limit the obligation of the insurer to pay the amount of any loss sustained and (b) the policy shall be no cancelable with respect to either Sublandlord or the Port Authority unless thirty (30) days' prior written notice shall have been given to all of the Sublandlord and the Port Authority in the manner set forth in this Sublease for notices, which notice shall contain the policy number and the names of the insured and additional insureds. In addition, upon receipt by Concessionaire of any notice of cancellation or any other notice from the insurance carrier which may materially adversely affect the terms and substance (but not the amounts) of the coverage of the insureds under such policy of insurance, Concessionaire shall promptly deliver to Sublandlord and the Port Authority a copy of such notice. The minimum amounts of liability under the policy of insurance required to be carried pursuant to (ii) above shall be a combined single limit with respect to each occurrence in an amount of $2,000,000 for injury (or death) to persons and damage to property, which amount shall be increased from time to time after the second (2nd) calendar year (but not more frequently than once per year) to that amount of insurance which is then being customarily carried by tenants of first-class retail developments in the New York New Jersey metropolitan area. All insurance required to be carried by Concessionaire pursuant to the terms of this Sublease shall be effected under valid and enforceable policies issued by reputable and independent insurers permitted to do business in the State of New Jersey and New York and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) having a general policyholder rating of "'A" and a financial rating of at least " XI". In the event of vehicles being used under this Sublease, above-referenced auto liability insurance shall be in limits of no less than $5,000,000 combined single limit per accident for bodily injury and property damage. The policy(ies) of insurance required to be carried pursuant to (ii) above will include the following statement:" Further, unless otherwise agreed by the Port Authority, the liability policy shall be specifically endorsed, to prohibit the insurance carrier from raising any defenses involving in any way the jurisdiction of the tribunal, 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 without obtaining express advance written permission from the General Counsel of the Port Authority." Concessionaire and all officers and employees of Concessionaire who may handle or are responsible for the handling of receipts and disbursements shall be covered by insurance in an amount not less than Five Hundred Thousand Dollars ($500,000) for employee dishonesty coverage against any and all loss, theft, embezzlement or other fraudulent acts on the part of Concessionaire or Concessionaire's employees, and not less than One Hundred Thousand Dollars ($ 100,000) for money and securities on or off premises, transit and depositors forgery coverage, indemnifying the Sublandlord and Port Authority, as co-obligees, against any and all loss, theft, embezzlement or other fraudulent acts on the part of Concessionaire or Concessionaire's employees.

8.2: CERTIFICATES

On or prior to the date hereof, Concessionaire shall deliver to the Sublandlord and the Port Authority certificates of insurance, including evidence of waivers of subrogation required pursuant to this Sublease, required to be carried by the Concessionaire. Evidence of each renewal or replacement of a policy shall be similarly delivered not less than ten (10) days prior to the expiration of each such policy.

8.3: COVENANT TO HOLD HARMLESS

Concessionaire and Sublandlord covenant, each to the other, to defend and indemnify the other and their respective directors, officers, partners, shareholders, representatives, management company, agents and employees, and save them harmless (except to the extent of loss or damage resulting from the negligence of the party that would otherwise be so indemnified) from and against any and all claims, actions, demands, judgments, awards, fines, mechanics' liens or other liens, losses, damages, liability and expense, including attorneys' fees and court costs, in connection with all losses, including loss of life, personal injury and/or damage to property, arising from or out of any occurrence, upon or at the Premises, as to the Sublandlord, or the Concessionaire Premises as to the Concessionaire, or arising from or out of Concessionaire or Sublandlord's, as the case may be, failure to comply with any provision of this Sublease. In case either Sublandlord or Concessionaire or any other party so indemnified hereunder shall be made a party to any litigation commenced by or against either the Sublandlord or the Concessionaire (and not litigation commenced by or against one against the other), then the Concessionaire or Sublandlord, as the case may be, shall defend, indemnify, protect and save the other harmless and shall pay, as the same becomes due and payable, all costs, expenses and reasonable attorneys' fees and court costs incurred or paid by them in connection with such litigation. The provisions of this section shall survive the expiration, termination or earlier cancellation of this Sublease for any claims, suits, demands, actions, liabilities, loss or damage which occur prior to the expiration, termination or earlier cancellation of this Sublease.

8.4: WAIVER OF RIGHT OF RECOVERY INDEMNIFICATION

(a) Except as otherwise provided in this Sublease, neither Sublandlord nor Concessionaire shall be liable to the other or the other's insurance company (by way of subrogation or otherwise) for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the non-gross negligence of Sublandlord or the Concessionaire or their respective agents or employees.

(b) Concessionaire covenants and agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives (collectively the "Port Indemnitees") from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including reasonable legal 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 default of the Concessionaire in performing or observing any term or provision in this Sublease, or out of the use and occupancy of the Concessionaire Premises, and its officers, employees and persons who are doing business with Concessionaire, or out of any of the operations, acts or omissions of the Concessionaire, or out of the acts or omissions of others in the Concessionaire Premises with the Concessionaire consent. The foregoing indemnity shall also include claims and demands of the City of New York from which the Port Authority derives its rights in the Airport for indemnification arising by operation of law or through agreement of the Port Authority with the City of New York. If so directed by the Sublandlord or the Port Authority, the Concessionaire shall,

at its own expense, defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in such handling such party shall not, without obtaining the express written permission from the General Counsel of the Port Authority, raise any defense involving in anyway the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statute respecting suits against the Port Authority.

SECTION 9 - UTILITIES

Sublandlord agrees to initially provide gas, electrical, water, sewer and such other services as Sublandlord shall, in the exercise of its reasonable discretion, determine necessary to each portion of the Concessionaire Premises. With the exception of gas and electricity, as to each of which Sublandlord shall pay all costs for the consumption thereof in all of the Concessionaire Premises, the costs of which shall be included in O&M Costs, the Sublandlord shall have no obligation for the payment of any other utilities used in the Concessionaire Premises. If the Concessionaire Premises shall have installed therein meters for any of the utilities consumed by Concessionaire, the maintenance thereof shall be at the sole cost and expense of the Concessionaire.

SECTION 10 - ASSIGNMENT AND SUBLETTING

10.1: LIMITATIONS; PROHIBITIONS

Concessionaire covenants and agrees that it shall not transfer or assign this Sublease or its interest herein or all or any part of the letting hereunder, or all or any part of the Concessionaire Premises, without obtaining the prior written consent of Sublandlord, which shall not be unreasonably withheld, and the Port Authority. Any attempted transfer, assumption, assignment or sublease shall be void, *ab initio,* and infer no rights upon any third parties. No amendment, transfer, assumption or contract shall relieve the Concessionaire of any of its obligations under this Sublease. Consent to the foregoing by anyone or more of the Port Authority and Sublandlord shall not be deemed a waiver on the part of either or both of the Port Authority or Sublandlord to any prohibition against any future transfer, assignment, assumption or sublease. The term "transfer" includes, but is not limited to transactions in which any interest of the Concessionaire in this Sublease or the Concessionaire Premises are mortgaged or otherwise encumbered or in which the Concessionaire sublets, rents or otherwise permits occupancy or use of the Concessionaire Premises or any part thereof. If Concessionaire is a corporation, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the issued or outstanding stock of said corporation shall change, shall be deemed to be a transfer, provided, however if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "over-the-counter" market, then such sale, assignment or transfer of stock shall not be deemed a transfer. If Concessionaire is a corporation, or if Concessionaire is a corporation whose stock is owned by a corporation ("Parent"), any transfer of any issued or outstanding stock of the Concessionaire or Parent which is a transfer shall require the prior consent or approval of the Sublandlord and the Port Authority. From and after the date upon which a transfer occurs, and irrespective of whether or not either or both of the Sublandlord and the Port Authority shall issue their respective consent and approval, any abatement and waiver, if then in effect, shall thereafter cease and seventy-five percent (75%) of the Minimum Annual Guaranteed Rent shall, thereafter be due and payable if current senior management is not in control of the operations. Notwithstanding the foregoing exclusion, a sale of only those of the assets of any such corporation which are limited to less than all of the assets of the corporation, e.g., the Concessionaire Premises, shall be a "transfer" within the scope of this provision and require the prior written consent of the Port Authority and the Sublandlord. If Concessionaire is a partnership or joint venture, any sale, assignment or transfer, by operation of law or otherwise, of any interest in such partnership or joint venture shall be deemed to be a transfer. If Concessionaire is a limited liability company, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the membership interests in such limited liability company shall change, shall be deemed to be a transfer, provided, however, if the membership interests of such limited liability company are publicly traded on a national securities exchange or on the "over-the-counter" market, then this restriction on sale, assignment or transfer of membership interests shall be inapplicable.

Notwithstanding the foregoing provisions of this Article X containing a definition of the term "transfer" and exclusions or exceptions thereto, which shall not be binding upon or enforceable against the Port Authority, and regardless of whether the Sublandlord has in fact consented to any further subletting of the Concessionaire Premises or a proposed transfer, Sublandlord's consent will be of no force and effect and shall not be binding upon the Port Authority in any manner whatsoever. No such further subletting or a proposed transfer shall be effective and no estate or benefit shall be conferred on anyone until such time as the Port Authority has consented in writing, as determined in the Port Authority's sole and absolute discretion, to any such further subletting or a proposed transfer (including, without limitation, nothing otherwise permitted in this Article X shall become effective until such time as the transferee, any other applicable parties and the Port Authority have entered into an agreement in form and substance required by the Port Authority). In addition, the terms and provisions of the Port Authority Consent, which in any way discusses and/or addresses the subject matter covered in this Article X shall be controlling and

shall govern. Further, if this Sublease is assigned by Sublandlord and assumed by the Port Authority for any reason whatsoever, the Port Authority shall have the right to determine, in its sole and absolute discretion, whether any of the provisions of this Article X (which are stated to be between the Concessionaire and the Sublandlord) shall be binding upon and enforceable against the Port Authority and thereafter be considered to be a part thereof. Notwithstanding anything contained in this Article X to the contrary, Sublandlord shall not withhold its consent to an assignment or transfer of this Sublease to any entity wholly owning Concessionaire or wholly owned by Concessionaire.

10.2: DBE CHANGE NOTICE

If Concessionaire is a DBE, Concessionaire shall notify the Sublandlord and the Port Authority, in the manner as set forth in Section 17.6, below, of each and every change in the ownership or ownership structure of Concessionaire ("Change Notice") within thirty (30) days after each such change.

SECTION 11 - DAMAGE AND DESTRUCTION

11.1: DAMAGE TO THE CONCESSIONAIRE PREMISES

In the event of damage to, or destruction of; any portion of the Premises or Concessionaire Premises, or the fixtures and equipment therein and said portion, fixtures or equipment was originally within the Sublandlord' Work, or any system within the Concessionaire Premises being the obligation of the Sublandlord to maintain, replace, or restore, the Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. Notwithstanding any damage to the Concessionaire Premises, to the extent that the Concessionaire Premises can be reasonably operated without risk of injury or damage to person or property, Concessionaire agrees to open, or reopen, as the case may be, and, in all events, to reopen for business immediately upon the completion of the foregoing repairs, restoration and rebuilding. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then either party has the right to terminate the Concessionaire Sublease, as to that portion, or those portions of the Concessionaire Premises, so damaged. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises terminated to the floor area of the Concessionaire Premises as of the day of said damage. Rent shall wholly abate in the event the entire Concessionaire Premises is untenantable, or shall abate pro rata for the portion untenantable until the Concessionaire Premises are fully restored.

11.2: DAMAGE TO TERMINAL

In the event of damage to, or destruction of, any portion of the Terminal, other than as set forth in Section 11 .1, above, Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Master Lease, as to that portion, or those portions of the Concessionaire Premises so damaged. If Sublandlord exercises such right, and the portion of the Concessionaire Premises affected thereby includes the Concessionaire Premises, then this Sublease shall end, as of the date of said termination. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises as to which this Sublease was terminated to the floor area of the Concessionaire Premises as of the day of said damage.

SECTION 12 – EMINENT DOMAIN

12.1: CONDEMNATION

(a) If the whole of the Premises or any portion of the Concessionaire Premises shall be taken by any public authority under the power of eminent domain or sold to a public authority under threat or in lieu of such taking, then the Term shall cease as of the day upon which possession is taken by such public authority, and the Rent shall be paid up to that day.

(b) A voluntary sale or transfer of interest-of all or any part of the Premises or of the Terminal to any public or quasi-public body, agency, person or other entity, corporate or otherwise, having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purposes of this Article 12.

12.2: DAMAGES AND AWARDS

All awards and damages for such taking under the power of eminent domain or proceeds from any sale under threat or in lieu of such a taking, shall belong to and be the property of the Sublandlord or the Port Authority, irrespective of whether such damages shall be awarded or proceeds obtained as compensation for diminution in value to the leasehold improvements thereto, and Concessionaire shall have no claim against Sublandlord or the condemning authority with respect thereto; provided, however, neither the Sublandlord nor the Port Authority shall be entitled to any award specifically designated as compensation for, depreciation to, or cost of removal of, the stock and trade fixtures of the Concessionaire.

SECTION 13 – DEFAULT

13.1: EVENTS OF DEFAULTS BY CONCESSIONAIRE

Events of Default. It shall be an "Event of Default" hereunder if any of the following shall occur:

(a) Failure to Make Payment

(i) Concessionaire fails to make any payment of Rent to the Sublandlord, and such failure continues for a period of five (5) days after Concessionaire's receipt of written notice thereof.

(ii) Concessionaire fails to make any payment of Rent to the Port Authority within the cure *period permitted by the Port Authority.*

(b) Concessionaire defaults or otherwise fails to perform or observe any of the covenants, terms or conditions contained in this Sublease to be performed or otherwise observed by Concessionaire (except for the payment of Rent, as set forth in (a), above) and such default or failure is not cured or performed within fifteen (15) days after Concessionaire's receipt of written notice thereof (or, if Concessionaire has, within said (15) day period, commenced and continued curative action which requires a longer period, then a written solution must be provided to Sublandlord to determine action and date of resolution. The Sublandlord shall review the timeline to confirm acceptance of failure to perform in accordance with this Sublease).

(c) Pursuant to an order, judgment or decree entered by any court of competent jurisdiction that is not discharged or dismissed within thirty (30) days, (i) a receiver, trustee or liquidator of Concessionaire or of all or substantially all of the assets of Concessionaire shall be appointed or (ii) Concessionaire shall be adjudicated a bankrupt or insolvent, or (iii) a petition seeking reorganization of Concessionaire or an arrangement with creditors or a petition to take advantage of any insolvency law shall be approved and Rent shall not thereafter be paid in accordance with the terms hereof.

(d) If Concessionaire is a DBE, a failure to provide the Change Notice as required pursuant to Section 10.2, hereof.

(f) Failure to timely deliver the Bond, and each replacement thereof; provided that Concessionaire is given a reasonable notice and cure period.

(g) The act or omission of the Concessionaire which, under the terms of this Sublease or the Master Lease is prohibited and which, if not timely corrected, would result in the Port Authority having the right to terminate either or both of the Master Lease or this Sublease.

13.2: RIGHTS AND REMEDIES; SUBLANDLORD

(a) If there exists an Event of Default by Concessionaire, Sublandlord, after fifteen (15) days notice from Sublandlord that Sublandlord intends to cure such Event of Default, shall have the right, but not the obligation, to cure same and Concessionaire shall pay to Sublandlord, upon demand, as Additional Rent the reasonable cost thereof plus interest at the Default Rate until such Additional Rent has been paid in full.

(b) If there exists an Event of Default, Sublandlord shall have the right, in addition to the rights set forth in Section 13.2(a) above, to seek all remedies as are available at law or in equity.

(c) After a dispossess or removal in accordance with Law, Sublandlord shall use reasonable commercial efforts to re-sublet the Concessionaire Premises or any part or parts thereof either in the name of Sublandlord or otherwise, for a term or terms which may, at the option of Sublandlord, be greater or less than the period which would otherwise have constituted the balance of the Term, and Concessionaire shall be obligated to pay Sublandlord any deficiency between the Rent due hereunder and the amount, if any, of the Rent collected on account of the new sublease or subleases of the Concessionaire Premises for each calendar year, or portion thereof, which would otherwise have constituted the balance of the Term. In computing such damages there shall be added to said deficiency the costs for reasonable attorneys' and brokerage fees, which Sublandlord actually expends in connection with re-subletting the Concessionaire Premises. Such damages shall be paid by Concessionaire in installments on the dates specified in this Sublease for payment of Minimum Annual Guaranteed Rent and any suit brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Sublandlord to collect the deficiency for any subsequent period by a similar proceeding. Sublandlord shall not be liable for failure to re-sublet the Concessionaire Premises or, in the event that the Concessionaire Premises are re-sublet, for failure to collect the Rent under such re-subletting.

SECTION 14 – TAXES ON PROPERTY OF CONCESSIONAIRE

Concessionaire, solely, and neither the Sublandlord nor the Port Authority are or shall be responsible or liable for any taxes, assessments, levies, fees and other governmental charges and impositions of any and every kind or nature, regular or special, direct or indirect, foreseen or unforeseen or known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (i) Concessionaire's leasehold interest in the Concessionaire Premises, or (ii) furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Concessionaire Premises by Concessionaire.

SECTION 15 – HOLDING OVER

Any holding over after the expiration of the Term shall be construed to be a tenancy from month-to-month and the Minimum Annual Guaranteed Rent payable, on a monthly basis, shall be at an amount equal to one-twelfth (1/12th) of 200% of the Minimum Annual Guaranteed Rent required to be paid by Concessionaire for the last full year of the Term.

SECTION 16 – QUIET ENJOYMENT

Upon payment by Concessionaire of Rent and upon the timely observance and full performance of all the covenants, terms and conditions on Concessionaire's part to be observed and performed under this Sublease and the Port Authority Consent, Concessionaire shall peaceably and quietly hold and enjoy the Concessionaire Premises for the Term free from and without hindrance or interruption by Sublandlord or any other person or persons claiming by, through or under Sublandlord, subject however, to the Master Lease and the Port Authority Consent.

SECTION 17 – MISCELLANEOUS

17.1: ESTOPPEL STATEMENT

At any time and from time to time, both parties agree that, upon request in writing from the Sublandlord or the Port Authority, or their respective designee, to execute, acknowledge and deliver, within ten (10) days after request therefor, to the requesting party or its designee, a written statement certifying that this Sublease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent has been paid, the Minimum Annual Guaranteed Rent Commencement Date, the Expiration Date, and such other pertinent and reasonable information regarding this Sublease and Concessionaire's occupancy of the Concessionaire Premises as may be requested.

17.2: WAIVER; ELECTION OF REMEDIES

One or more waivers of any covenant or condition by Sublandlord or the Port Authority shall not be construed as a waiver of a subsequent breach of the same covenant or condition. And the consent or approval by Sublandlord or the Port Authority to or of any act of Concessionaire requiring consent or approval of either, any or both of the Sublandlord, and the Port Authority shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act. No breach by Concessionaire of a covenant or condition of this Sublease shall be deemed to have been waived by either, any or both of the Sublandlord or the Port Authority unless such waiver is in writing signed by each non-breaching party. Rights and remedies under this Sublease or under any specific section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which each party has or may have elsewhere under this Sublease or at law or in equity, whether or not such section, subsection or clause expressly so states.

17.3: ENTIRE AGREEMENT

The Glossary and Basic Sublease Provisions, this Sublease and all exhibits and/or addendum(s), and/or rider(s), if any, attached to this Sublease are hereby made a part of this Sublease, with full force and effect as if set forth herein. This Sublease supersedes all prior agreements between the parties hereto and sets forth all the covenants, promises, agreements and conditions, and understandings between Sublandlord and Concessionaire concerning the Concessionaire Premises, and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. The parties agree that any deletion of language from this Sublease prior to its mutual execution by Sublandlord and Concessionaire shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, obverse or opposite of the deleted language. No alteration, amendment, change or addition to this Sublease shall be binding upon Sublandlord or Concessionaire unless reduced to writing and signed by each party.

17.4: INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither the method of

computation of Rent, any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

17.5: DELAYS; FORCE MAJEURE

Time is of the essence in the performance under this Sublease. In the event Sublandlord or Concessionaire shall be delayed in the performance of any obligation, covenant, agreement or other undertaking required of it under this Sublease, by reasons of strikes; lockouts; labor disputes; Acts of God; inability to procure labor, materials, or reasonable substitutes therefor; or shall at any time be so delayed by reason of the diminution of power or power failure(s); restrictive governmental laws or controls; judicial orders; enemy or hostile governmental action; civil commotion; fire or other casualty, or reasons of a similar nature not the fault of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the time for performance shall in no event be extended due to financial or economic problems of any party. Notwithstanding anything to the contrary, the occurrence of any of the events of force majeure herein described shall not excuse Concessionaire's obligations to pay Rent on a timely basis.

17.6: NOTICES

Any notice or demand to Concessionaire or from Concessionaire to Sublandlord or the Port Authority shall be in writing and shall be mailed by either (a) certified mail addressed, return receipt requested with proper postage affixed thereto or (b) a Delivery Service, prepaid, if to Concessionaire, at the address of Concessionaire as set forth in the Glossary and Basic Sublease Provisions, or such other address as Concessionaire shall have last designated by notice in writing to Sublandlord and the Port Authority, and, if to Sublandlord or the Port Authority, to the address set forth in the Glossary and Basic Sublease Provisions, or such other address as Sublandlord shall have last designated by notice in writing to Concessionaire. Any notice sent or otherwise delivered in accordance with the foregoing shall be deemed served and effective upon the earlier of (i) the date of receipt or refusal to accept delivery, (ii) the second business day following the date upon which the notice has been delivered to the Delivery Service; or (iii) the third business day following the date upon which the notice has been deposited with the U.S. Postal Service with proper postage thereon.

17 .7: CAPTIONS AND SECTION NUMBERS

The captions, section numbers and article numbers and index appearing in this Sublease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Sublease or in any way affect this Sublease.

17.8: BROKERS' COMMISSIONS

Concessionaire and Sublandlord represent and warrant each to the other and the Port Authority that there are and shall be no claims for brokerage commissions or finder 's fees in connection with this Sublease, and each party agrees to indemnify the other, the Sublandlord and the Port Authority and hold each and all of them harmless from all liabilities arising from any claim for brokerage commissions and finder 's fees in connection with this Sublease. Such agreement shall survive the expiration or sooner termination of this Sublease.

17 .9: SUCCESSORS

All rights and liabilities herein given to, or imposed upon, the parties to this Sublease shall inure to and be imposed upon the respective heirs, executors, administrators, permitted successors and assigns of the said parties; and if there shall be more than one Concessionaire, they shall all he bound jointly and severally by the terms, covenants and agreements herein.

17.10: GOVERNING LAW

This Sublease shall be governed by and construed in accordance with laws of the State of New York. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties, to the extent possible; in any event, all other provisions of this Sublease shall be deemed valid and enforceable to the full extent.

17.1 I: SURVIVAL OF OBLIGATIONS

All obligations of both the Concessionaire and Sublandlord which cannot be ascertained to have been fully performed prior to the end of the Term, or any earlier termination hereof shall survive the expiration or termination of this Sublease, whichever occurs earlier.

17. 12: ATTORNEYS' FEES

If at any time after the date that this Sublease has been executed by Sublandlord and Concessionaire, either Sublandlord or Concessionaire institutes any action or proceeding against the other relating to the provisions of this Sublease or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of the Law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Notwithstanding anything to the contrary contained herein, if either Sublandlord or Concessionaire engages the services of attorneys (either outside counsel or in-house counsel) to enforce the provisions of this Sublease, to the extent that either incurs any cost or expense (including such reasonable attorneys' fees for outside counsel or payroll and overhead expenses for in-house counsel, as the case may be) in connection with such enforcement, including instituting, prosecuting or defending its rights in any action, proceeding or dispute by reason of any default by Concessionaire or Sublandlord, as the case may be, sums so paid or billed to Sublandlord or Concessionaire, as the case may be, together with all costs and disbursements, shall be paid by the Concessionaire to the Sublandlord, or Sublandlord to Concessionaire, as the case may be, within ten (10) days after demand therefor. If Concessionaire fails to timely pay same, such will be deemed Rent and thereafter be due together with interest at the Default Rate. If Sublandlord fails to timely pay, such amount may be offset from the Minimum Annual Guaranteed Rent thereafter becoming due and payable to Sublandlord, but may not be offset against any rent thereafter becoming due and payable to the Port Authority, together with interest at the Default Rate, until the full amount has been so offset. Any amounts overpaid to Sublandlord by Concessionaire shall be promptly repaid at the end of the Term.

17. 13: EXCULPATION

Concessionaire, for itself and its successors and assigns covenants and agrees that it or they shall enforce any obligation of the Concessionaire contained in this Sublease solely against Sublandlord and not against any of the Protected Parties or in any manner realized upon the personal liability or assets of any of the Protected Parties. This is intended and shall be construed and interpreted as a covenant on behalf of each the Concessionaire and its successors and assigns not to sue or seek enforcement of any judgment against any of the Protected Parties. In

the event that suit is brought to enforce any obligation of the Sublandlord, Concessionaire for itself and its successors and assigns, covenant and agree that judgment proceedings shall be enforced only against the interest of the Sublandlord in the Premises and in no event against any other assets of Sublandlord, and that, after application of the proceeds of any seizure and sale of said assets, the obligation of Sublandlord hereunder shall be then and thereafter deemed fully discharged.

17 .14: TERMINATION BY PORT AUTHORITY WITHOUT CAUSE; WAIVER AND RELEASE

(a) Concessionaire acknowledges that the Port Authority has reserved and has the right with Sublandlord's concurrence to terminate any of the Concessionaire Subleases and the Term upon thirty (30) days prior written notice to Sublandlord and each of the affected Concessionaire(s) whether or not there then exists an Event of Default, such termination hereinafter referred to as " Discretionary Termination."

(b) Sublandlord covenants and agrees that, if the Port Authority shall exercise its right to terminate this Sublease by a Discretionary Termination, then the Sublandlord shall pay to the Concessionaire an amount equal to the Unamortized Capital Investment, as defined in (c), below, as of the effective date of the Discretionary Termination.

(c) For purposes of subsection (b) above, "Capital Investment" shall be Concessionaire's actual aggregate expenditures for initially constructing and equipping the Concessionaire Premises; and the term "Unamortized Capital Investment" shall mean the amount of the Capital Investment that, but for the Discretionary Termination, would have been amortized for the period from the effective date of such termination to the Expiration Date.

17.15: LETTERS OF CREDIT

Concessionaire covenants and agrees that it shall deliver, or cause to be delivered to each of the Sublandlord and the Port Authority, prior to the date upon which the Concessionaire initially opens for business to the public in the Concessionaire Premises, an unconditional, irrevocable so-called "evergreen" letter of credit or surety bond, being in an amount of [50%] to the Port Authority and [50%] to the Sublandlord of the Minimum Annual Guaranteed Rent to be paid for the then-current calendar year, but in no event less than $287,500.00 for the Port Authority and $287,500.00 for the Sublandlord. The issuer of each said letter of credit or surety bond is to be approved by (i) as to the Letter of Credit for the Sublandlord, the Sublandlord; and (ii) as to the letter of credit for the Port Authority, by the Port Authority, and each of the two letters of credit are to provide for partial draws upon demand therefor by the respective beneficiary of each such letter credit.

17.16: RESERVED

17. 17: AUTHORITY OF EXECUTION

If Concessionaire is a corporation, limited liability company or limited partnership, Concessionaire shall furnish to Sublandlord at the time of execution of this Sublease (a) a certificate issued by the state of its formation that the Concessionaire is in good standing in said state, (b) a certified copy of its Certificate of Incorporation, Articles of Organization, Certificate of Formation, or such other documentation as used in the state of its formation whereby the Concessionaire was originally formed in said state, and (c) a certified copy of the resolution of the Board of Directors, General Partners, Managers or Managing Members of other party(ies) having the power of control of the Concessionaire approving this Sublease and authorizing its execution by the persons who have signed or will sign this Sublease.

17. 18: AFFIRMATIVE ACTION AND NON-DISCRIMINATION

(a) Concessionaire assures it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, color, sex, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises, either directly or indirectly, from the Port Authority. Concessionaire assures that it will require that its covered sub organizations will similarly undertake affirmative action programs, and that they will require assurance from their sub organizations to the same effect.

(b) This Sublease is subject to the requirements of the U.S. Department of Transpiration's regulations, 49 CFR Part 23. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Pan 23.

Concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Pan 23 that it enters and cause those businesses to similarly include the statements in further agreements.

EXHIBIT "A"
DEPICTION OF CONCESSIONAIRE'S PREMISES AND RENDERING

"R8_R81 Plans.ppt"

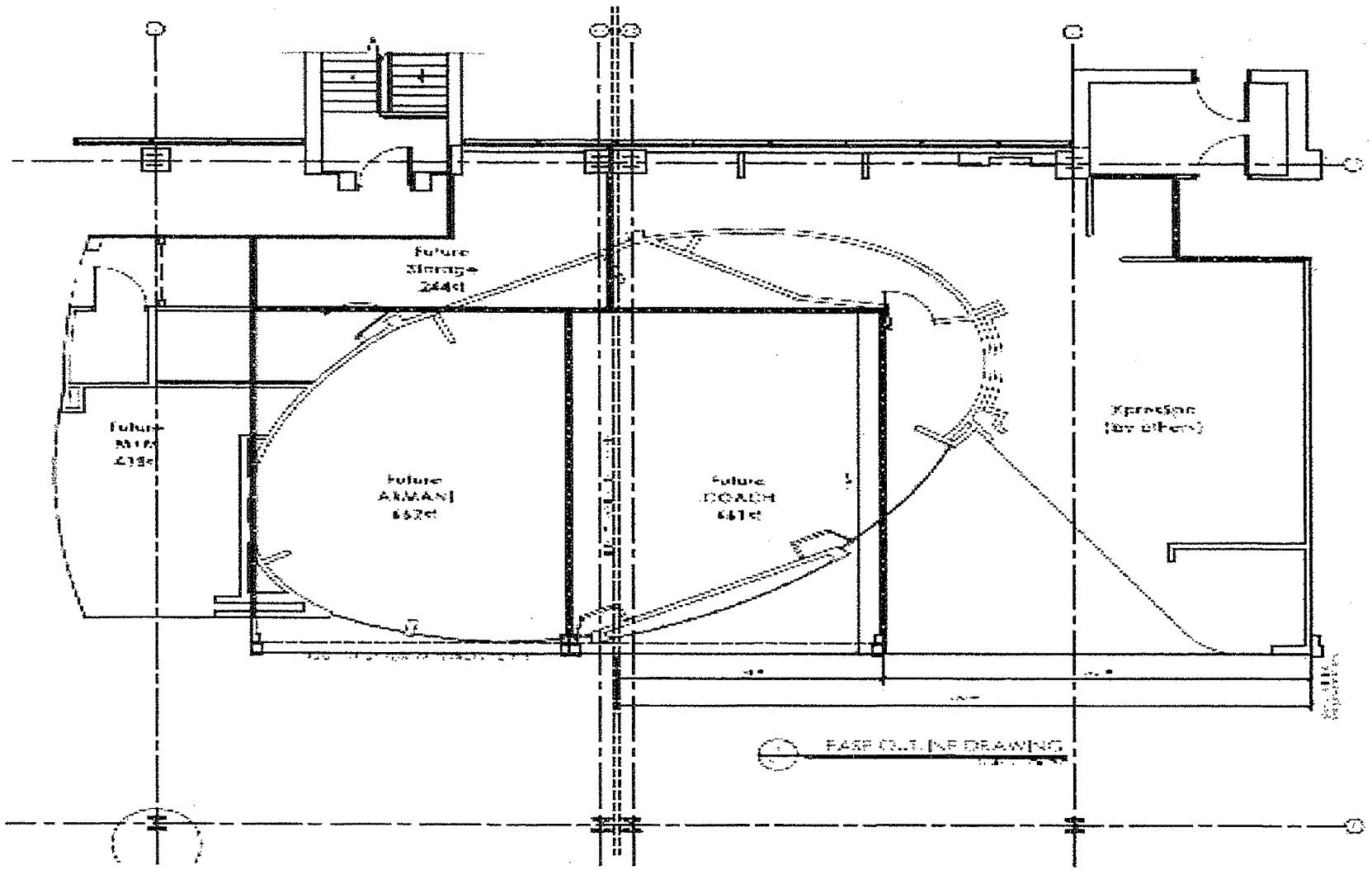

Future
Storage
244st
Future
MTM
438st
Future
ARMANI
662st
Future
COACH
661st
Xpression
(by others)
BASE OUTLINE DRAWING

EXHIBIT "B"
DESCRIPTION OF SUBLANDLORD'S WORK

Sublandlord shall provide each component of the Concessionaire Premises in accordance with the Concession Design and Construction Manual attached hereto and by this reference made a part hereof.

"Concessions Design
& Construction Manu.

BRITISH AIRWAYS

JFK INTERNATIONAL AIRPORT

TERMINAL 7

CONCESSIONS DESIGN AND CONSTRUCTION MANUAL

UNISON-MAXIMUS

TRANSYSTEMS

Revised August 25, 2006

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SECTION 1 - GENERAL PROCEEDURES

1.0 INTRODUCTION

British Airways, dedicated to enriching the traveler's experience, is implementing an expansion to their JFK Terminal 7 Plan as it pertains to Concessionaires. This plan is to include new retail spaces, the on-going improvement and modification of existing leaseholds in order to present a unified design. The purpose of this Concessions Design & Construction manual is to identify the responsibilities and obligations of the parties seeking to join British Airways in fulfilling this endeavor.

This manual is separated into section.

Section 1 -	Definitions, codes, safety and security, permits / fees and a number of point's regarding working at airports.
Section 2 -	Outlines the three step design submission process.
Section 3 -	Design guidelines and technical requirements including but not limited to floors, walls, ceilings, signage etc.
Appendices	As listed in the Table of Contents

1.00 Organization

The Terminal Concessions projects are coordinated by TranSystems Corporation, the Design & Construction Coordinator, who serves as the liaison between the Concessionaire, the Concessionaire's design and construction personnel, British Airways, Unison / Maximus and the Port Authority. The Port Authority is the governing agency which enforces compliance with code requirements in the design and construction of all facilities at the Terminal. The Concessionaires is the responsible for his own dosing and construction personnel and must ensure that all work is in compliance with the Manual, all ode requirements and the submittal process.

1.1 Terms used in this Manual

"Owner" means British Airways (BA)
"Tenant / Concessionaire" means a permitted concession operator who is designing / constructing or operating a retail store or restaurant in the Terminal Building.
"Design and Construction Coordinator" (D&CC) means TranSystems Corporation
"Port Authority" means The Port Authority of New York and New Jersey (PANYNJ)
"Developer / Landlord" means Unison-Maximus (UM)

1.2 Applicable Codes and Standards

The tenant shall be responsible for reviewing and implementing, as part of their design, all codes and regulations applicable to the work. Review of the Tenant's documents by the Landlord, or the Design and Construction Coordinator, does not relieve the Tenant of responsibility to satisfy all applicable regulations.

Tenant design and construction must comply with applicable Federal, State and local laws, statutes, orders, codes, ordinances and regulations that are legally applicable to the work to be performed. For all construction at the Terminal, the Port Authority enforces Federal and State laws and regulations; New York City Building Codes; and the Port Authority and JFK Design/ Policy Standards. The latest editions of the following New York City codes and regulations should be utilized:

1. New York City Building Code and its Reference Standards
2. New York City Fire Prevention Code and Directives
3. New York City Local Laws
4. Rules of the Board of Standards ~ Appeals (BS&A)
5. New York State Labor Laws
6. New York State Energy Conservation Construction Code

This manual must NOT be referred to in construction documents.

1.3 Safety and Security

A safe, secure and healthy environment is to be maintained within the work place. Special procedures are required for air quality management within the leased premises during construction to ensure the Terminal is not adversely affected.

Security during construction is the Tenant's responsibility and all necessary precautions are to taken to secure the premises. The Landlord shall have no liability for any loss or damage including theft of building materials, equipment or supplies.

The following information is intended to assist the Concessionaire in developing design documents for review and approval. The outlined criteria identify specific requirements and physical limitations that influence the design, but still encourage individuality to achieve an interesting, exciting and unique shopping and dining environment.

1.4 Permits, Fees and Approvals

Tenants are responsible for obtaining all permits, paying all fees and obtaining all required approvals. Tenants upon completion of their work shall secure all applicable certificates of inspection and occupancy prior to occupying their space.

1.5 Statement of Professional Responsibility

All Concessionaire facilities must be designed by a practicing professional architect and/or engineer licensed in the State of New York. The professional must sign and seal the work, which must be confined to the profession in which he/she is licensed.

1.6 Information Releases

Through press releases, and the release of information in general, British Airways and Unison-Maximus keep the public informed and maintain public interest and support for activities in the Terminal. News releases should reflect the overall activities, goals and objectives of the airport, rather than emphasize an isolated event. Thus, all communications to the public media must first be submitted to the Owner's representative for approval and coordination with other releases.

1.7 Accessibility Standards

All facilities shall be designed and constructed in compliance with current Americans with Disabilities Act and Accessibility Guidelines (ADAAG), the New York Department of Building requirements and the Port Authority requirements.

1.8 Base Building Drawings for Tenant Use

The Tenant will be given by D&CC the following electronic drawing files;

1. LOD Key Floor Plan
2. Architectural Floor Plan
3. Architectural Reflected Ceiling Plan – if available.
4. Mechanical, Electrical, Plumbing and Sprinkler Plans of the premises, if available.
5. Sections and elevations and additional details as applicable to the premises.

1.9 Concessionaires / Tenant Design Construction Manual

Tenant's / Concessionaires, Architects, Engineers and contractors must be familiar with this Tenant Design Construction Manual - which is part of the Concessionaire's sublease and is hereby incorporated therein in its entirety - as well as with the Port Authority's Tenant Alteration Application Procedure & Standards Guide and Tenant Construction Review Manual. While the Manual refers to legally binding codes and standards, it is not in itself a code, standard or specification, but rather a guide for the Concessionaire's design consultants. The Manual must NOT be referred to in construction documents.

1.10 Working in the Airport

It is the responsibility of the Tenant and its Contractor to obtain and review guidelines or procedural manuals concerning security and construction at the Terminal and Airport. Points of

1.10 Working in the Airport continued

particular attention are listed below;

1. The Tenants representatives while confined to work in the premises must coordinate the movement of construction materials; noise and engineering service connections and shut downs with the Landlord, BA and the D&CC so as not to disturb the operations of the airport. These operations are to be scheduled by the Tenants Contractor giving five working days notice of the intention of such work and will only be allowed to proceed following written approval. The Landlord reserves the right to stop the Tenant's Work at any time should any such operation be deemed to be disruptive to the operations of the Airport.

2. Security passes will be required of the Tenant's Contractor and their personnel in those areas termed 'Airside' – beyond the secure check in locations. Personnel not badged will need to be escorted per security procedures in affect at the Terminal.

3. Deliveries to and removals from the Terminal will also require security clearances that must be complied with for all the Tenant's Contractor and Sub-Contractors per the existing Airport / Terminal Security Requirements.

4. Welding, cutting, grinding, coring or any such similar undertaking for any work within or outside of the premises will not be permitted without written 'Special Service Notice' from the Landlord. All such request for such work must be submitted at least five full working days in advance of such intention and could require special undertakings such as venting of fumes or stand by fire safety personnel. This applies to roof access as well.

5. The coring of the floor can only be allowed following the x-raying of the area to ensure clearances from structure or other in-slab services. The area beneath must be inspected and at the time of the core(s) being made the Contractor must have a representative below to ensure safety of any falling material or water damage from the equipment.

6. Should any element of the premises subject the existing structure to point loads either on the slab or suspended from the structure above raise concern by BA, Landlord or the D&CC representatives the Landlord reserves the right to have such concern evaluated by the Tenant's Structural Engineer at the Tenants expense. If required a signed and sealed evaluation / drawing could be requested. Questions of this nature raised by the PANYNJ during the submission process will be evaluated prior to the Approval to proceed to construction or become apart of the Rider Comments.

7. The requirement to 'tie into' or to temporarily shut down the existing fire alarm system within the premises requires a 'Special Service Notice.' All such request for such work

1.10 Working in the Airport continued

7. must be submitted at least five full working days in advance of such intention. In the event of shut down any special security and fire watch personnel needed will to be employed at the Tenant's expense.

8. The Tenant's and their Design Professionals will be required to thoroughly investigate the area of the premise to determine where and how all engineering services are to be tied into for the space. While some of the areas are established 'Retail Spaces' others are not. In such conditions it is the responsibility of the Tenant's Design Professionals to determine the point of tie in (connection) and extend the service as necessary to the premise as a part of the building contract. The services in question must also be evaluated for load / capacity and calculations if necessary provided to PANYNJ, BA, Landlord or D&CC. This includes but is not limited to the following; phone data lines, drainage, power, HVAC, sprinklers, fire alarm, natural gas, airport speakers etc.

End of Section

SECTION 2 – TENANT DESIGN SUBMISSIONS

2.0 General

1. Drawings, samples and specifications for the proposed premises are to be submitted to the Landlord, BA and the D&CC for review. D&CC – TranSystems will act as the distributor of information to and from the Tenant's Design Team. The sequence and process are defined in this section. The final submission drawings must be sealed by Architects and Engineers licensed in the State of New York.
2. All Tenant work to be in compliance with codes and particular attention is drawn to the non-combustible classification of the building, related flame spread ratings, smoke development classification of materials and the seismic restraint of construction elements.
3. The general clearances in and around fixed and free standing furniture must comply with ADA guidelines, 36" minimum. An ADA shelf / ledge or surface of appropriate width and height must be near to one of the cash register positions.
4. The Tenant's designers are free to use their conventional layer systems and CAD programs. At the project close-out the 'Record Drawings' are to be submitted in the following formats.
    A. One CD with all contract drawings updated to show the 'As Built' condition. This represents the 'CD of Record Drawings.'
    B. One new / clean printed set of Contract Drawings updated per item A above, this will not require the signature and seal of the Architects or Engineers.
    C. On the CD noted in A above the Tenant's Design Team is to place a simplified drawing named and layered as described below.
5. The Tenant's Design Team are to provide a single, plan drawing in AutoCAD version 2006 or later in 2D without any three dimensional objects or blocks and all line-work flat on the 'Z' plane in the following layer convention which will be inserted into the terminal master plan;
    A. Airport Column Lines – color 1 – line wt .12
    B. Airport Construction – color 3 – line wt .12
    C. Tenant Construction – color 41 – line wt .12
    D. Tenant Fixed / Free Standing Furniture – color 4 – line wt .12
    E. Tenant Electrical & Data Floor & Wall outlets – color 5 – line wt .12
    F. Tenant RCP all ceiling elements – FPE / MEP – color 7 – line wt. .12
    G Tenant Merchandizing plan, general text mags, etc. – color 8 – ln. wt.12.
    H This plan constitutes a separate drawing without a border sheet or text, other than that noted for the merchandizing plan, or any other detail notes, section or detail marks and is to be titled 'the premise name, space designation number and date in the following format;; mm/dd/yy..

2.1 FIRST DESIGN SUBMISSION

2.2 The Tenant's designer's attention is directed to the details / drawings appended to the back of this manual and the section heading '3 Design Criteria and Technical Requirements.'

2.3 The first Submission is to be presented on 11" x 17" sheets mounted to ¼" black Foam Core board. The boards are to be read horizontally with a line one inch (1") above the bottom edge allowing for the Tennant's Logo on the left, a title in the middle and Design Team Logo on the right. See Details drawings appended to the back of this manual. Note there is Materials Board described in 2.8 below.

2.4 Colored / rendered Floor plan – Three copies mounted per 2.3 above. Text is to be used to spell out the floor, free standing floor fixtures, wall units, special features and their respective finishes. In confined areas dimensioned clearances are to be shown to comply with clearances noted above.

2.5 Black & White Merchandizing plan – Three copies mounted per 2.3 above. Text is to be used to spell out the general locations of product intended to be displayed / sold. The purpose of this plan is to confirm the intentions of the Lease Documents with the Landlord and avoid design revisions due to misunderstandings. This is not intended to be exhaustive but sufficient so that the Tenant's designers are clear as to the kind or type of fixture is required.

2.6 Black & White Reflected ceiling plan – Three copies mounted per 2.3 above. General arrangements of ceiling features, lighting, intended heights and types of finish spelled out.

2.7 Colored / rendered Storefront Elevation - Three copies mounted per 2.3 above. The elevation may be skewed to represent a perspective if desired and must show the finishes with text to spell out features and materials intended. The Tenant's designers are to review the fascia signage zone details at the back of this manual.

2.8 One 11"x 17" materials board of ¼" black Foam Core board is required showing materials intended for use fixed to the board face. This may be supplemented with graphics if apart of the intended finishes or store lighting systems or a special feature needs to be clarified. An additional board may be added if necessary. The back of the board must explain the materials or graphics shown on the front in simple ghost layout of rectangles or squares with the description contained within the shapes. Following completion of a board the remaining two copies require the board to be color scanned and the print fixed to the front of the Foam Core per 2.3 above. A simple Xerox of the material clarifications on the back must be duplicated per the original.

2.9 The Tenant's proposal will be evaluated and comments returned within one week from the date of receipt.

2.10 SECOND DESIGN SUBMISSION

2.11 Upon receipt of the comments the Tenant's Design Team will have two weeks to prepare and submit the second submission; three weeks will be permitted if requested.

2.12 The format for this submission is the start of the development of the CD set. Drawings in 24" x 36" format are acceptable for PANYNJ retail projects. Should the Client's designers prefer 22" x 34" to ease the half set publication in 11" x 17" this is acceptable as well.

2.13 The intent of the first CD set is to provide clarification to the comments raised while allowing the Contract Documents to progress as quickly as possible. The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. Title page with usual airport key plan, terminal location plan and site location plan with north and working north arrows shown. A code evaluation must be shown and escape distances indicated. The usual listing of Client / Owner / Landlord / Space No. and store title together with a list of the drawings.
B. The general conditions may be either book form or part of the drawing set.
C. The specifications may be either book form or part of the drawing set.
D. Architectural plans at ¼" scale for setting out, finishes, fixture types etc.
E. Architectural ceiling plans at ¼" scale for lighting, coordination with MEP.
F. Architectural elevations at ½" scale both storefront and internal as required.
G. Architectural construction details as required.
H. Both wall fixed and free standing fixture details
I. Signage proposals and details at scales that clearly show materials and sizes.
J. Fixture cut sheets in book format.

2.14 This CD submission forms the first chance to evaluate the MEP requirements and is of particular importance to the evaluation team.

2.15 The Tenant's design team is again reminded of the importance to perform a thorough site investigation in order to find those services required. Should the investigation show that the necessary services needed and the routings proposed require disruption to other retail establishments, concourse or holding areas or any other space then careful consideration will be need to evaluate the proposal. Any such findings will need to be noted and added to the drawings to allow bidding contractors to provide accurate estimates for the work to be done.

2.16 The Tenant's design team is reminded that the site investigations necessary to locate a service must also include an evaluation of the capacity of that service to suit their means. Some detail measurements may be necessary to evaluate flow rates, power etc.

2.17 The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. All the Engineering Specifications may be placed on the drawing sheets or in a book together with the others if that is the preferred method.
B. Fire Prevention drawing for the plan information at the scales noted above for Architectural and detail sheets as required.
C. HVAC drawing for the ceiling plan information at the scales noted above for Architectural and detail sheets as required.
D. Electrical / Power drawing for the plan and ceiling information at the scales noted above for Architectural and detail sheets as required.

2.18 Should the services of a Structural Engineer be required, then there specifications may be added to the drawings or included in the book format and would follow those scales noted above with appropriate details sheets as required.

2.19 The evaluation of this submission by BA, Landlord and D&CC will be one week and the drawings do not need to be signed and sealed.

2.20 **THIRD DESIGN SUBMISSION**

2.21 The Tenant's design team will evaluate comments and revise and issue the final CDs / Design within a one week period, two weeks will be granted upon request. Changes to the CDs need only be noted in an accompanying letter signed by the Architect / Engineer referring on a point by point basis to the comments listed by the Landlord / BA / D&CC. This issue of the CDs must be singed and sealed by the design professionals. The documents must include the standard PANYNJ – TAA (Tenant Construction of Alteration Application) form signed and sealed by the design professional. This form must be correctly filled out with the exact information required by the PORT.

2.22 At this point the Port Authority Approval Process phase begins.

2.23 The D&CC will review the signed and sealed CD documents for compliance with the comments list and then submit all documents to the PANYNJ on behalf of the Tenant within two working days of receipt. Number of copies of each document / CD set to be confirmed by D&CC.

2.24 The review process by the PORT will take an estimated three to five weeks. The PANYNJ comments referred to as, 'The Rider,' will be transmitted directly from the D&CC to the Tenant's design team upon receipt. During this period if not earlier the Tenant's design team is advised to seek bids.

2.25 The Rider will clarify conditions under which the Pre Construction Meeting may be allowed to proceed. Should the Rider require resubmission of any part of the CD documentation prior to approval or the Pre-Con meeting being scheduled the Tenant's design team must comply specifically with each point noted in the Rider. Such points are signified in the Rider with an 'asterisk.' Alterations so required must be bubbled and so noted on the documentation and returned promptly to the D&CC for resubmission to the PORT.

2.26 Should the Rider grant approval to proceed to the Pre-Construction Meeting upon condition that specific items are clarified or confirmed then upon such undertaking being given by the Tenant's design team in writing the D&CC will arrange a date at its sole and absolute discretion. The Tenant's Architect-of-Record is solely responsible for securing acceptance of all Rider Comment responses prior to project close-out.

2.27 The Tenant and their Professional Team will attend the Port Authority Pre-Construction Meeting in order to obtain the Alteration Permit. At this point, the construction phase will begin.

2.27 The Tenants design team will provide construction administration services in conformance with the agreed standards. At least 10 working days prior to substantial completion the Project Close-out phase can begin. The Tenant's Architect will submit controlled inspection and close-out documents to the D&CC for submittal to and approval by the PANYNJ.

2.28 Within 5 working days after approval from the Port Authority, the D&C C will endeavor to schedule the date for final inspection by the Port Authority. The Tenant's Architect will attend the final inspection to obtain the Final Permit to Occupy (FPO) from the Port Authority. Fixturing and merchandising may occur at any time. However, the store may not open until Port Authority approval is secured.

End of Section

SECTION 3 - DESIGN CRITERIA AND TECHNICAL REQUIREMENTS

3.0 GENERAL – DESIGN CONDITIONS

The Overall floor plan, A-01, illustrates the locations of the various food and retail concessions leaseholds. Concessions leaseholds assigned to food are designated with the letters 'F' or 'D' and leaseholds for retail are labeled with the letter 'R.' new leaseholds are further defined according to Design Conditions A through D as follows:

3.1 Design Condition A

This applies to new retails spaces which are enclosed with full height walls and have storefronts defined by closures, walls or glass. For example Space F14, refer to applicable LOD plans and elevations.

3.2 Design Condition B

This applies to new open 'arcade' or 'kiosk' retail spaces which have an open grille or grid type ceiling and their perimeter is principally defined by side folding or overhead roll down grilles. For examples Spaces R11, R12 and R13, refer to applicable LOD plans and elevations.

3.3 Design Condition C

This applies to new, enclosed food service retail space D03 for which the storefront is enclosed by means of solid walls, glass partitions and glass doors, refer to LOD plans and elevations.

3.4 Design Condition D

This applies to open café' or restaurant seating areas defined by low walls or by other flexible or moveable barriers. For example see café seating area D18C or seating area adjacent to restaurant Space F2. Refer to applicable LOD plans and elevations.

3.5 GENERAL REQUIREMENTS

3.5.1 Floors

The level of the finished floor within the concession spaces shall align with that of the adjacent public area finished floor.

The Concessionaire is required to patch adjacent concourse terrazzo or carpet if it is damaged during construction. Floors in kitchen, food preparation and storage areas, including under counter and beverage service areas must have a quarry tile or welded sheet vinyl non-slip surface. Where a quarry tile finish is proposed a fully waterproofed membrane must be applied under the quarry tile to prevent leakage to areas below. A 6-inch high cove base in quarry tile or welded vinyl is required. Floor drains, grease traps are to be installed per code.

3.5.1 Floors Continued

If the space requires floor penetrations, the Tenant's contractor is required to follow procedures noted in Section 1.0 above. This applies to conditions should the penetrations be required outside the Tenant's space for example in the routing of services to the space in need.

The Tenant is not permitted to construct mezzanines or raised platforms in the leased premises.

3.5.2 Ceilings

The overall ceiling height within the lease space is to be a minimum of 8 feet. Open ceilings or exposed structure treatments are not acceptable except as specifically shown in the Design Guidelines, Design Condition B for example. Ceilings are required to be installed in all areas to maintain return-air plenums. All ceiling materials must be noncombustible, equal to Class A installation. Ceiling finishes shall have a flame spread rating not exceeding 200. The plenum must be accessible when base building or Concessionaire piping and/or equipment are located above.

Ceiling furrdowns or bulkheads are permitted. However, furrdowns or soffits must not restrict access to plumbing or HVAC equipment. Access doors are not permitted in gypsum board furrdowns or soffits. All damage to existing ceilings will be repaired at the Tenants expense. Ceilings in food and beverage spaces are to comply with all City of New York Health Department requirements.

3.5.3 Roofs

All required penetrations of the existing terminal roof for exhaust hoods, vent stacks, supplemental HVAC equipment or any other equipment are to be performed by the Tenant's Contractor, at the Tenant's expense. The Tenant must consider the following in dealing with roof-top equipment

1. Roof access
2. Existing roof warranties and specific Owner requirements to maintain such coverage.
3. Security clearances are required to inspect and undertake work on the roof, see Section 1 above.
4. Equipment shut-offs
5. Walkway access
6. Concealed piping
7. Existing equipment and penthouse clearances
8. Roof protection during construction
9. Temporary weatherproof protection of openings during construction
10. Lifting and hoisting of equipment
11. Structural calculations of penetrations and reinforcing of openings if required
12. Effects on roof drainage
13. Storage of equipment and materials on the roof during construction
14. Protection of roofing material from oil and grease emitted by kitchen exhaust equipment

All modifications or installations of additional equipment require review and consultation by the Owner's consultant team including the D&CC, structural engineer and MEP/FP engineer. The installation of such equipment will be at the Tenant's expense.

3.5.4 Walls

All interior demising walls between Concessionaires shall be gypsum board on metal stud framing. Partitions between multiple Concessionaires and any common, public or service corridor will extend to the structure above. The partitions between Concessionaires must have a one hour fire rating and must go to the underside of structure above. All demising partitions will be constructed by the Concessionaires at the Concessionaire's expense. All interior partitions are to extend 8 inches above the finished ceiling. All interior walls are to be constructed by the Concessionaire at the Concessionaire's expense. Permanent attachment to concrete columns with mechanical fasteners or adhesives is not permitted. The Concessionaire is permitted to furr columns with systems that are self-supporting or free standing within the leasehold. If heavy shelving, or attachments, is to be installed, the demising or Concessionaire's wall must be reinforced.

If fire-rated walls or other existing construction must be opened or cut through to extend services into a leasehold, the Concessionaire must preserve the original rating and construction.

3.6 Security

The Concessionaire is required to provide a means of securing the leasehold during non-operational hours.

3.7 IMAGERY – FOOD CONCESSIONAIRE

3.7.1 Food Concessionaire - Display

Creative display of food and beverages is required. The presentation must be clean, well-organized and devoid of clutter. Sneeze guards must be set back a minimum of 6 inches from the edge of counter and be a maximum height of 4'-6" above the finished floor. All horizontal joints are to be butt-glazed for maximum visibility. Glazing must be either tempered or safety glass. No acrylic glazing is permitted.

3.7.2 Food Concessionaire - Equipment

Concessionaire equipment on counters is to be set back a minimum of 6 inches from the front counter edge and recessed into the counter top so that no portion exceeds 42 inches in height. Beverage machines and other miscellaneous equipment on the counter are subject to design review. No simulated wood finishes will be permitted on equipment within public view.

Napkins, condiments, utensils, straws and trays must be set back from the front of the counter and must be dispensed from permanent holders recessed into the front counter top.

All paper goods and supplies are to be stored in areas not visible to the public. All equipment is to be furnished, installed and maintained by the Concessionaire at the Concessionaire's expense.

3.7.3 Food Concessionaire - Lighting

Lighting within the Concessionaire's leasehold and outside the leasehold area – as shown on the Design Guideline Drawings - is to be provided by the Concessionaire.

3.7.4 Food Concessionaire - General Signage

In addition to the basic signage, additional signage is normally required of the food Concessionaire. Menu boards and other signs must convey information in an organized, simple, straightforward manner.

The design and graphics of the signage are an integral part of the store concept. All supplemental menu graphics must be professionally produced and attractively displayed. Temporary displays are not allowed. See Section 2.5 for additional signage information.

3.7.5 Food Concessionaire - Menu Boards

The Concessionaire is to provide one or more menu boards designed as an integral part of the design concept. Menu boards must have changeable price and menu graphics. Graphics depicting food items or a supporting overall image are encouraged.

Internally illuminated menu boards are acceptable. Also acceptable are illuminated menu boards using a supplemental light source. The use of photographs for food displays is encouraged. Photographs must be produced by a professional.

"Daily Special" signs or signs for seasonal or temporary promotions must be integrated into the overall design of the menu board and of the back wall.

3.7.6 Food Concessionaire - Pick Up/Order Signage

The food Concessionaire has the option to have "Order Here" and "Pick Up Here" signs. The design and materials must be consistent with the overall design and colors used in the space. All "Order Here" signs must be supported from the counter top and may not be suspended from the ceiling.

3.7.7 Food Concessionaire - Storage

The Concessionaire's supplies must be stored on appropriate racks or in cabinets within the Concessionaire's leasehold. Such storage must be concealed from public view with doors or sliding panels.

3.8 IMAGERY - RETAIL CONCESSIONAIRE

3.8.1 Retail Concessionaire - Display

The zone behind the storefront where merchandise is displayed is where the customer receives their first full impression of the store. It is critical that special attention be paid to the area through the use of fixturing, props, furniture, and/or mannequins. These elements are to be consistent with the space in both design and materials.

3.8.2 Retail Concessionaire - Signage

All signage on and within the Concessionaire's space is subject to design review and approval, including all signs for sale promotions, seasonal promotions, product displays and brand displays. See Section 3.14 below for Storefront Signage and Appendices for detail signage information.

3.8.2 Retail Concessionaire – Signage Continued

Signage must be professionally designed, attractively displayed and produced in colors and materials consistent with the overall store image.

3.8.3 Retail Concessionaire - FF&E

All fixtures, furnishings and equipment shall be provided by the Concessionaire, at the Concessionaire's expense. Fixtures and furnishings play an important role in establishing the character of the store. They should be made of high quality, durable materials similar or complementary to those in the space. Simulated wood grain or other simulated materials on fixture or furniture is not acceptable.

The fixture layout should accommodate passengers with hand-held luggage, bag carts and baby strollers, as well as persons in wheelchairs who require maneuvering clearances.

Any equipment used in the store that is visible to the public is to be compatible with the store design.

All interior finishes are required to meet ASTM E-84, Type 1, Class A fire retardant requirements. All floor finishes shall also meet DOC FF1 (methanine pill test) and ASTM E648 (critical radiant flux test) with a minimum critical radiant flux of 0.5 watts per square centimeter.

3.9 STOREFRONT / PRIMARY SIGNAGE

Signage is an integral part of the overall design of the Terminal experience. Accordingly, the signage of the Concessionaire's space must be designed to maintain that consistency. The Concessionaire is permitted to use the corporate logo, sign type and lettering styles, when compatible with design criteria. The Concessionaire is required to coordinate primary and secondary signage into a complementary design. The Concessionaire must avoid obstructing Terminal way-finding and information signage. See Section 2.4 for specific signage guidelines for food and retail concession leaseholds.

3.9.1 General Signage Standards

The Concessionaire is fully responsible for the design, workmanship, installation and grammatical correctness of the signs and for coordinating the work of the sign contractor.

The Owner reserves the right to reject any signage that it deems inappropriate for the Terminal.

No exterior signage will be permitted on any part of the Terminal nor shall any signage be positioned so as to be visible from outside any window.

3.9.2 Primary Sign Element

Each Concessionaire is required to design, fabricate, install and maintain one primary sign above the entrance to the space – where a soffit/fascia condition exists - or incorporated into the storefront - if a soffit condition does not exist. The sign shall be limited to the Concessionaire's trading name only.

Any Concessionaire having storefronts on more than one side may use one sign on each storefront. The Concessionaire must comply with the following criteria:

- Etched, beveled, or sandblasted glass, dimensional metal and other materials with permanent appearance are encouraged. Three-dimensional illuminated halo or back-lit individually mounted letters are not acceptable. Letters may be milled metal / Lexan or acrylic and spray painted but can not be thicker than 1-1/2" when pinned to the fascia. The storefront signage will be front lit by the Tenant per details shown in the Appendices.

- For signs occurring on soffits or fascias, the maximum field height for signage (i.e. individual letters, double line of letters and/or sign backgrounds) is 12" overall. See applicable details.

3.9.3 Supplemental Signage

The Concessionaire is encouraged to integrate supplemental signage into the storefront design to support the overall store image and to provide greater visibility. End walls and columns may not be used for secondary signage.

No displays or signs are permitted outside the lease line, except where specifically shown in the Guideline Drawings.

All signs are subject to the approval of British Airways. Note the following:

1. Letters or logos applied or painted directly on the inside face of glass storefronts are not permitted.

2. Supergraphic treatment of large amounts storefronts is not permitted.

3. Hand-lettered non-professional signs and newspaper advertisements are not permitted.

4. Advertising for brand names (soft drinks, for example) is not permitted.

5. Animated, flashing or sound-producing elements are not permitted.

6. All graphics must have a non-glare, matte finish. The type must be large enough and its style simple enough to make the text clearly legible.

3.10 INTERIOR FINISHES

The selection and application of finishes will define the Concessionaire's image. Establishing a standard for quality, durability and aesthetic value is essential and the finishes will be evaluated and considered on that basis. The Concessionaire's image does not end at the storefront or at the front of counter, but continues to all areas exposed to the public. It is important to develop a color and finish palette that is both inviting and complementary to the overall image. Quality craftsmanship is a critical component of good finish applications.

3.10.1 Flooring

High quality, durable materials must be selected to withstand heavy traffic. Stone, ceramic tile, marble, wood or durable carpet are acceptable options. The Concessionaire must provide a continuous base around the perimeter of the lease space with material that is similar to the flooring as well as compatible with the storefront. Rubber or vinyl base is discouraged.

3.10.2 Ceilings / Walls / Doors

The Concessionaire is to use high quality, durable products for ceiling, walls and doors. Specific requirements include the following

1. Ceilings must be accessible for maintenance whenever piping or equipment, by base building or Concessionaire, occurs.

2. The following materials are not permitted:

    a. rough-sawn cedar or other unfinished woods
    b. imitation of natural materials, such a simulated wood, brick or laminates
    c. pegboard walls or fixturing systems
    d. painted drywall surfaces below 9 feet
    e. window coverings
    f. slat wall material

3. Concessionaire's interior doors must be solid core or hollow metal with a finish quality similar to the quality of the walls.

3.11 LIGHTING

The Concessionaire is encouraged to be creative in lighting design to maximize the quality and uniqueness of the environment. Energy efficient lighting is required. All lighting locations, specifications and product data sheets, including light source, must be submitted for review.

3.12 ACOUSTICS

The Concessionaire is encouraged to use materials and designs that minimize the transmission of sound to the concourse and adjacent spaces.

Food and beverage Concessionaires must isolate noises from food preparation, dishwashing and cleaning areas, using demising walls if necessary.

Music systems are permitted within leaseholds, but sound levels must be controlled to limit the sound to the leasehold boundaries.

3.13 CONSTRUCTION PROCEDURES

These construction procedures are intended to allow flexibility and accessibility to the Concessionaire's contractor for the timely execution of his work without compromising airline operations, passenger flow or airport security. Airport and airline operations and security must not be affected during any sequence of Concessionaire's construction. Therefore, some

3.13 Construction Procedures Continued

construction may be required during restricted working hours and during evening hours.

3.13.1 Concessionaire Examination of Site

By executing lease documents, the Concessionaires represent that they have:

1. Visited the site.
2. Made due allowances for difficulties and contingencies to be encountered.
3. Compared contract documents with work in place.
4. Informed themselves of existing conditions and work being performed by others.
5. Notified the D&CC of any inconsistency, or error discovered within the lease or between Lease Exhibit and existing conditions.
6. Agreed to inspection terms during construction
7. Agreed to provide verified as-built drawings to the D&CC.

3.13.2 Temporary Partitions

In most cases, construction by Concessionaire will occur behind temporary partitions which are to be constructed by the respective Concessionaire according to approved plans. In some cases, where such temporary partitions are not practical, the Concessionaire is to provide and maintain temporary dust partitions to seal-openings to all adjacent areas, provide temporary security and protection to the public during construction. The following points also apply:

1. Temporary construction partitions must be located a maximum of 2 feet beyond the lease line.

2. Partitions must extend full height to the existing structure or ceiling to positively seal off the construction area. Partitions in view of the public are to be vinyl-covered gypsum board on metal studs.

3. All finishes are to be returned to their original condition when temporary partitions are removed.

3.13.2 Temporary Partitions - continued

4. Construction signage – approved by British Airways - is required on temporary partitions.

5. Access doors into construction areas must be solid core or hollow metal doors with commercial grade hardware and must be mounted in hollow metal frames.

3.13.3 Security

The Concessionaire is entirely responsible for the security of the leased premises during construction and must take all necessary steps to maintain airport security. The Owner shall have no liability for loss or theft of any property.

The Concessionaire's contractor shall enter the building at landside entrances approved by the Owner.

Access by air-side or AOA ramp is strictly prohibited. Access to construction areas within the building must be through passageways and corridors as approved by the Owner or the designated D&CC. The access route must be shown on construction documents.

3.13.4 Construction Coordination

The following rules and regulations apply to the Concessionaire's contractors performing work at the Terminal.

In general, the Concessionaire's contractor is to confine his operations to the construction area defined by his Contract Limit Lines (CLL). Where operations require work or staging beyond those limits, such work is to be coordinated with the Owner or their designated D&CC using the following guidelines:

1. All work to be installed beyond the CLL, such as bracing, support steel, installation of conduits or lines etc., is to be coordinated with the Owner, their designated D&CC or with other contractors of the Concessionaire, where applicable.

   The Concessionaire's contractor shall attend the Terminal's mechanical coordination meetings. The contractor must sign off the coordination with other mechanical trades, if work is occurring beyond the CLL's.

3.13.4 Construction Coordination - continued

2. Where the Concessionaire's contractor's work precedes any Terminal mechanical work, the Concessionaire's contractor will furnish accurate as-builts, tying back dimensionally to building steel to locate their work. As-built documents of this work will be forwarded to British Airways or their designated D&CC within five (5) working days of work being performed in the field, for use by others in coordination of subsequent work.

3. Where the Concessionaire's contractor's work occurs after the Terminal's coordination of mechanical work in adjacent spaces, the Concessionaire's contractor will obtain copies of the "Coordination Drawing(s)" for the area and shall indicate his work on the plan. This drawing will be forwarded ten (10) working days prior to any work proceeding in the field outside their CLL and will be submitted to the Owner's D&CC for review.

4. No core drilling will occur in the Terminal outside the CLL. Any damage which occurs due to such activity will be the responsibility of the Concessionaire's contractor. Any necessary repairs not completed by the Concessionaire's contractor will be performed by a contractor selected by the Owner and applicable costs will be back-charged to the Concessionaire's contractor.

5. All shutdowns or tie-ins to existing services are to be made with a minimum of 48 hours written notice to the Owner. The Concessionaire's contractor is responsible to drain down and refill any systems affected and to furnish valves and dampers to isolate their work from the Terminal's systems, whether or not specifically indicated.

6. The Concessionaire's contractor will coordinate all deliveries with British Airways through their designated D&CC. Indicate the date, time and duration of deliveries and coordinate the location of all drop-offs. Minimum 48 hour notices will be given for all standard deliveries, and five (5) days written notice for all deliveries requiring cranes, boom equipment or requiring coordination to or blocking of roadway access.

7. The Concessionaire's contractor is required to provide competent job site supervision, full time while any of their work-force is present at the job site.XXXXXXXXXXXXXX capable and authorized to make binding decisions on behalf of the Concessionaire's contractor. , and who will be present

8. The Concessionaire's contractor will provide British Airways or their designated D&CC with emergency contact numbers for this individual and also for all major mechanical subcontractors working for them at the site.

3.13.4 Construction Coordination – continued

9. The Concessionaire's contractor is required to make available a competent representative of his firm to attend a weekly coordination meeting with British Airways to coordinate all operations and schedules and to give notice of upcoming work or deliveries.

10. All builders' materials, gang boxes, rubbish containers, etc. are to be kept within the confines of the CLL or at pre-approved locations outside the CLL.

11. The Concessionaire's contractor will coordinate all rubbish removal, storage of mini containers, placement of roll-off pickups and drop-off times with British Airways.

12. The Concessionaire's contractor is responsible for lockup and protection of all his builders' materials, tools and equipment during the course of construction.

13. The Concessionaire's contractors are responsible for procurement of their own security badges from the Port Authority and shall coordinate procurement with British Airways.

14. The Concessionaire's contractor is aware that all work will be performed by union personnel of trades claiming jurisdiction. The Concessionaire's contractor is advised that all additional labor which results from their construction activities such as costs for stand-by trades, master machinists, laborers, teamsters, either for work completed during or beyond normal working hours, will be their responsibility and should be arranged for and paid directly by the Concessionaire's contractor.

15. The Concessionaire's contractor shall establish and obtain approval of any required axis lines and benchmarks for performance of their work. The contractor shall coordinate back to these benchmarks, axis lines and starting points as applicable.

16. The Concessionaire's contractor will be responsible for the damage caused by its own personnel or by any of the subcontractors, including suppliers and vendors of the Concessionaire's contractor, to existing construction equipment, fixtures, finished surfaces, adjacent area of construction, existing buildings, properties or utilities. The Concessionaire's contractor is responsible for protection of the preceding work in the vicinity of its work. Any disturbance or impairment resulting directly or indirectly from the work of the Concessionaire's contractor will be immediately restored, repaired, or replaced to the satisfaction of British Airways and without additional cost to British Airways. Refusal by the Concessionaire's contractor to correct the damaged work after notice from the Owner's contractor will necessitate correction by others with all related costs charged to the Concessionaire's contractor.

3.13.4 Construction Coordination – continued

17. The Concessionaire's contractor shall make all efforts to coordinate his work with Terminal Base Building construction at the interface of the CCL (Contract Limit Line).

18. The Concessionaire's contractor must be aware of the structural capacities of areas to be used for the Concessionaire's contractor's equipment and material storage and shall not exceed rated capacities without taking appropriate steps to compensate for the imposing of loads which may exceed the design limits. All storage of materials outside the CLL must be coordinated with British Airways. Any modifications to the structure must be analyzed and detailed by the Concessionaire's contractor's engineer, a professional engineer licensed in New York State, and must be submitted for review by a structural engineer selected by British Airways. All related costs including costs of the engineering review shall be included in the Concessionaire's contract price for such work.

19. The Concessionaire's contractor shall include all costs related to any and all required laboratory testing including controlled inspections required by the Port Authority.

20. The Concessionaire's contractor should note that no elevators or personnel/material hoists are available for their use on the Terminal jobsite. Use of any of the Terminal's service elevators – when permissible - shall be coordinated in advance through British Airways.

21. The Concessionaire's contractor will provide any signs, warning devices, barricades, fences and guardrails which are required for the safe performance of its work, and to control vehicular and pedestrian traffic required by its operation in accordance with applicable codes. Any fines levied against the Owner's contractor by OSHA due to failure of the Concessionaire's contractor to comply with OSHA requirements shall be paid by the Concessionaire's contractor.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS

The Terminal has in place an MEP infrastructure adequate to accommodate the needs of the concessions program. Based on the extent and nature of the work proposed by the respective Concessionaires in this phase of the work, the utility capacities shall be verified by the Concessionaire's engineering consultants. Supplemental requirements or unusual circumstances caused by the Concessionaire's development may require that supplemental equipment be installed by an approved contractor at the Concessionaire's expense. Modifications, tie-ins to existing services and supplemental equipment construction must be engineered by a professional engineer registered in New York State. See Appendix 1 - Design Condition Drawings, for graphic layout of services available to the leaseholds.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS - continued

Plans must show all routings and connections of new services to existing lines, ductwork, piping, telephones, switchboards or motor control centers. The Concessionaire must provide complete heat loss/gain and electrical power calculation forms. See Appendix 2-Schedules for calculation forms.

3.14.1 HVAC

The Terminal is served with chilled and heated water from the Port Authority's central utility plant. Air handling units are currently in place to provide a standard design capacity. The base building supply air provided by British Airways is 1.0 cfm/ft^2 at 57°F. The Concessionaire must verify the existing air supply to the leasehold and determine how much more, if any, is needed.

The existing primary air ductwork may be used to cool the leasehold, provided engineering calculations show that it is adequate to meet new leasehold design loads.

The Concessionaire's HVAC design for each leasehold must meet the following criteria:

1. Heating - Winter inside comfort design temperature: 75°F db -
2. Cooling - Summer inside comfort design temperature: 78°F db
3. Outside design temperatures - as indicated in the current edition of the ASHRAE Handbook of Fundamentals, 2 1/2 percent conditions
4. The existing maximum supply air to conditioned building areas is calculated at 1.0 cfm/ft^2. The Concessionaire is responsible for supplying supplemental HVAC if additional air-conditioned air or make-up air is required because of increased loads in the leasehold.

The Concessionaire must provide the design, engineering and installation of the HVAC system including the following:

1. All medium pressure ductwork from the main trunk ducts to the VAV boxes including duct taps and control dampers
2. All low-pressure ductwork, including that necessary for supply, return air, exhaust, and make-up air
3. All grilles and diffusers for supply, return air, exhaust and make-up air

3.14.1 HVAC - continued

4. Controls: All Concessionaire's equipment must have direct digital controls (DDC); the Concessionaire's control equipment must be compatible with those installed in the Terminal (manufactured by Trend). The Concessionaire is responsible for providing all DDC control panels required for their installation and for connecting to the existing Terminal BMS system and should contact:

   Trend Controls Group
   200-214 West 4th Street
   Plainefield, NJ 07061
   (908.755.9500)

5. A heating system using fan powered VAV boxes or induction boxes with hot-water coils and the required hot-water piping
6. A kitchen hood exhaust and tempered make-up air systems package that includes both exhaust fans and make-up air fans which must be installed by an approved Contractor. The submitted design must include sizing of roof penetrations
   a. Roof exhaust fans must be of the belt drive, up-blast, vertical discharge type and must bear the AMCA certified ratings seals for air and sound performance. There must be a built-in grease drain.
   b. The filtered make-up air unit should have belt-driven double width/double inlet, forward curved centrifugal supply fans.
   c. The pre-wired control center must include, but not be limited to, an integral master disconnect switch with fuse blocks for main power connection, magnetic motor starters with thermal overloads and manual reset, a fused 115 volt control transformer and a distribution terminal control strip for connecting the control wiring. Wiring must be complete, requiring only one-point field connection for power service and one-point field connection for low voltage.

7. All supplemental cooling and heating service must be designed by the Concessionaire's engineer and installed by an approved contractor. Supplemental chilled and heating water air-handling units may be installed within the Concessionaire's lease space or, with written approval, may be installed on the roof.

8. Supplemental DX units are not desirable and will be subject to Owner approval. All other resources must be considered first and approval will be granted only if documented evidence shows that the units are necessary and unavoidable. Location and size of rooftop equipment penetrations will be subject to Owner review and approval.

3.14.2 Electrical

Base building power provided by British Airways includes one separate disconnect switch per leasehold. The feeder (all 3ph, 4 wire, 60Hz) and switch are sized at 10 VA/per ft^2 for retail Concessionaire leaseholds and 24 VA/per ft^2 for food Concessionaire leaseholds. Food Concessionaires will be required to reimburse the Owner for electrical service based on a flat rate fee per square foot or based on meter readings, as determined by British Airways.

The Concessionaire is responsible for the design, engineering and installation of electrical service within the lease space and for all connections and coordination with base building electrical systems. This includes panels, transformers, wire and conduit, light fixtures, switches, outlets and any other items required to complete a functional system.

3.14.3 Plumbing

The Concessionaire must provide the design, engineering and installation of any required plumbing at the concessionaire's expense including the following:

1. All domestic cold water piping
2. All domestic hot water piping including hot water heaters
3. All sanitary sewer (waste) piping, including floor drains and grease interceptors to be connected to the base building waste connection
4. All sanitary sewer vent piping
5. Water heaters when required - they must be accessible and include T&P relief-valve piping to the nearest floor or hub drain in the lease space; all water heaters shall be gas-fired
6. Domestic hot water heaters for hand sinks, if required, can be electric or gas, fully insulated and designed for a service water temperature not to exceed 140°F

All sanitary, vent and cold-water piping must connect to existing lines in the immediate Concessionaire area and be furnished and installed by the Concessionaire.

For food service areas, all Concessionaire drainage piping must be connected to a grease waste line extending to a grease interceptor. Locations should be coordinated with existing conditions, as described above, and with Concessionaire operations.

The Concessionaire must test all existing waste lines for capacity and is responsible for any necessary cleaning or repairs to existing plumbing before connections are made.

3.15 Lighting

All temporary lighting at 10 foot candles and any final required additional lighting shall be provided by the Concessionaire at the Concessionaire's expense in accordance with the Manual. Reference Section 2.0, General Design Criteria.

3.16 Fire Protection

All Concessionaire's leaseholds must be equipped with a sprinkler system except for kiosks or open-ceiling retail spaces which are positioned below ceilings which are presently equipped with sprinklers. The Concessionaire must provide the engineering design modification and installation of the fire sprinkler system for the leasehold, which includes:

1. The design, modification and installation of wet-pipe fire sprinkler systems
2. The design, modification and installation of new and/or existing fire sprinkler heads for lease space layout
3. The design and installation of adequate fire protection systems for such equipment as kitchen grease hoods, as required.

The Concessionaire is responsible for the design, engineering and installation of the sprinkler system within their leasehold and for connecting the sprinkler system to the existing Terminal fire protection system. Contact the following contractor:

Sirina Fire Protection Corporation
151 Herrick Road
Garden City Park, NY 11040
(516.942.0400)

The kitchen hood fire protection system should be connected, by the Concessionaire, at the Concessionaire's expense, to the base building fire alarm system.

If the Concessionaire adds new ductwork for supply, return or exhaust or if the Concessionaire adds supplemental air handling units to the lease space, the Concessionaire's contractor shall install duct-mounted smoke detectors that are connected to the base building's fire alarm system. The Concessionaire's contractor shall install new devices, wiring, etc., and the final connections to the base building's fire alarm system shall be made by the Owner's fire alarm system vendor, at the Concessionaire's expense.

The base building fire alarm system, provided by the Owner, at the Owner's expense, includes one fire alarm horn/strobe per open space (minimum) plus one additional horn/strobe per 400 square feet in accordance with NFPA 72. Fire alarm devices are not generally required in leaseholds, except for in large leases where audio-visual devices must be installed. The designation of the fire alarm devices will be handled on a case-by-case basis in coordination with the Concessionaire's leasehold. It will be the responsibility of the Concessionaire, at the Concessionaire's expense, to provide any required fire alarm devices required for adequate visibility based on the design of the leasehold.

Lease spaces are not independent fire protection zones. Fire protection zones are based on column locations, and several leaseholds may be in the same fire protection zone.

3.17 Telephone

The Concessionaire will be responsible for ordering voice and data circuits from the various Telecommunications Service Providers (e.g. Bell Atlantic, AT&T, Sprint). For routing the Telecommunications circuits to the leasehold, the Concessionaire must use the building cable plant, provided by the British Airways. Originating from the nearest Communications Support Room (SCR), a fifty pair category five (CAT5) cable shall be installed by the Concessionaire terminated within the leasehold.

3.18 Natural Gas

For any natural gas supply lines required for cooking or for hot water heating appliances, the concessionaire is responsible for the design, engineering and installation within their leasehold and for connecting the gas line to the existing natural gas supply in the terminal. Any venting required shall also be provided by the concessionaire as will any required metering.

3.19 Structural

The Base Building structure will accommodate floor loading of 100 psf live load, which cannot be exceeded by the Concessionaire.

END OF SECTION

EXHIBIT "D"
PERCENTAGE RENT RATES

Effective May 1st 2011 through October 31, 2015:

Amount of Annual Gross Receipts	Percentage Rent Rates
Ex. 2.a.	

Minimum Annual Guarantee Rent

Ex. 2.a.) per annum commencing May 1st 2011 subject to adjustments as set forth in Section 2.1 (a)

EXHIBIT "C"
DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS

N/A

EXHIBIT "E"
FORM OF PORT AUTHORITY TENANT ALTERATION (TAA)

DFA to add TAA Application

EXHIBIT "F"
GUARANTY

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EXHIBIT "G"
AFFIRMATIVE ACTION POLICY

"AFFIRMATIVE
ACTION POLICY.pdf"

AFFIRMATIVE ACTION-EOUAL OPPORTIJNTIY MINORITY BUSINESS ENTERPRISES WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS

Part 1. Affirmative Action Guidelines - Equal Employment Opportunity

(1) 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 _____ of Port Authority Agreement No. _____ (herein called the "Lease") with (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 bereby 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.

(2) 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 f=a1e 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 Contractors 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 sale 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 SID, 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 havin 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 at 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 him 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 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 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 each minority and female off-the-street applicant 3lld 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, referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, 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 bas 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 trainin 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 doe~ 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 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.

(II) 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 circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor a sociation, joint contractor-union, contractor community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling anyone or more of its obligations under Paragraph (b) hereof provided that: tile Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group a f women is underutilized)

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at lease as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records.

Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or Labor), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 official or other area. residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISESIWOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise, which is at least fifty-one percentrum owned by, or in the case of a publicly owned business, at least fifty-one percentrum of the stock of which is owned by Citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be :IS defined in paragraph TI(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible"

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WEE is not selected as a joint venture or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBE in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBE maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBE on a timely basis

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBE5, where appropriate.

Certification of MBEs and WBE hereunder shall be made by the Office of Business and 10h Opportunity a f the Port Authority. If the Contractor wishes to utilize a firm not already certificd by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority shall 11 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 WEE 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 WEE goals.

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WEE 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

EXHIBIT "H"
STANDARDS OF OPERATION – TERMINAL RULES

"Standards of
Operation_Terminal I

TERMINAL RULES

Concessionaire covenants and agrees that it shall conform with each of the following rules and regulations and each modification, revision, deletion, or addition thereto made by the Sublandlord, in the exercise of the reasonable judgment of the Sublandlord, and shall cause similar conformance by its employees, agents, contractors, and all others over whom Concessionaire has any right to control or direct while in the Airport. Notwithstanding the foregoing, in the event there is an inconsistency or conflict between anyone or more of the Terminal Rules and Laws, then the Laws shall control and prevail. Sublandlord shall not be responsible to Concessionaire for the noncompliance by any other concessionaire with the Terminal Rules.

1. Concessionaire shall not place, construct, or maintain on the store front of the Concessionaire Premises, the doors, the exterior walls, the Common Areas or any portion thereof any signs, advertisements, names, insignias, trademarks, descriptive materials, or similar items without Sublandlord's prior written consent. All signs, promotional material and displays within the Concessionaire Premises must, at all times, be attractively displayed and professionally produced. Sub landlord, at Concessionaire's expense, as Additional Rent, may remove any sign placed, constructed or maintained that does not comply with the provisions hereof. Further, Concessionaire shall not, without Sublandlord's prior written consent, place, construct or maintain in or for the Concessionaire Premises any search lights, flashing lights, loud speakers, phonographs, or other similar visual or audio media which may be heard or otherwise experienced outside the Concessionaire Premises.

2. Concessionaire shall not, by itself, or through any officer, salesperson, employee, agent or otherwise solicit business in the vestibules, entrances, elevator lobbies, corridors, hallways or elevators of the Terminal.

3. Quality and Character of Merchandise

   a. Merchandising. Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sale a full and complete stock of merchandise consistent with only the Permitted Operations. Concessionaire shall ensure that all such merchandise is at all times attractively and logically arranged and that all merchandise displays are fully stocked with product.

   b. Product Selection. Concessionaire may from time to time, with written approval of the Sublandlord, or its designee, add or delete items from its merchandise offerings provided that such additions or deletions shall be consistent with those authorized in this Sublease, as amended, and do not conflict with the rights of other concessionaires at the Terminal as may be determined by Sublandlord, in its sole discretion.

   c. Quality of Merchandise. Concessionaire shall offer for sale only high quality products and those which are safe, sanitary, properly labeled and as advertised. Upon written notice to Concessionaire by Sublandlord of any violation of this provision, Concessionaire shall forthwith correct the condition objected to within four (4) hours after receipt of such notice.

d. Sublandlord 's Right to Object. Concessionaire shall upon written demand from Sublandlord cease selling any item that Sublandlord shall determine is objectionable for sale or display at the Terminal and immediately remove such item from its inventory and not thereafter offer such item for sale at the Terminal.

e. Replacement and Refunds. Concessionaire shall , at all times during the term of this Sublease, as amended, and without any additional charge to customers, replace any merchandise determined by customers to be unsatisfactory, flawed or defective or shall provide customers a full re fund therefore provided said customers have complied with any applicable warranty and use provisions applicable to the merchandise.

4. Concessionaire shall accept as payment for goods and services all nationally recognized credit or charge cards including, at least, American Express, Master Card, VISA and Discover. Concessionaire shall provide, without charge, change making services at each cashier's location in the Concessionaire Premises. Such service shall be equally provided to all persons, regardless if any purchase has been made or not.

5. Concessionaire shall not use or permit the use in the Concessionaire Premises of anything that may be dangerous to life or limb. Concessionaire shall not in any manner deface or injure the Terminal or any part thereof, or overload the floors of the Concessionaire Premises. Concessionaire shall not do any1hing or permit any1hing to be done in the Concessionaire Premises in any way tending to create a nuisance, or tending to disturb any other concessionaire in the Terminal..

6. Adherence to Standards.

f. Concessionaire shall ensure that all requirements of the Port Authority and County and/or State Boards of Health, and health and sanitary regulations adopted by the Authority, County, State or any governmental legal authority, are fully complied with in all Facilities. Concessionaire shall give access for inspection purposes to any duly authorized representatives of such governing bodies and to Sublandlord. Concessionaire shall provide Sublandlord with copies of all inspection reports within forty-eight (48) hours of receipt. This paragraph does not require Concessionaire to waive any applicable attorney-client or attorney work product privileges.

g. Additional Compliance. Concessionaire shall comply with all applicable governmental laws, ordinances and regulations in the conduct of its operations under this Sublease, as amended.

h. Concessionaire's Standards. Concessionaire shall submit to Sublandlord a copy of any of its own customer service, operations, etc. standards, plans and/or manuals, and shall ensure continuous adherence to Concessionaire's own standards In addition to Sublandlord's standards as set forth herein.

7. Concessionaire, at its so le cost and expense, shall provide exterminating service for the Concessionaire Premises, which services shall be performed as needed, and in all events, upon demand by the Sublandlord or Port Authority.

8. Trash and Refuse.

i. Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling of all trash, grease and other refuse caused as a result of the operation of the Concessionaire Premises and shall provide for its timely removal. Piling of boxes, cartons, barrels or other similar items in view of a public area is prohibited. Concessionaire shall keep any areas used for trash and garbage storage prior to removal from Terminal in a clean and orderly condition so as not to attract rodents, pests and birds or create an offensive odor.

j. In transporting trash, grease and other refuse from the Concessionaire Premises, Concessionaire shall use only carts, vehicles or conveyances that are covered, leak proof and equipped with wheels suitable for operating without damage to the Terminal. Such disposal shall take place during hours as may be directed by Sublandlord.

k. The plumbing facilities, within the Concessionaire Premises and elsewhere in the Terminal, shall not be used for any purpose other than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. If installed in connection with the Concessionaire Premises, Concessionaire shall , at its own expense, check and clean at least monthly all grease traps and grease receptors. The expense of any breakage, stoppage, or damage resulting from a violation of this provision, wherever such occurs, shall be borne by Concessionaire who may, or whose employees, agents, or invitees may, have caused it.

l. If at any time during the Term, the Port Authority establishes a Terminal-wide recycling program, Concessionaire agrees to participate in any such program at its own cost.

9. The portion of the Common Areas, if any, immediately adjoining the Concessionaire Premises shall be kept clean and free from Concessionaire's dirt and rubbish by Concessionaire to the reasonable satisfaction of Sublandlord. Concessionaire shall not encumber or obstruct the corridors or stairways of the Terminal with furniture, equipment, boxes, crates, floor mats, merchandise, goods or otherwise. In the event of a violation, Sublandlord may move such objects into the Concessionaire Premises or to any other suitable location.

10. Personnel

m. The management, maintenance and operation of the Concessionaire Premises and the concession conducted thereon shall be at all times during the Term under the supervision and direction of an active, qualified, competent and experienced manager, who shall at all times be authorized to represent and act for Concessionaire. Said manager shall have full authority to make day-to-day business decisions on behalf of Concessionaire, with respect to the concession operations contemplated by this Agreement, and shall represent the Concessionaire in dealings with Sublandlord, and coordinate all concession activities with Sublandlord. Concessionaire shall cause such manager to be assigned a duty station or office in the Concessionaire Premises at which he or she shall be available during normal business hours. During the absence of such manager, Concessionaire will, at all times during Store Hours, assign or cause to be

assigned, a qualified subordinate to assume and be directly responsible for the carrying out of his or her duties.

n. Concessionaire shall recruit, train, supervise, direct and deploy the number of representatives, agents and employees, collectively referred to as "personnel" necessary to promptly provide services to all customers and to meet all of the requirements of this Sublease, as amended. Concessionaire shall be continuously responsible for actively managing personnel levels to ensure that changes in passenger activity, due to schedule changes, load factor changes or flight delays are adequately accommodated through increased levels of personnel. Any actual or perceived degradation in (i) the customer service requirements set forth in this Sublease or other duties, rights or responsibilities set forth in this Sublease provided by Concessionaire in the course of conducting Concessionaire's permitted uses; or (ii) the training and competence of Concessionaire's personnel shall be conveyed to the Concessionaire and Concessionaire hereby agrees that it shall promptly institute training programs and or add additional adequately trained and capable staff to the satisfaction of Sublandlord.

o. In addition to the staffing level requirements set forth herein, Concessionaire shall ensure that all personnel utilized in the Concessionaire Premises shall conform to the following:

I. All personnel employed by the Concessionaire shall be neat, clean and courteous at all times.

II . No loud, boisterous or otherwise improper actions or language shall be permitted while on or about the Terminal.

III . Concessionaire shall, at its sole cost and expense, provide each member of the sales staff with a uniform of a design to be approved by Sublandlord, in its discretion, which shall be worn whenever said staff are in the Concessionaire Premises.

IV. Personnel shall prominently display nametags, Airport Identification badges and any other specified airport badges and or pins while on duty in the Terminal.

v. All personnel shall be actively working while on the sales floor in view of the public. No personnel shall be engaged in personal conversation (via telephone, etc.) or activities such as reading, writing, eating, etc.

VI. All personnel shall be attentive to customer needs, display a positive attitude and refrain from discussing personal issues problems within the sales areas of the Concessionaire Premises.

VII. All personnel shall know and utilize practices of good customer service such as (1) assisting customers with purchase decisions; (2) identify product alternatives; (3) posses and display good product knowledge; and (4) utilize appropriate suggestive selling.

VIII. All personnel shall provide warm, friendly, smiling, prompt and courteous service.

IX. All personnel shall be proficient with and trained in the required operations of all equipment and devices used in the Concessionaire Premises to facilitate sales (i .e. point of sale devices, credit card transaction equipment, etc.).

x. All personnel shall be familiar with all applicable policies of this Sublease, the Terminal and Concessionaire.

XI. All personnel engaged in sales activities shall speak and comprehend English, at a level appropriate to their duties.

p. Sublandlord shall have the right to object to the demeanor, conduct, and appearance of any employee of Concessionaire or any of its invitees or those doing business with it, whereupon Concessionaire shall take all steps necessary to remedy the cause of the objection. If requested by Concessionaire, Sub landlord shall present its objections in writing and provide the opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

11. The delivery or shipping of merchandise, supplies, and fixtures to and from the concessionaire Premises shall be subject to such rules and regulations as in the reasonable judgment of Sublandlord are necessary for the proper operation of the Terminal.

12. Concessionaire acknowledges that all locks and similar devices on and to the Concessionaire Premises are to be keyed or otherwise within the control from or by a master key or other device within the possession and control of the Subland lord. At no time during the Term, shall the Concessionaire have the right to place any locks or similar devices on or to any portion of the interior or exterior of the Concessionaire Premises without each being capable of being opened by the master key or other controlling device of the Sublandlord. To the extent that the Concessionaire shall desire to install, within the Concessionaire Premises any combination or other form of locks, no such equipment may be installed without first obtaining the prior written consent and approval of the Sublandlord, and providing to Sublandlord the key, combination, or other means of opening same at any time.

13. Concessionaire's Maintenance Obligations.

q. Concessionaire will maintain the Concessionaire Premises and every part thereof in good appearance, repair and safe condition. Concessionaire shall maintain and repair all leasehold improvements on the Concessionaire Premises and all furnishing, fixtures and equipment therein, whether installed by Concessionaire or by others, including repainting or redecorating as necessary and replacing or repairing worn carpet, tile, fixtures or furnishings. All such maintenance and repairs shall be of quality equal to or better than the original in materials and workmanship and all work, including paint colors, shall be subject to the prior written approval of both Sublandlord and the Port Authority.

r. Concessionaire shall, without cost to Sublandlord, provide all janitorial services for the Concessionaire Premises. Concessionaire shall ensure that the Concessionaire Premises, and the public areas adjacent to the Concessionaire Premises, are kept free from all rubbish, filth and refuse.

s. On or about each anniversary of the Commencement Date, representatives of Sub landlord and Concessionaire shall tour the Concessionaire Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Concessionaire Premise in first-class condition, and Concessionaire shall promptly undertake such refurbishment at its sole cost and expense. For purposes of these Terminal Rules, refurbishment shall mean the routine repainting or redecoration of public areas within the Concessionaire Premises, including the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures or finishes.

t. Concessionaire agrees to employ sufficient personnel, and provide necessary equipment to keep the Concessionaire Premises and all furniture, furnishings, fixtures and equipment clean, neat, safe, sanitary and in good working order and condition at all times pursuant to the maintenance requirements of these Terminal Rules.

u. Sublandlord shall be the sole judge of the quality of maintenance. The Port Authority, Sublandlord, or their designees, may at any time, without notice, enter upon the Leased Premises to determine if satisfactory maintenance is being performed. If it is determined that said maintenance is not satisfactory, the Port Authority and/or Sublandlord shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire within fifteen (15) days after receipt of written notice, British Airways or its designee thereafter shall have the right to enter upon the Leased Premises and perform the maintenance therefore, and Concessionaire agrees to promptly reimburse British Airways for the cost thereof, plus fifteen percent (15%) for administrative overhead.

v. The Sublandlord and the Port Authority and their respective agents shall have the right to enter the Concessionaire Premises for the purpose of making repairs, alterations, or additions which Sub landlord shall deem necessary and take all materials into and upon said Concessionaire Premises that may be required to make such repairs, improvements additions or alterations, without in any way being deemed or held guilty of an eviction of Concessionaire and the Rent reserved herein shall in no wise abate while said repairs, alterations or additions are being made. Concessionaire shall not be entitled to maintain a setoff or counterclaim for damages by reason of loss or interruption to the business of Concessionaire because of the prosecution of any such work.

14. Hours of Operation.

w. Concessionaire shall ensure that all portions of the Concessionaire Premises are continuously and uninterruptedly open for business and provide all services and sales activities as required by this Agreement at such hours as may be established from time to time by Sublandlord, in its sole and absolute discretion (hereinafter referred to as "Store Hours"). Concessionaire hereby understands and agrees that the Store Hours may be seven (7) days per week, including local, state and federal holidays, twenty-four (24) hours per day.

x. In the event of delayed flights within those portions of the Terminal in which any portion of the Concessionaire Premises are located, Concessionaire shall remain continuously open and provide all services and sales activities as required by the Agreement in any such Facility until said flights depart the gate or Sublandlord otherwise

instructs, even if such period is beyond the current Store Hours for said portion of the Concessionaire Premises.

y. If Sublandlord deems it necessary, on an emergency basis, to serve the public during other than Store Hours, Concessionaire shall remain continuously open and provide all services and sales activities in such portion of the Concessionaire Premises as required by Sublandlord during the emergency period.

z. Concessionaire shall prominently post in each of the Facilities, in an area visible to customers, the current listing of the Facility's hours of operation. 15. Concessionaire shall be required to respond to any complaints in writing within 10 days of receipt, with a good faith effort to explain, resolve or rectify the corresponding problem. Concessionaire shall provide Sublandlord, or its designee, with a copy of any complaint received the same day it is received by the Concessionaire and shall provide Sublandlord with a copy of the written response the same day it is sent. Complaints received by Sublandlord shall be forwarded to the Concessionaire, who shall respond utilizing the above procedure. Concessionaire shall be required to implement and utilize a customer comment system (cards, telephone, web, etc.). All such completed comments and Concessionaire' s summary reports shall be provided to the Sublandlord within 10 days of receipt and/or completion. 16. Sub landlord reserves the right, to make such other and further reasonable rules and regulations as in its judgment may, from time to time, be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other further rules and regulations shall be binding upon the parties with the same force and effect as if they had been inserted herein at the time of the execution hereof.

THE PORT AUTHORITY OF NY & NJ

AVIATION DEPARTMENT

TENANT ALTERATION PROCEDURES AND STANDARDS GUIDE

FOR

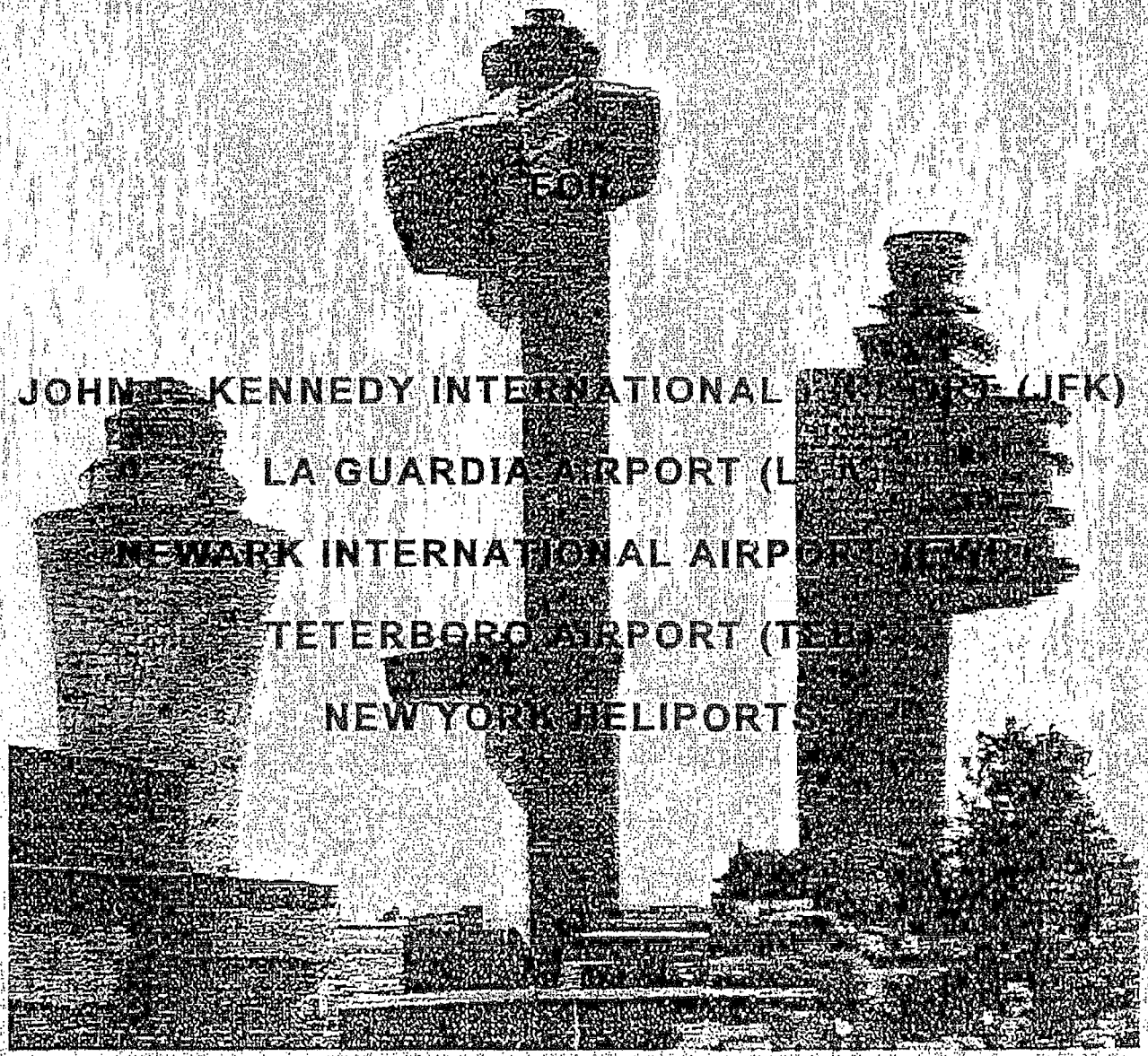
JOHN F. KENNEDY INTERNATIONAL AIRPORT (JFK)

LA GUARDIA AIRPORT (LGA)

NEWARK INTERNATIONAL AIRPORT (EWR)

TETERBORO AIRPORT (TEB)

NEW YORK HELIPORTS (HPN)



MARCH 1998

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SECTION III. CONSTRUCTION PROCESS

Introduction

Upon approval of design documents, M/WBE Participation Plan and Asbestos Certification, the Manager, Airport Facilities Division will transmit to the Tenant, copying the A/E of Record, an "Approval to begin construction" letter with any unresolved "Basic" comments, if applicable. This letter will authorize construction to proceed and direct the Tenant to contact the Resident Engineers' Office (REO) to schedule a Pre-Construction Conference.

The Resident Engineers Office (REO) for Tenant Construction is a field unit of the PA Engineering Department. The REO is responsible for oversight of the Tenant activities with regard to (i) construction quality assurance and safety; (ii) compliance with the approved plans, specifications, and applicable Codes; (iii) controlled inspections as required by the Code; and (iv) material certifications. The Resident Engineer coordinates project close-out through receipt of appropriate certifications from the Tenant, the Tenant's contractor and A/E, and coordinates the PA audit inspections and tests of the life safety elements and installed systems for conformance with the approved plans, Codes, and PA Standards. Once construction begins, the primary contact with the Tenant will be the REO. If during construction certain changes to the approved design documents are required which necessitate additional reviews by the PA, the REO will direct the Tenant's consultant to resubmit the revised design documents to the TLO for review.

A. Pre-Construction Conference

1. **Approval to Construct** - Once the PA TAA review process yields an approval to construct, or an approval subject to conditions; a letter is issued from the Airport Facilities Manager (sample letter - Figure V-13) indicating that construction may begin. This letter further refers the Tenant to the Resident Engineers' Office (REO) to schedule a Pre-Construction Conference.

2. **The Resident Engineers' Office** - This office performs audit inspections throughout the construction process. The Tenant's A/E is responsible for adequately inspecting and monitoring the work; ensuring the contractor constructs the improvement project in accordance with the PA approved plans and specifications; ensuring that all controlled inspections are performed as required by the applicable Building Codes; certifying that all life safety and code requirements are constructed/installed and tested properly; that all special PA construction requirements/permits are obtained (cutting and burning permits, hot work permits, etc.) and that all required Tenant A/E certifications are provided.

3. **Tenant Responsibilities** - The REO expects the Tenant and their A/E of Record, (the primary entity responsible for inspections), to have an appropriate construction Quality Assurance Program, including the necessary on-site inspection capabilities, for the size of the project, which will allow the A/E of Record to certify that the work is complete as described in Subsection III-C.

   The PA also expects the Tenant and their A/E to monitor all construction activities to ensure the safety of construction workers, tenant employees and the general public.

4. **Pre-Construction Conference Requirements** - Required attendees include the Tenant, A/E of Record, prime and sub-contractors. Information required for the Preconstruction conference includes:

   a) Approval letter from the Airport Facilities Division (Figure V-13) authorizing construction.

   b) Contractors Insurance certificates (Figure V-24).

   c) Certification that no asbestos exists (Figure V-7) or an asbestos abatement program completion certification (Figure V-27).

   d) A letter from the Tenant identifying the A/E firm/individuals who will inspect the construction and who will certify its completion (Figure V-16) and a letter of understanding from the A/E (Figure V-17).

   e) Complete set of PA approved drawings and specifications for the REO.

   f) A review of all proposed construction staging areas, haul routes and delivery routes, including any needed modifications of existing conditions.

   g) An acceptance of the M/WBE Participation Plan (Figure V-6) by the airport AAO.

   h) A list of Contractor and sub-contractor emergency telephone numbers. A listing of PA emergency telephone numbers will be furnished to the Tenant at the Pre-Construction Conference (Figure V-15).

   i) A written compliance program by the Tenant's contractor for projects in which lead containing material will be disturbed.

   j) The REO will provide to the Tenant an Alteration Permit Placard (Figure V-14) at the Pre-Construction Conference which shall be prominently displayed at the site during construction.

5. **FAA Notice of Construction** - The Tenant shall pay special attention to the need to submit completed Notice(s) of Construction (FAA Form 7460-1). See Sample Notice in Figure V-30 for proposed permanent structure (i.e., building addition) and/or temporary structure (i.e., crane/pile driver) as directed by the PA Aviation Project Management and Technical Services Division (PMTS). The Tenant shall submit the Notice(s) to PMTS via the TLO. PMTS will review these Notices and file with FAA. Data provided must be correct and exact. Latitude and Longitude coordinates must be expressed in North American Datum 1983 (NAD 83), and all related elevations shown in feet above mean sea level at Sandy Hook, N.J. Early processing is urged as the FAA review process can take from 30 to 90 days, and construction cannot proceed without FAA approval.

B. Insurance

When Tenant contractors perform construction work on site, they must have adequate insurance, as follows:

1. Any TAA (or construction alteration) with a cost of $1,000,000 (one million dollars) or more will be submitted to Risk Management through the REO for written approval of the certificates of insurance prior to the commencement of any construction work.

2. Any Minor Work (Maintenance) request or TAA with a cost of less than one million dollars will be reviewed by the REO using the following guidelines:

   a) Workers' Compensation is required for all tenant alterations.

   b) Commercial General Liability Insurance on an occurrence basis with limits as follows:

      (1) Rampside (Aeronautical) $3,000,000 (General Aggregate, Products - Completed Operations Aggregate, Each Occurrence)

      (2) Roadside (non-aeronautical) $1,000,000 (General Aggregate, Products - Completed Operations Aggregate, Each Occurrence)

   c) Automobile Liability (if Autos are used) for (Any) or (owned, Hired, Non-Owned) autos with limits as follows:

      (1) Rampside (Aeronautical) $3,000,000 Combined Single Limit

      (2) Roadside (non-aeronautical) $1,000,000 Combined Single Limit

d) For Commercial General Liability and Automobile Liability, the PA of NY & NJ and the Tenant must be included as an additional insured. (Certificate holder is not the additional insured unless it says so.)

e) If the cost of the TAA (or construction alteration) is less than one million dollars and the work to be done will be near aircraft (such as runways, taxiways, ramps and apron areas, or where the contractor would be in the same location as aircraft), then the alteration must be submitted to Risk Management in the same manner as stated in B.1 above.

f) The Certificate of Insurance must include the TAA# and will be retained in the TAA or Minor Work (Maintenance) Request file by the REO. A sample certificate annotated to indicate the required information is shown in Figure V-24.

C. Construction Activities

1. General

a) During construction, there are no meetings required with the REO. However, the REO is available to attend job site meetings, if requested. Meetings can be scheduled by either the Tenant or the REO to address specific problems.

b) Changes in construction due to field conditions which require redesign must be brought to the attention of the REO. The REO will determine if the change requires formal resubmission of documents to the PA for review.

c) On alteration projects in occupied buildings, the Tenant must maintain the existing life safety systems in occupied areas until new systems are installed or modified and are operational. Temporary shutdown of sprinkler systems in occupied areas are permissible as long as the system is reactivated by the end of the work day. Any modification work on existing fire protection and alarm systems by the Tenant's contractor shall be cleared through the REO. Proper advance notification must be given prior to the shut down of any fire protection system at any time.

d) Expansion of construction beyond the PA approved documents, workscope changes, or the undertaking of other construction not approved by the PA will be subject to an "unauthorized construction" notification, whereupon the work will be stopped and the Tenant's contractor may be required to remove the unauthorized construction.

2. **Safety Procedures**

a) The contractor must adhere to all general safety procedures and those specifically identified by the appropriate PA operating divisions and/or tenant facility managers, for the particular conditions in the area.

b) Tenant construction, where unsafe practices are observed, can be shut down by the REO or PA Police.

3. **Inspections and Certifications**

a) During construction, the airport Fire Marshal may visit the construction site and do spot checking for welding permits, certifications, and construction fire safety conditions. The Fire Marshal can stop the construction for unsafe fire conditions at any time and during final inspection may withhold occupancy approval if fire and life safety systems and/or code requirements are not met.

b) Controlled Inspections are to be performed as required by the applicable Building Code. Copies of signed and sealed reports must be submitted to the REO as they are performed, under cover letter from the A/E of Record indicating acceptance.

c) Other inspections and certifications that may be required to be submitted to the REO prior to the REO recommending that a Permit to Occupy or Use be issued include:

(1) Concrete job mix formulas report
(2) Concrete test cylinder reports
(3) Soil compaction reports
(4) Concrete plant reports
(5) Pile driving logs and resurvey drawing, including deviations from design location and bearing capacity
(6) Backfill density tests including trenches
(7) Screenings density tests
(8) Asphalt density tests
(9) Structural steel erection certification by a PE
(10) Structural steel high strength bolts certification by PE
(11) Structural welds test report
(12) Structural steel mill certification
(13) Structural steel spray-on fireproofing certification.

(14) Fire watch report including duration each day, duty list for each shift with telephone numbers and fire watch procedures to be followed

(15) Suspended ceiling concrete anchors certification and suspension system components, if different from that approved by PA

(16) Carpeting flammability test reports

(17) Drapery flammability test reports

(18) Flammability test reports on all other materials required by code

(19) Electrical "HI-POT" tests and inspection reports on electrical power feeder

(20) Roof warranties, guaranties or bonds.

(20) Ground rod resistance test report at aircraft location

(21) Aircraft fueling systems cathodic protection certification.

(22) Vehicle fueling systems cathodic protection certification.

(23) Copy of sprinkler drawings approved by tenant's fire protection underwriter.

(24) Shatter-proof glass certification

(25) Fuel tanks fire suppression system certification

(26) Fuel tanks test inspection reports

(27) Gas piping pressure test reports and certification

(28) HVAC Balancing report

(29) Hydrostatic test reports of sprinkler, plumbing and HVAC piping systems

(30) Potable water analysis and purification test report

(31) NYC Fire Department alarm box test certification (for JFK and LGA)

(32) Smoke detectors velocity and sensitivity test report

(33) Heat rise of detectors certificate of satisfactory performance

(34) Certification letter from electrical engineer for fire protection systems, fire control panels, and transmission of alarms to the Police Fire Board signed and sealed

(35) Certification letter from mechanical engineer for HVAC systems and other controlled inspected mechanical systems, signed and sealed.

(36) Certification letter from A/E signed and sealed (Figure V-25 for a partial completion and/or Figure V-26 for a final project completion)

4. **Operational Considerations**

The REO will coordinate construction activities with the appropriate PA airport operating divisions and/or tenant facility managers for review of construction staging, work hours and maintenance of traffic (vehicular and pedestrian/passenger) as required. For example, at JFK, these include JFK Landside Services, the IAB Building and/or the Unit Terminal Managers.

For work in the vicinity of the EWR Monorail - any construction or surveying operation within 20 ft. horizontally measured from the center line of each guideway requires a Permit. A permit (see Figure V-31) from AEG (the Monorail Operation and Maintenance Contractor) may be issued subject to the location and nature of the activity in relation to the Monorail operation. The permit must be applied for, through the REO, at least 48 hours prior to the start of work. AEG and/or the PA reserves the right to deny or rescind the permit at their discretion at any time.

5. Cranes and Pile Drivers

a) The REO shall be notified at least 48 hours prior to the arrival of any crane (or pile driver) at the work site.

b) If on the Airside, on the day of arrival of the crane (or pile driver) at the work site, and every day the crane (or pile driver) is at the work site, the Aeronautical Operations Duty Supervisor will be notified of its presence and location, the time work will be started, and a second notification at the end of each work day. The current telephone number of the Aeronautical Operations Duty Supervisor will be provided to the Tenant at the Pre-Construction Conference.

c) The following information for each crane (or pile driver) shall be given to the REO and/or the Aeronautical Operations Duty Supervisor:

(1) Boom height and its location with respect to the nearest adjacent Runway centerline.

(2) Weight

d) Crane (or pile driver) must be grounded.

e) Crane (or pile driver) must have an up-to-date Certificate of Inspection from the appropriate local authority (eg., New York City).

f) Crane (or pile driver) operator must have a current Operator's License from the appropriate local authority (eg., New York City).

g) All cranes and pile drivers shall be appropriately marked and lighted.

h) Equipment taller than 25 feet shall be lighted and marked in accordance with FAA requirements, and as directed by the PA.

i) At EWR, a PA engineer must be on site for all pile driving.

6. **Required Construction Permits**

a) Cutting and Welding Permits - (Figure V-19) are issued by the REO to individuals on specific projects by name & TAA identification number. The individual must request these permits from the REO. For a burning permit, the individual must have a Fire Department Permit or Certificate of Fitness for Burning from the appropriate local authority. For a Welding Permit, if non-structural, the requirements are the same as a burning permit. For a structural welding permit, the requirements are the same as a burning permit plus either a local Building Department license for welding or AWS certified permit for welding.

b) Hot Work Permits - (Figure V-20) are required on ramp-side and areas near fuel lines. A Hot Work Permit is required to be obtained on a daily basis from the REO.

c) Electric arc welding must be pre-cleared with the FAA indicating the type of equipment to be used due to electronic interferences. Contact with the FAA shall be made through the TLO or the REO.

d) Any surfaces coated with lead based paint which are to be cut or welded either by gas or electric arc must be stripped of paint in the affected area and the residue properly disposed of prior to proceeding with the work.

7. Security

For non-airside work, workers are required to wear identification which indicates which contractor they are working for.

For Work on the Airside:

a) All Tenant contractor personnel shall have numbered badges (pouches). The contractor shall submit a list of employees by name, badge number, and social security number to the Aeronautical Services Division via the REO on a daily basis.

b) Employees riding on contractor shuttles traveling onto the Airside will be checked against approved employee badge lists at access gates.

c) Contractor employees driving unescorted on airside or ramp areas must have an airside drivers permit based on attendance at and successful completion of a special Airport Security Division driving class. Contact the REO for information on class schedules.

d) All unescorted vehicles operating in the ramp area must display proper PA identification. Such identification is obtained from the PA Police through the REO.

e) Maintaining security on the ramp as per Federal Air Regulation (FAR) Part 107 is a requirement.

f) Tenants may erect a fence around their leasehold work area to separate the site from the airside. The area within the fence may be then considered landside and may not fall under the security requirements of airside work. Any gates onto airside would have to be manned by a guard and be adequately secured. Fences must comply with FAA Advisory Circular #107-1 requirements.

8. **Asbestos**

a) Asbestos abatement construction regulations are different from normal construction activities. Different requirements are implemented for preconstruction meetings and close-out activities for asbestos projects.

b) During abatement work, the PA Engineering Department and the airport Environmental Services Unit field representatives audit the contractor's and Tenant's Environmental consultant's work. There are a series of inspections performed by the environmental consultant. The PA field representative will also perform confirmation inspections after the environmental consultant's approval of the contractor's work.

c) The environmental consultant collects final air clearance samples and based on the results will notify the REO whether or not to commence the breakdown of the work area. The consultant will then provide a letter certifying the area is ready for occupancy. (Figure V-27) The PA field representative will also conduct a final visual inspection in the presence of the

environmental consultant after the certification is received from the consultant by the REO.

d) A final and all inclusive compliance report completed by the contractor and certified by the environmental consultant must be given to the PA to become part of the record for future facility use.

9. **Lead Paint**

Prior to construction activities, it must be determined if lead based paint is present in the work area. The PA requires that all contractors comply with EPA, OSHA, and State Regulations in the handling, removal and disposal of lead based paint. Contractors shall provide a written compliance program as required by OSHA and include a proposed plan for the containment and disposal of disturbed lead to the REO. Most susceptible problems occur with workers burning and/or cutting steel with lead paint or scraping or blasting lead paint. Lead must be contained, collected, and disposed of properly. Refer to Subsection IV-F for further information.

10. **Materials Control**

a) **Material Storage** - The storage of construction materials shall be controlled in Tenant construction to avoid unsightly appearance and to prevent winds and/or jet blast from scattering materials on airside. Appropriate storage areas and tie-downs must be provided by the contractor and approved by the REO.

b) **Removal of surplus materials** - Fill, dirt, etc., shall be done as the work progresses. No material will be stockpiled on the site without prior written approval by the REO. Excess useable fill material shall be delivered to a location designated by the REO and shall become the property of the PA, unless the PA directs the Tenant to remove and dispose of it. The Tenant shall request this determination by the TLO at the time of the initial submittal of the TAA.

c) **Contaminated Soils and Ground Water** - Contaminated soils and ground water are also an issue that must be addressed by Tenant A/Es and Contractors. Removal or abatement must meet all local, state and federal laws and regulations. Refer to Subsection IV-F for further information.

11. **Dewatering**

Dewatering in Tenant Construction must be carefully coordinated with the PA airport Environmental Services Unit through the REO or TLO. Refer to Subsection IV-F.

12. **Construction Deliveries Through the Airside**

a) Normal deliveries should be scheduled for off-peak hours. Deliveries of oversize materials or equipment via airside routes shall be requested by the Tenant to the REO not less than 24 hours prior to the requested time, over a pre-approved route, and should usually take place at night. Delivery times are to be arranged at the Pre-Construction meeting.

b) An assigned escort and monitored haul route will be established through secured areas by the REO when frequent deliveries are anticipated, such as concrete deliveries.

c) In cases where there are frequent deliveries for a limited time period the contractor may request numbered badges for delivery personnel. The Contractor shall submit a list of numbered badge with names and social security numbers of employees on a daily basis. These are checked at the time the delivery comes though the airside gate. All drivers must have an airside drivers permit as noted in paragraph 7 of this Subsection.

d) Any construction activity proposed that will impact taxiway clearances or aircraft operations must be coordinated through the REO at least 24 hours in advance.

e) Airlines or other Tenants who have escort privileges can provide for their own escort of normal deliveries on the Airside Service Road. The REO must be notified in advance of all Airline or Tenant escorts.

13. **Construction - Utilities**

a) For JFK and LGA, all utility services for primary (high tension) and secondary, electrical, water, sewage connections, and aircraft fueling are provided to the Tenant site. The Tenant's contractor makes connections to the Utility Systems. Coordination with the Maintenance Services Division (MSD) for access road connections is handled through the REO. The exception to this is for natural gas, which is handled directly with Brooklyn Union Gas Company and telephone which is handled directly with Bell Atlantic. Any access to utility manholes and temporary construction power service must be arranged through the REO.

b) For EWR, all utility services for water, sewage. and aircraft fueling are provided to the Tenant site. Connections for electrical service is handled directly with PSE&G Co. and for telephone with Bell Atlantic. For natural gas, the TLO should

be contacted to determine whether the Tenant should deal with PSE&G or Elizabethtown Gas Co.

c) For TEB, the Tenant's contractor should arrange with local utilities for all connections.

d) The appropriate 800-number should be called before digging to install underground utilities (see Figure I-1).

14. **M/WBE Requirements during Construction**

On a monthly basis, M/WBE Reports (MEUR) are required and are to be sent directly to the airport Affirmative Action Office (see Figure I-1), as follows:

a) Statement of M/WBE Payments Reports - In order to assure that the planned goals are being met, a monthly Statement of M/WBE Payments Report must be submitted directly to the AAO throughout the construction period. (Figure V-23)

b) Monthly Employment Utilization Report (MEUR) - Submit a Monthly Employment Utilization Report (Figure V-21) which itemizes the minority and female participation in the construction work force by specific trade description (Figure V-22) during project construction.

c) Submission - Both the Statement of M/W/DBE Payments Report and the Monthly Employment Utilization Report should be submitted to the Affirmative Action Office (AAO). TAA project numbers must be shown on the reports. Both reports should be submitted by the 15th of each month reflecting the preceding month's activity.

15. **Miscellaneous**

a) **Fuel Storage Tanks** - The PA requires that all aboveground and underground storage tank installations and closures comply with the applicable code and environmental regulations (See Subsection IV-G). In addition, it is PA policy that all underground storage tanks may not be abandoned in place and must be removed regardless of regulatory guidelines. This applies to both new construction and replacement projects. A tank installation and/or closure plan must be submitted with the TAA. Specific inquiries must be coordinated with the airport Environmental Manager.

b) **Construction Site Appearance** - During the contract design preparation and at the Preconstruction Conference the TLO and the REO will discuss and transmit to the participants, PA standards regarding the maintenance and upkeep of

construction sites, both interior and exterior, including dust control.

c) **Construction Site Access** - The construction contractor must provide the airport Operating Divisions staff with the ability to access work areas for periodic site review. This may be coordinated through the REO.

d) **Contractor Employee Conduct** - Contractor employees must conduct themselves in a manner appropriate for public areas; i.e. proper dress, no foul language, etc..

D. Final Inspection and Close Out Requirements

1. **Certifications** - A/E certification of completed construction will not be accepted or a final inspection scheduled if there are any unresolved Rider comments. The Tenant's A/E is to certify by letter (Figure V-26) that the work has been constructed in accordance with the PA approved plans and specifications; that applicable Code requirements are met and; that all life safety systems are complete and operational. Two original copies of the letter are required, both signed and sealed by the A/E of Record. One copy is sent to the REO and can serve to request a final inspection by the PA and the second original is sent to the TLO. Partial occupancies may be requested but will be subject to the discretionary approval of the PA. In these cases, the A/E shall provide certifications as to the partial area involved. (Figure V-25) All fire safety requirements must be met in the partial occupancy area.

2. **Separate A/E's** - If there are separate A/E consultants, each consultant must certify their area of responsibility. These consultants must be identified at the Preconstruction meeting and in the initial letters submitted to the REO by the Tenant.

3. **Final Inspection** - Once construction is complete, and the Tenant's A/E letter so states and certifies; all Rider comments have been resolved; all life safety systems are operational and tested; all controlled inspections are complete; and all other reports and submissions to the REO have been provided, the REO will evaluate the project as to its completion. If satisfied that the construction is complete and meets all PA requirements for completion, the REO will schedule a final PA inspection to be attended by the Tenant's A/E, by the REO staff, and by other appropriate PA review groups.

4. **Inspection Support** - The Tenant and/or the A/E(s) of Record must ensure that the proper A/E and contractor personnel are available and present to conduct the required final inspection testing. In addition, the appropriate subcontractors shall be available to operate, test, demonstrate, and repair, if necessary, all systems including fire alarm, sprinklers, HVAC, life safety, and fire protection systems and provide equipment, tools, ladders, etc. for access to all areas. The A/E of Record will be notified by the REO what tests are required during the final inspection.

5. **As-Built Plans & Specifications - Record Documents** - After all Rider comments and field as-built conditions are incorporated into the construction documents, the Tenant shall deliver two reproducible sets of final "As-Built" drawings to the REO for the PA's records along with two copies of the operations and maintenance manuals, specifications and manufacturer's O&M instructions for equipment and systems in the facility. The Tenant is encouraged to submit the drawings in a PA-compatible CADD format (see Subsection IV-I). The documents are required from Tenant's A/E in advance of the PA Final Inspection (one set for the REO final inspection and one set for the TLO).

6. **Life Safety Systems Inspection** - The airport Fire Marshal and the PA Risk Management, Fire Protection groups require extensive testing of the fire protection and alarm systems during final inspection. Frequent problems include systems that are not complete at the time of inspection and inadequate personnel available from the Tenant's A/E, Contractor or Sub-Contractor to perform the test or to reset elements during the testing. PA inspection staff will concentrate on, but are not limited to the testing of the following items related to fire and life safety:

   a) Automatic Sprinkler Systems - All tamper and water flow alarms for sprinkler systems must be tested for operation. Depending on the type of sprinkler system, other features may have to be tested or demonstrated including trip tests for dry pipe sprinkler systems or actuation of pre-action and deluge sprinkler system valves.

   b) Area Smoke Detection Systems - Area smoke detectors will normally be tested on a random basis depending on the amount of detectors. Smaller installations may require testing of all detectors. There is no minimum amount of detectors that are predetermined as acceptable. Satisfactory installations depend on the quality of work performed, results for tests on all fire

protection systems, and the overall condition of the areas inspected.

c) Duct Smoke Detection Systems - All duct smoke detectors must be tested to verify fire alarm signal transmission and shutdown of HVAC equipment. The duct detector must shutdown the unit for which it is installed.

d) Manual Fire Alarm Stations - As with area smoke detectors, manual fire alarm stations (manual pull stations, break glass stations, etc.) are tested randomly until PA Risk Management fire protection staff are satisfied with the system operation.

e) Fire Alarm Signal Transmission - Verification that fire alarm signals are transmitted to a remote monitoring station.

f) Other aspects of fire and life safety - are evaluated including fire resistant construction, means of egress, emergency lighting, exit signs, special fire suppression, and the operation of essential fire protection equipment such as fire pumps and standpipe systems.

7. **Inspection Punch List** - The REO generates a punch-list during the Final Inspection. If the punch list is minor and no life safety items exist, the REO will recommend to the Manager, Airport Facilities, the Engineer of Construction and the Engineer of Projects, CSQA that a Temporary Permit to Occupy or Use be issued.

8. **Authorization to Occupy or Use** - The Manager, Airport Facilities Division will, based upon the recommendation of the REO and concurrence of other members of the final inspection team, request a Permit to Occupy or Use from the PA Chief Engineer. The Tenant will be notified of approval to occupy by the Manager, Airport Facilities Division or his designated representative in the TLO.

9. **Final Inspection Approval Time** - The minimal time between satisfactory completion and acceptance of the Final Inspection at the site to the issuance of the authorization to occupy from the Manager, Airport Facilities is 48 hours, assuming all required approvals/certifications from the Tenant and the A/E of Record are in place. Fax communications may be used to expedite approval of a Temporary Permit.

10. **Types of PA Authorized Occupancies** -

a) **T nporary Permit to Occupy (TPO)** - A TPO is generally issued when there are open PA punch list items which have

resulted from the final inspection. TPOs have a term, generally 90 days, and as such Tenants are encouraged to work with the REO and TLO to rectify/resolve punch list items as soon as possible. A TPO can be issued 48 hours after the final inspection.

b) **Final Permit to Occupy (FPO)** - A FPO is issued upon satisfactory completion of all construction activities, submission of "as built" drawings and resolution of PA punch list items and outstanding Rider comments.

c) **Partial Completion/Occupancy**

(1) The feasibility of partial inspections/occupancies are determined by the REO. However, where proposed, the individual areas and all related life safety systems that serve that area must be completed and operational.

(2) The Engineer of Projects, CSQA can issue a Temporary Permit to Occupy, but will do so only if all critical comments and all Code and life safety issues are resolved to the satisfaction of all PA review and inspection groups and upon receipt of certifications of the A/E and other PA entities.

d) **FAA Facilities** - Different procedures are used where the FAA is a Tenant regarding certifications. Sample copies and detailed procedures are available from the TLO.

NOTE: This is an instruction sheet only.
(Please remove before completing alteration application)

PREPARATION OF TENANT CONSTRUCTION OR ALTERATION APPLICATIONS

1. Prepare 3 original copies of form PA 531AV, accompanied by 12 complete sets of drawings and specifications showing the proposed construction.

2. **All 3 application forms must bear original signatures** of a Corporate Officer (Vice President or above) of the tenant whose company name appears on the lease.

3. All 3 application forms must bear original signatures and seal of Engineer or Architect of record employed by the tenant.

TENANT CONSTRUCTION PLAN AND SPECIFICATION GUIDELINES

The following comments are to assist your engineer or architect in preparing drawings of proposed work. Use of the guidelines, where pertinent, will minimize Port Authority review time and resultant comments.

1. Locate area of construction with respect to existing conditions, (i.e., column numbers, coordinates, dimensions to existing structures, etc.), and provide a "Plot Plan."

2. Indicate existing structures and facilities in area affected and adjacent areas; also indicate all demolition and removals. For demolition projects where the wrecking or taking out of load-supporting structural members of the facility together with related handling operations, or the intentional burning of the facility is required, the U.S. EPA shall be notified in accordance with 40 CFR Part 61, Section 61.145(a)(b).

3. Include on drawings the plans, sections, elevations and details of proposed work.

4. Show arrangement of equipment and furniture, which might constitute an obstruction of passage to exits.

5. Provide floor plans to include that area beyond the limits of proposed work area necessary to show the entire means of ingress and egress.

6. Indicate where prescribed occupancy count for all area.

7. Give location and specifications for all fire protection equipment, i.e. fire doors, fire dampers, smoke detectors, sprinklers, fire alarm systems, hose cabinets, extinguishers, etc.

8. Include a note on the drawings requiring all work to be done in accordance with the National Electrical Code and the applicable code of the City, or municipality in which work occurs. F.I.R.O. and Employers Group of Insurance Companies approval required for sprinkler and fire protection items.

9. Indicate power requirements and source of power. Also indicate size and type of all electrical equipment, i.e. conduit, wire, panels, control devices, etc.

10. Provide details of all built-in equipment.

11. Provide complete specifications for all materials.

12. Show all new and modified ventilating systems including that portion outside the area of proposed work necessary to indicate the complete circulation cycle.

13. Provide design computations for major structural members including all existing members receiving additional loads.

14. **All drawings must bear the stamp of a Registered Architect or Professional Engineer** licensed in the state in which the work is to be performed.

15. Asbestos and Demolition Certification Letter, Form PA 3677, is to be submitted with Form PA 531AV.

16. If Form PA 3677, Asbestos and Demolition Certification Letter, indicates that asbestos will be disturbed, Form PA 3678 is to be submitted with Form PA 531AV.

17. If Form PA 3677, Asbestos Certification Letter, indicates that asbestos will be disturbed and the tenant is waiving his/her right to participate in the Port Authority's litigation, Form PA 3679 is to be submitted with Form PA 531AV.

18. Asbestos work (abatement and consulting) must be performed by a state licensed abatement contractor approved by the Port Authority.

19. All materials used for the construction of this project, whether building materials or appurtenances, shall be non-asbestos containing materials.

20. All environmental services required to be performed with respect to tenant construction, including and without limitation, surveys, monitoring, laboratory analysis and waste removal, must be performed by a contractor/consultant, approved in advance by the Port Authority.

21. If proposals require resubmission, clearly indicate change from original on the resubmitted drawings.

22. An MBE/WBE Participation Plan must be submitted and accepted by the P.A. prior to approval of this application.

23. An MBE/WBE Participation Report must be submitted monthly during construction.

24. "As Built" Drawings are to be furnished after completion of this work.

PA 531AV / 11-01

THE PORT AUTHORITY OF NY & NJ
225 Park Avenue South
New York, New York 10003

TENANT CONSTRUCTION OR ALTERATION APPLICATION

For Port Authority Use Only	
Facility	APP. No.
Date	Applicant's Name

APPLICANT MUST READ THE TERMS AND CONDITIONS INCLUDED WITH THIS FORM

The Applicant shall not commence performance of any of the said work prior to the receipt by Applicant of a copy of this application duly signed in Part Three hereof on behalf of the Port Authority of New York and New Jersey. Upon receipt thereof, the Applicant agrees to perform said work in accordance with the following "Information to be Furnished by Applicant" and to comply with and be bound by all requirements and conditions set forth below under the remarks, if any, in Part Three hereof and the terms and conditions set forth in this form.

Minimum Insurance Limits Unless Specified to be Greater – Bodily Injury $500,000 each person; $500,000 each occurrence; Property Damage $500,000 each accident; $500,000 aggregate.

PART ONE: Information to be furnished by Applicant (Refer to your lease or permit for required information)

Permission is hereby requested to perform the following described work on the space occupied by the Applicant.

At (Facility)	Pursuant to (Lease, Space, Permit) No.	Location (Building No. or Area) of Space to be Altered

Description of Work and Reason

Estimated Cost of Work $	Estimated Time to Complete (Days)	Starting Date	Completion Date

Plans: Prints of each drawing must be submitted with copies of application. Include floor plan and show area affected by proposed Work (size 8 ½" x 11" or larger).

TITLE OF DRAWING	DRAWING NO.	DATED

Name & Address of Contractor (If Not Known, Submit Later)	Name & Address of Engineer or Architect	Telephone No. / License No.

Send Correspondence To:
(Name & Address of Employee in Charge of Work)

Telephone No.

Applicant's Name (As it Appears on Lease or Permit)

ENGINEER OR ARCHITECT CERTIFICATION

I have supervised the preparation of plans and specification f or the entire work represented herein and hereby certify that they conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the City, town or municipality in regard to construction and maintenance of buildings and structures and in regard to health and fire protection which should be applicable if the Port Authority were a private corporation.

By (Signature of Authorized Rep.)	Title	Date	Signature of Licensed Prof. Engineer or Architect	Date

PART TWO: MBE/MBW PROGRAM INFORMATION

A Minority/Women Business Enterprise (MBE/WBE) Plan must be submitted and accepted by the P.A. prior to approval of this application. Forms and instruction for the preparation of the MBE/WBE Plan are attached to this application. In addition, a contact person responsible for this project's MBE/WBE Program should be designated below by the tenant.

MBE/WBE Contact Person (Name and address): Telephone No.:

PART THREE: Prepared by Port Authority and returned to applicant.

The above Application is ☐ Approved ☐ Disapproved. Subject to the following conditions:

☐ Continued on attached Rider

Please advise the undersigned in writing, when this work has been completed.

The Port Authority of New York and New Jersey

By:

Inspected By	Date	Title	Date

TERMS AND CONDITIONS

1. In the performance of work covered hereunder the Applicant shall, unless otherwise directed in writing by the Port Authority, conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the city, town or municipality in which the Facility is located in regard to the construction and maintenance of buildings and structures and in regard to health and fire protection which would be applicable if the Port Authority were a private corporation. The Applicant's obligations to comply with the above governmental requirements is for the purpose of assuring proper safeguards for the protection of persons and property at the Facility and is not to be construed as a submission by the Port Authority to the applications to itself of such requirements or any of them.

2. The Applicant shall comply also with such federal, state and municipal laws, statues, orders and regulations, if any, as may be legally applicable to the work or the performance thereof or its employees therein. The Applicant shall consult with the Facility Manager with respect to the applicability of any and all laws, statutes, enactments, ordinances, resolutions and regulations and as to the procedures to be followed before taking any other action with respect thereto, and shall follow the instructions and procedure prescribed by said Facility Manager with respect thereto.

3. The Applicant shall also observe and obey (and compel its officers, employees, agents and contractors to observe and obey) the rules and regulations of the Port Authority now in effect which are applicable to the performance of the work and such further applicable rules and regulations which may from time to time during the said performance 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.

4. The Applicant shall procure and maintain bodily injury and property damage liability insurance in its own name in at least the limits specified in the preamble to this Application and Workmen's Compensation insurance; or if the work is to be done by an independent contractor, the Applicant shall require such contractor to procure and maintain such insurance in the contractor's name. A certificate evidencing such insurance shall be furnished to the Port Authority Facility prior to the commencement of the work.

5. The Applicant shall indemnify and hold harmless the Port Authority, its Commissioners, officers, agents and employees, against and from (a) the risk of injuries (including wrongful death) or damage direct or consequential, to it or them or to its or their property, arising out of or in connection with the performance of the work, and (b) the risk of claims and demands by third persons arising or alleged to arise out of the performance of the work, whether such risks arise out of acts of omissions or the Applicant its contractors, the Port Authority, or otherwise.

6. The Applicant shall pay all claims lawfully made against it by 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 all contractors and subcontractors to pay all such claims lawfully made against them.

7. Only first-class materials and workmanship shall be used in the performance of the work, which shall be done in accordance with the drawings described in Part 1 of this Application and to the satisfaction and subject to the inspection of the Facility Manager; the Applicant shall re-do or replace at its own expense any work not approved by him.

8. The Applicant shall notify the Facility Manager no less than two days prior to the commencement of the work, and shall complete the same within the number of days specified in Part 1 of this Application; and upon completion shall notify the Facility Manager.

9. In the performance of the work, (a) the Applicant shall not do or permit to be done any act affecting the operation of the existing plumbing, heating, fire-protection, fire-alarm, sewerage, drainage, water supply, electrical, sprinkler, ventilating, refrigerating, fuel or communication system at the Facility, or other such service system thereat, including all pipes, tubes, lines, mains, wires, conduits, equipment and fixtures, except with the express written approval of the Facility Manager or the Port Authority resident engineer; (b) the Applicant shall obtain a Port Authority permit from the Facility Manager prior to any cutting or welding and shall comply with the conditions which form a part of said permit, a sample of which may be examined in the office of the Facility Manager.

10. (a) Prior to the commencement of the work and throughout the performance thereof, the Applicant shall erect and maintain at its own expense in or about the space such barriers, shields and other suitable protective devices for the protection of the public and others and their property as in the opinion of the Facility Manager may be necessary or desirable for the purpose. The work shall be performed in such manner as will cause the minimum inconvenience to members of the public and others at the Facility. During the performance of the work, the Applicant shall not permit the accumulation in or about the space of any debris, rubbish or liter of any sort resulting from such performance and shall make such arrangements for the frequent removal thereof from the Facility, by means of facilities to be furnished by the Applicant, as may in the opinion of the Facility Manager be necessary to prevent such accumulations.

(b) In the performance of the work covered by this permit, the Applicant shall not employ any contractor nor shall the Applicant or any of its contractors employ any persons or use or have any equipment or materials or allow any condition to exist if any such shall, or in the opinion of the Port Authority, may cause or be conducive to any labor troubles at the Facility which interfere, or in the opinion of the Port Authority, are likely to interfere with the operations of the Facility by the Port Authority or with the operations of others at the Facility or with the progress of other construction work thereat. The determinations of the Port Authority shall be conclusive on the Applicant and, upon notice from the Port Authority, the Applicant shall immediately remove such contractor or withdraw or cause its contactors to withdraw from the Facility the persons, equipment or materials specified in the notice and replace them with unobjectionable contractors, persons, equipment and materials and the Applicant shall or shall cause it contractor to immediately rectify any conditions specified in the notice in the event of failure by the Applicant or any of its contractors to immediately comply with the requirements of this paragraph (whether or not such failure is due to the Applicant's fault) the Port Authority shall have the right to suspend this permit and the permission thereby granted, without prior notice when the labor troubles shall be so settled that such interference or the danger thereof no longer exists, the Port Authority, by notice to the Permittee, shall reinstate this permit 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.

(c) Not withstanding the approval of this permit by the Port Authority, the Applicant shall not perform or permit to be performed any work hereunder, the performance of which or the subsequent use or occupancy of which will (1) invalidate or conflict or conflict with any insurance covering the Facility or any part thereof, or in any property located therein or thereon, or (2) increase the rate of any fire insurance, extended coverage, rental insurance or other insurance on the Facility, or any part thereof or upon any property located therein or thereon. The Applicant shall promptly observe, comply with and execute the provisions of any and all present and future rules, regulations, requirements, orders, directions and standards of the National Board of Fire Underwriters as interpreted by the New York Fire Insurance Rating Organization as to work performed in New York State, or as interpreted by the Fire Insurance Rating Organization of New Jersey as to work performed in New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the performance of the work or to the completed work (including use or operation (hereof) and the Applicant shall make any and all structural and non-structural improvements, alterations or repairs of the work that may be required at any time hereafter by any such present or future rule, regulation, requirement, or order or direction. If because of the work done or by reason of any failure on the part of the Applicant to comply with the provisions of this paragraph any such insurance shall at any time be limited, cancelled or invalidated, then the Applicant shall immediately remove the work, or if the rate of premium for any such insurance shall be higher than it otherwise would be, then the Applicant shall pay to the Port Authority on demand that part of all premiums which shall have been charged because of such work or by reason of such failure by the Applicant. The Applicant shall furnish to the Port Authority evidence of approval of the work by the insurance authority having jurisdiction.

11. Title to any installation, improvement, alteration, modification, addition, repair or replacement resulting from work done pursuant hereto shall immediately upon completion vest in the Port Authority (or in the Port Authority's lessor, if any and if the agreement between such lessor and the Port Authority so provides) without execution of any further instrument. The Applicant shall not remove or change the same unless the Port Authority, on or prior to the expiration or termination of the lease or permit described in Part 1 of this Application or within sixty (60) days after such expiration or termination, shall give notice to the Applicant requiring removal or restoration, in which case the Applicant (on or prior to the expiration or termination date or, if the notice is given after such date, then immediately after receipt of the notice) shall complete the removal of all of the same (or as much thereof as may be required by the notice) and the restoration (to the extend required by the notice) of the space affected by the work to the same condition as it was in prior to the commencement of the said work. If the Applicant shall fail to comply with such notice, the Port Authority may effect the removal and restoration and the Applicant shall pay the cost thereof to the Port Authority upon demand.

12. A certificate of completion shall be issued be issued to the Applicant by the Facility Manager upon request of the Applicant on completion of the work hereunder in accordance with the Terms and Conditions hereof and inspection thereof by the Facility Manager. Issuance of such certificate shall not preclude the Port Authority from showing that Applicant has failed to comply with his obligations hereunder nor shall it release Applicant from such obligations.

Exhibit F

INTENTIONALLY OMITTED

Exhibit G
Affirmative Action Policy

EXHIBIT G

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 _____of Port Authority Agreement No.____ (herein called the "Lease") with _____ (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 circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which

assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at lease as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security

number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be as defined in paragraph II(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor

associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Office of Business and Job Opportunity of the Port Authority. If the Contractor wishes to utilize a firm not already certified by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority 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.

Exhibit H
Terminal Rules

Concessionaire covenants and agrees that it shall conform with each of the following rules and regulations and each modification, revision, deletion, or addition thereto made by the Sublandlord, in the exercise of the reasonable judgment of the Sublandlord, and shall cause similar conformance by its employees, agents, contractors, and all others over whom Concessionaire has any right to control or direct while in the Airport. Notwithstanding the foregoing, in, the event there is an inconsistency or conflict between any one or more of the Terminal Rules and Laws, then the Laws shall control and prevail. Sublandlord shall not be responsible to Concessionaire for the non-compliance by any other concessionaire with the Terminal Rules.

1. Concessionaire shall not place, construct, or maintain on the store front of the Concessionaire Premises, the doors, the exterior walls, the Common Areas or any portion thereof any signs, advertisements, names, insignias, trademarks, descriptive materials, or similar items without Sublandlord's prior written consent. All signs, promotional material and displays within the Concessionaire Premises must, at all times, be attractively displayed and professionally produced. Sublandlord, at Concessionaire's expense, as Additional Rent, may remove any sign placed, constructed or maintained that does not comply with the provisions hereof. Further, Concessionaire shall not, without Sublandlord's prior written consent, place, construct or maintain in or for the Concessionaire Premises any search lights, flashing lights, loud speakers, phonographs, or other similar visual or audio media which may be heard or otherwise experienced outside the Concessionaire Premises.

2. Concessionaire shall not, by itself, or through any officer, salesperson, employee, agent or otherwise solicit business in the vestibules, entrances, elevator lobbies, corridors, hallways or elevators of the Terminal.

3. Quality and Character of Merchandise

   a) Merchandising. Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sale a full and complete stock of merchandise consistent with only the Permitted Operations. Concessionaire shall ensure that all such merchandise is at all times attractively and logically arranged and that all merchandise displays are fully stocked with product.

   b) Product Selection. Concessionaire may from time to time, with written approval of the Sublandlord, or its designee, add or delete items from its merchandise offerings provided that such additions or deletions shall be consistent with those authorized in this Sublease, as amended, and do not conflict with the rights of other concessionaires at the Terminal as may be determined by Sublandlord, in its sole discretion.

   c) Quality of Merchandise. Concessionaire shall offer for sale only high quality products and those which are safe, sanitary, properly labeled and as advertised. Upon written notice to Concessionaire by Sublandlord of any violation of this

provision, Concessionaire shall forthwith correct the condition objected to within four (4) hours after receipt of such notice.

d) Sublandlord's Right to Object. Concessionaire shall upon written demand from Sublandlord cease selling any item that Sublandlord shall determine is objectionable for sale or display at the Terminal and immediately remove such item from its inventory and not thereafter offer such item for sale at the Terminal.

e) Replacement and Refunds. Concessionaire shall, at all times during the term of this Sublease, as amended, and without any additional charge to customers, replace any merchandise determined by customers to be unsatisfactory, flawed or defective or shall provide customers a full refund therefore provided said customers have complied with any applicable warranty and use provisions applicable to the merchandise.

4. Concessionaire shall accept as payment for goods and services all nationally recognized credit or charge cards including, at least, American Express, Master Card, VISA and Discover. Concessionaire shall provide, without charge, change-making services at each cashier's location in the Concessionaire Premises. Such service shall be equally provided to all persons, regardless if any purchase has been made or not.

5. Concessionaire shall not use or permit the use in the Concessionaire Premises of anything that may be dangerous to life or limb. Concessionaire shall not in any manner deface or injure the Terminal or any part thereof, or overload the floors of the Concessionaire Premises. Concessionaire shall not do anything or permit anything to be done in the Concessionaire Premises in any way tending to create a nuisance, or tending to disturb any other concessionaire in the Terminal.

6. Adherence to Standards.

a) Concessionaire shall ensure that all requirements of the Port Authority and County and/or State Boards of Health, and health and sanitary regulations adopted by the Authority, County, State or any governmental legal authority, are fully complied with in all Facilities. Concessionaire shall give access for inspection purposes to any duly authorized representatives of such governing bodies and to Sublandlord. Concessionaire shall provide Sublandlord with copies of all inspection reports within forty-eight (48) hours of receipt. This paragraph does not require Concessionaire to waive any applicable attorney-client or attorney work product privileges.

b) Additional Compliance. Concessionaire shall comply with all applicable governmental laws, ordinances and regulations in the conduct of its operations under this Sublease, as amended.

c) Concessionaire's Standards. Concessionaire shall submit to Sublandlord a copy of any of its own customer service, operations, etc. standards, plans and/or manuals,

and shall ensure continuous adherence to Concessionaire's own standards in addition to Sublandlord's standards as set forth herein.

7. Concessionaire, at its sole cost and expense, shall provide exterminating service for the Concessionaire Premises, which services shall be performed as needed, and in all events, upon demand by the Sublandlord or Port Authority.

8. Trash and Refuse.

a) Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling of all trash, grease and other refuse caused as a result of the operation of the Concessionaire Premises and shall provide for its timely removal. Piling of boxes, cartons, barrels or other similar items in view of a public area is prohibited. Concessionaire shall keep any areas used for trash and garbage storage prior to removal from Terminal in a clean and orderly condition so as not to attract rodents, pests and birds or create an offensive odor.

b) In transporting trash, grease and other refuse from the Concessionaire Premises, Concessionaire shall use only carts, vehicles or conveyances that are covered, leak proof and equipped with wheels suitable for operating without damage to the Terminal. Such disposal shall take place during hours as may be directed by Sublandlord.

c) The plumbing facilities, within the Concessionaire Premises and elsewhere in the Terminal, shall not be used for any purpose other than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. If installed in connection with the Concessionaire Premises, Concessionaire shall, at its own expense, check and clean at least monthly all grease traps and grease receptors. The expense of any breakage, stoppage, or damage resulting from a violation of this provision, wherever such occurs, shall be borne by Concessionaire who may, or whose employees, agents, or invitees may, have caused it.

d) If at any time during the Term, the Port Authority establishes a Terminal-wide recycling program, Concessionaire agrees to participate in any such program at its own cost.

9. The portion of the Common Areas, if any, immediately adjoining the Concessionaire Premises shall be kept clean and free from Concessionaire's dirt and rubbish by Concessionaire to the reasonable satisfaction of Sublandlord. Concessionaire shall not encumber or obstruct the corridors or stairways of the Terminal with furniture, equipment, boxes, crates, floor mats, merchandise, goods or otherwise. In the event of a violation, Sublandlord may move such objects into the Concessionaire Premises or to any other suitable location.

10. Personnel

a) The management, maintenance and operation of the Concessionaire Premises and the concession conducted thereon shall be at all times during the Term under the supervision and direction of an active, qualified, competent and experienced manager, who shall at all times be authorized to represent and act for Concessionaire. Said manager shall have full authority to make day-to-day business decisions on behalf of Concessionaire, with respect to the concession operations contemplated by this Agreement, and shall represent the Concessionaire in dealings with Sublandlord, and coordinate all concession activities with Sublandlord. Concessionaire shall cause such manager to be assigned a duty station or office in the Concessionaire Premises at which he or she shall be available during normal business hours. During the absence of such manager, Concessionaire will, at all times during Store Hours, assign or cause to be assigned, a qualified subordinate to assume and be directly responsible for the carrying out of his or her duties.

b) Concessionaire shall recruit, train, supervise, direct and deploy the number of representatives, agents and employees, collectively referred to as "personnel" necessary to promptly provide services to all customers and to meet all of the requirements of this Sublease, as amended. Concessionaire shall be continuously responsible for actively managing personnel levels to ensure that changes in passenger activity, due to schedule changes, load factor changes or flight delays are adequately accommodated through increased levels of personnel. Any actual or perceived degradation in (i) the customer service requirements set forth in this Sublease or other duties, rights or responsibilities set forth in this Sublease provided by Concessionaire in the course of conducting Concessionaire's permitted uses; or (ii) the training and competence of Concessionaire's personnel shall be conveyed to the Concessionaire and Concessionaire hereby agrees that it shall promptly institute training programs and/or add additional adequately trained and capable staff to the satisfaction of Sublandlord.

c) In addition to the staffing level requirements set forth herein, Concessionaire shall ensure that all personnel utilized in the Concessionaire Premises shall conform to the following:

i) All personnel employed by the Concessionaire shall be neat, clean and courteous at all times.

ii) No loud, boisterous or otherwise improper actions or language shall be permitted while on or about the Terminal.

iii) Concessionaire shall designate for each member of the sales staff a dress code, to be approved by Sublandlord in its discretion, with which said staff shall comply whenever in the Concessionaire Premises.

iv) Personnel shall prominently display nametags, Airport Identification badges and any other specified airport badges and/or pins while on duty in the Terminal.

v) All personnel shall be actively working while on the sales floor in view of the public. No personnel shall be engaged in personal conversation (via telephone, etc.) or activities such as reading, writing, eating, etc.

vi) All personnel shall be attentive to customer needs, display a positive attitude and refrain from discussing personal issues/problems within the sales areas of the Concessionaire Premises.

vii) All personnel shall know and utilize practices of good customer service such as (1) assisting customers with purchase decisions; (2) identify product alternatives; (3) posses and display good product knowledge; and (4) utilize appropriate suggestive selling.

viii) All personnel shall provide warm, friendly, smiling, prompt and courteous service.

ix) All personnel shall be proficient with and trained in the required operations of all equipment and devices used in the Concessionaire Premises to facilitate sales (i.e. point of sale devices, credit card transaction equipment, etc.).

x) All personnel shall be familiar with all applicable policies of this Sublease, the Terminal and Concessionaire.

xi) All personnel engaged in sales activities shall speak and comprehend English, at a level appropriate to their duties.

d) Sublandlord shall have the right to object to the demeanor, conduct, and appearance of any employee of Concessionaire or any of its invitees or those doing business with it, whereupon Concessionaire shall take all steps necessary to remedy the cause of the objection. If requested by Concessionaire, Sublandlord shall present its objections in writing and provide the opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

11. The delivery or shipping of merchandise, supplies, and fixtures to and from the Concessionaire Premises shall be subject to such rules and regulations as in the reasonable judgment of Sublandlord are necessary for the proper operation of the Terminal.

12. Concessionaire acknowledges that all locks and similar devices on and to the Concessionaire Premises are to be keyed or otherwise within the control from or by a master key or other device within the possession and control of the Sublandlord. At no time during the Term, shall the Concessionaire have the right to place any locks or similar devices on or to any portion of the interior or exterior of the Concessionaire Premises without each being capable of being opened by the master key or other controlling device of the Sublandlord. To the extent that the Concessionaire shall desire to install, within the Concessionaire Premises any combination or other form of locks, no such equipment may be installed without first obtaining the prior written consent and approval of the

Sublandlord, and providing to Sublandlord the key, combination, or other means of opening same at any time.

13. Concessionaire's Maintenance Obligations.

a) Concessionaire will maintain the Concessionaire Premises and every part thereof in good appearance, repair and safe condition. Concessionaire shall maintain and repair all leasehold improvements on the Concessionaire Premises and all furnishing, fixtures and equipment therein, whether installed by Concessionaire or by others, including repainting or redecorating as necessary and replacing or repairing worn carpet, tile, fixtures or furnishings. All such maintenance and repairs shall be of quality equal to or better than the original in materials and workmanship and all work, including paint colors, shall be subject to the prior written approval of both Sublandlord and the Port Authority.

b) Concessionaire shall, without cost to Sublandlord, provide all janitorial services for the Concessionaire Premises. Concessionaire shall ensure that the Concessionaire Premises, and the public areas adjacent to the Concessionaire Premises, are kept free from all rubbish, filth and refuse.

c) On or about each anniversary of the Commencement Date, representatives of Sublandlord and Concessionaire shall tour the Concessionaire Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Concessionaire Premise in first-class condition, and Concessionaire shall promptly undertake such refurbishment at its sole cost and expense. For purposes of these Terminal Rules, refurbishment shall mean the routine repainting or redecoration of public areas within the Concessionaire Premises, including the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures or finishes.

d) Concessionaire agrees to employ sufficient personnel, and provide necessary equipment to keep the Concessionaire Premises and all furniture, furnishings, fixtures and equipment clean, neat, safe, sanitary and in good working order and condition at all times pursuant to the maintenance requirements of these Terminal Rules.

e) Sublandlord shall be the sole judge of the quality of maintenance. The Port Authority, Sublandlord, or their designees, may at any time, without notice, enter upon the Leased Premises to determine if satisfactory maintenance is being performed. If it is determined that said maintenance is not satisfactory, the Port Authority and/or Sublandlord shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire within fifteen (15) days after receipt of written notice, British Airways or its designee thereafter shall have the right to enter upon the Leased Premises and perform the maintenance therefore, and Concessionaire agrees to promptly reimburse British Airways for the cost thereof, plus fifteen percent (15%) for administrative overhead.

f) The Sublandlord and the Port Authority and their respective agents shall have the right to enter the Concessionaire Premises for the purpose of making repairs, alterations, or additions which Sublandlord shall deem necessary and take all materials into and upon said Concessionaire Premises that may be required to make such repairs, improvements additions or alterations, without in any way being deemed or held guilty of an eviction of Concessionaire and the Rent reserved herein shall in no wise abate while said repairs, alterations or additions are being made. Concessionaire shall not be entitled to maintain a setoff or counterclaim for damages by reason of loss or interruption to the business of Concessionaire because of the prosecution of any such work.

14. Hours of Operation.

a) Concessionaire shall ensure that all portions of the Concessionaire Premises are continuously and uninterruptedly open for business and provide all services and sales activities as required by this Agreement at such hours as may be established from time to time by Sublandlord, in its sole and absolute discretion (hereinafter referred to as "Store Hours"). Concessionaire hereby understands and agrees that the Store Hours may be seven (7) days per week, including local, state and federal holidays, twenty-four (24) hours per day.

b) In the event of delayed flights within those portions of the Terminal in which any portion of the Concessionaire Premises are located, Concessionaire shall remain continuously open and provide all services and sales activities as required by the Agreement in any such Facility until said flights depart the gate or Sublandlord otherwise instructs, even if such period is beyond the current Store Hours for said portion of the Concessionaire Premises.

c) If Sublandlord deems it necessary, on an emergency basis, to serve the public during other than Store Hours, Concessionaire shall remain continuously open and provide all services and sales activities in such portion of the Concessionaire Premises as required by Sublandlord during the emergency period.

d) Concessionaire shall prominently post in each of the Facilities, in an area visible to customers, the current listing of the Facility's hours of operation.

15. Concessionaire shall be required to respond to any complaints in writing within 10 days of receipt, with a good faith effort to explain, resolve or rectify the corresponding problem. Concessionaire shall provide Sublandlord, or its designee, with a copy of any complaint received the same day it is received by the Concessionaire and shall provide Sublandlord with a copy of the written response the same day it is sent. Complaints received by Sublandlord shall be forwarded to the Concessionaire, who shall respond utilizing the above procedure. Concessionaire shall be required to implement and utilize a customer comment system (cards, telephone, web, etc.). All such completed comments and Concessionaire's summary reports shall be provided to the Sublandlord within 10 days of receipt and/or completion.

16. Sublandlord reserves the right, to make such other and further reasonable rules and regulations as in its judgment may, from time to time, be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other further rules and regulations shall be binding upon the parties with the same force and effect as if they had been inserted herein at the time of the execution hereof.

Exhibit I
Permitted Operations and Branded Concepts

Consistent with Section 5.1, Concessionaire is permitted to offer products from the Brookstone catalog, including all categories of products regularly found therein.
In accordance with Section 5.1 hereof, such products may not be substituted without BA's express written consent. Concessionaire agrees that it has or will obtain all necessary rights, titles and licenses to permit such designated brand to be installed at the location herein and provide BA with proof of such as requested. Concessionaire agrees that it will retain, to the extent reasonably possible, the ability to retain such brands for the duration of this Agreement.

BA may, in the reasonable exercise of its discretion, request a review of the performance of the location set forth herein. The basis for such review may be either or both of a location's financial performance or its suitability for the designated location or the Terminal in general. In the event BA determines after such review that the location's merchandise mix is performing in a materially unsatisfactory fashion or is otherwise no longer appropriate for the Terminal, BA and Concessionaire will enter into good faith negotiations to consider and agree a revised merchandise mix. The capital investment required for such remerchandising and which party will be responsible therefore will be a component of such good faith negotiations.

THIS AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE LESSEE AND THE SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Agreement No. AYE-161
Lease No. AYB-876
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of May 1, 2011 (the "Effective Date"), by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), BRITISH AIRWAYS PLC (hereinafter called the "Lessee") and DUTY FREE AMERICAS AIRPORTS, INC. (hereinafter called the "Sublessee"), a corporation organized and existing under the laws of the State of Maryland with an office and place of business at 6100 Hollywood Blvd, Seventh Floor, Hollywood, Florida 33024 whose representative is Mr. Joseph Kearney.

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have heretofore entered into an agreement of lease dated as of January 4, 1988 and identified by Port Authority Agreement No. AYB-876 (which agreement, as the same has been or may hereafter be supplemented and amended, is hereinafter called the "Lease") pursuant to which the Lessee hired and took from the Port Authority certain premises at John F. Kennedy International Airport (herein called the "Airport") all as more particularly described in the Lease (said premises being hereinafter referred to as the "Premises");

WHEREAS, the applicable provisions of the Lease require, and the Sublease Agreement provides, that the Sublease shall be subject and subordinate to the Lease as the same may be amended, supplemented or extended and, further, that it shall not take effect without the prior written consent of the Port Authority thereto embodied in an instrument signed by the Port Authority;

WHEREAS, the Lessee has requested the consent of the Port Authority to the attached proposed concessionaire sublease agreement, made as of May 1, 2011, between the Lessee and the Sublessee (hereinafter called the "Sublease") covering portions of the premises under the Lease (such portions, being hereinafter collectively sometimes called the "Space");

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Lessee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Lessee or the Sublessee, on the earliest to occur of the day preceding the date of expiration or earlier termination of the Lease, the effective date of any revocation of this Consent Agreement pursuant to Paragraph 8 hereof, or such earlier date as the Lessee and the Sublessee may agree upon subject to the terms and provisions hereof. Notwithstanding the foregoing, however, no termination of the Sublease shall diminish, limit, alter, affect, modify or impair the obligations, liabilities, or responsibilities of the Lessee under the Lease or release or relieve the Lessee from the same or from any of the terms, provisions, covenants and conditions of the Lease on its part to be kept, performed or observed. The Sublessee shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Lessee shall at any time be in default of its obligations under the Lease, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent Agreement but all such payments shall be credited against the obligations of the Lessee or of the Sublessee, as the Port Authority may determine for each payment or part thereof.

4. (a) Neither this Consent Ageement, nor anything contained herein nor the consent granted hereunder shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Lessee under the Lease, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Lease nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Lessee under the Lease, nor shall the same affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Lessee under the Lease nor constitute or be deemed to constitute a release of the Lessee from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent Agreement nor anything contained herein nor the consent granted hereunder shall constitute an agreement between the Port Authority and the Lessee that the provisions of the Sublease shall apply and pertain as between the Lessee and the Port Authority, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent Agreement and those of the

Sublease, this Consent Agreement shall be controlling. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent Agreement or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Lease as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Lessee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease (in whole or in part) the Space or any part thereof, be deemed to imply or infer that Port Authority consent or approval thereto pursuant to the Lease will be given or that Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) (i) The Sublessee acknowledges and agrees that it shall pay directly to the Port Authority Ex. 2.a. of the Base Rent and Additional Rent, as such terms are defined in the Sublease.

(ii) The Sublessee and the Lessee acknowledge and expressly agree that the Port Authority shall have the right to enforce the sublease directly against the Sublessee, including but not limited to all insurance provisions thereof.

(iii) Notwithstanding anything to the contrary stated in Section 13.01 (a) of the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

5. Notwithstanding anything to the contrary stated in the Sublease, Section 6.4 shall be, and be deemed, deleted in its entirety and the following Section 6.4 shall be substituted in lieu thereof:

"Section 6.4 Operation and Maintenance Fee ("O&M Fee").

"Concessionaire shall pay to Sublandlord an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of concessionaires in the operation solely of the concession space within the Terminal ("O&M Costs"). O&M costs include, but are not limited to: all costs and expenses incurred in the trash removal, operation, maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage changes; and all other direct costs and expenses properly chargeable to the operation, maintenance and repair of such _____ and services, all of the aforesaid as they relate to the Concession space within the Terminal."

"Concessionaire's proportionate share of the O&M costs shall be a fraction, the numerator of which shall be the Weighted Floor Area of the Concessionaire Premises, as that term is herein defined, and the denominator shall be the sum of the weighted floor areas leased and occupied by concessionaires to which O&M costs are allocated by Sublandlord. The calculation of the amount of costs and expenses incurred by Sublandlord in connection with the operation of the concession space within the Terminal, which shall be an allocation which is derived from the total costs and expenses incurred by Sublandlord in connection with the Terminal as a whole, shall be determined by the Sublandlord in good faith, in a consistent manner from year-to-year, and, in addition, in a manner capable of substantiation. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual) O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid. For purposes of this Sublease, the weighted Floor Area of the

Concessionaire Premises is 100% of the Floor Area of the Concessionaire Premises."

6. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Lease.

7. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

8. The granting of the consent hereunder by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease or other agreement (by the Lessee or by the Sublessee) with respect to the use or occupancy of the Space or any other portion or area of the Premises under the Lease, or to any assignment of the Lease or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

9. The Port Authority shall have the right to revoke this Consent Agreement at any time without cause, on thirty (30) days' notice to the Sublessee, which notice shall be jointly subscribed by the Port Authority and the Lessee, as to any one or more of the Spaces at the Premises at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby.

10. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent Agreement and the Sublease or the use and occupancy of the Space thereunder.

11. The Lessee and the Sublessee hereby represent and covenant to the Port Authority that they have complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Lessee and the Sublessee under the Sublease or its or their use and/or occupancy of the Space or the Premises. The obligation of the Lessee and the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

12. If the Sublessee shall fail to pay any amount required under this Consent Agreement 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 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent Agreement. 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 Paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent Agreement, or (ii) any obligations of the Sublessee under this Consent Agreement. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent Agreement shall be payable instead at such legal maximum.

13. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees and also others on the Space covered by the Sublease or at the Premises or on the Airport with the consent of the Sublessee.

14. It is hereby acknowledged and agreed by the Lessee and the Sublessee that the Port Authority has no obligation under the Lease, this Consent Agreement or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Premises whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Lease or upon revocation of this Consent Agreement with or without cause (in accordance with the terms of Paragraph 9 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said capital investment.

15. (a) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent Agreement and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements as if it were the Lessee under the Lease. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Agreement by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the

Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Lessee under the Lease and the Lessee shall also be severally responsible therefor including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

16. (a) In addition to the insurance required to be maintained by the Lessee under the Lease, the Sublessee in its own name as insured and including the Port Authority and the Lessee as additional insureds shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability and Commercial Automobile Liability insurance, including premises operations, products liability and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or the Lessee, or both, and with respect to any claim or action against the Port Authority or the Lessee, or both, by the Sublessee as though the Port Authority and the Lessee were the named insureds thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority and the Lessee thereunder as additional insureds. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under subparagraph (a) above.

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000
Commercial Automobile Liability	

Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

17. Without limiting the generality of the provisions of this Consent Agreement, the terms, provisions, conditions and agreements of the Lease shall, in all respects,

be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Lease or this Consent Agreement then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Lease.

18. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

19. Nothing contained in this Consent Agreement nor in the Sublease, including, without limitation, the payment obligation of the Sublessee under Section 2 (entitled "Rental") of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Lease. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied, notwithstanding the provisions of Section 2 (entitled "Rental") of the Sublease.

20. Nothing contained in this Consent Agreement or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including, without limitation, the installation of any signs at the Airport. The Lessee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Lease and an approved Alteration Application which the Lessee shall prepare and submit to the Port Authority.

21. (a) The Sublessee shall deliver to the Port Authority, as initial security for all obligations under this Consent Agreement, 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 District, in favor of the Port Authority in the amount of Two Hundred Eighty-seven Thousand Five Hundred Dollars and No Cents ($287,500.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective letting under this Consent Agreement 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. Upon notice of cancellation of a letter of credit, the Sublessee

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 cash or bonds 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. Failure to provide such a letter of credit at any time during the effective letting, 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 Consent Agreement on the part of the Sublessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Sublessee made thereafter, the Port Authority will return the security deposit, if any, thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of this paragraph. The Sublessee 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 permission under this Consent Agreement and fulfillment of the obligations of the Sublessee hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Sublessee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(b) The Sublessee hereby certifies that its Federal Tax Identification Number is Ex. 1/4 for the purposes of subparagraph (a), above.

(c) The Sublessee acknowledges and agrees that the Port Authority reserves the right, at its sole discretion, to adjust at any time and from time to time upon fifteen (15) days notice to the Sublessee, the security deposit amount as set forth in paragraph (a). Not later than the effective date set forth in said notice the Sublessee shall deposit with the Port Authority the new security deposit amount as set forth in and in such form as requested by said notice which new amount (including without limitation an amendment to or a replacement of the letter of credit) shall thereafter constitute the security deposit subject to this paragraph.

22. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Lessee and their respective offices shall be as set forth in the Lease. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent Agreement as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent Agreement as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

23. (a) The Lessee specifically agrees, as part of its obligation to comply

with all applicable laws, governmental rules, regulations and orders during the term of this Consent Agreement, that it shall comply with 49 CFR Part 26 (Participation by Disadvantaged Business Enterprises in the Department of Transportation Financial Assistance Programs) and 49 CFR Part 23 (Participation by Disadvantaged Business Enterprises in Airport Concessions), as the same may be amended from time to time. In addition, the Port Authority may from time to time, by notice to the Sublessee, provide to the Sublessee specific provisions which it determines may be required by the afore-stated Part 26 and/or Part 23, to be attached to and form a part of this Consent Agreement. Such specific provisions, from the effective date of such notice, shall be deemed to constitute an integral part of this Consent Agreement.

(b) This Consent Agreement is subject to the requirements of the United States Department of Transportation's regulations, 49 CFR Part 23. The Sublessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement or any management contract, or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Par 23. The Sublessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Sublessee agrees to comply with the terms and provision of Schedule G, attached hereto and hereto made a part hereof.

24. City Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent Agreement is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Consent Agreement for more than one (1) month in advance (excluding security and other deposits required under this Consent Agreement);

(iii) With respect to this Consent Agreement, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent Agreement, which shall provide the Port Authority with the right to revoke this Consent Agreement and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent Agreement.

25. Without in any way limiting the provisions hereof, unless otherwise notified by the Port Authority in writing, in the event the Sublessee shall continue to perform the operations permitted under this Consent Agreement and/or the Sublease, after the expiration, revocation or termination of the term granted under this Consent Agreement or the Sublease, as such effective term may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Consent Agreement or other remedies the Port Authority may have by law or otherwise, the Sublessee 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 Sublessee shall cease to perform the operations at the Airport under the Sublease, equal to twice the sum of the monthly amount due to the Port Authority under the Sublease. Nothing herein contained shall give, or be deemed to give, the Sublessee any right to continue to perform the privilege granted under this Consent Agreement at the Airport after the expiration, revocation or termination of the term granted under this Consent Agreement and/or Sublease. The Sublessee acknowledges that the failure of the Sublessee to cease to perform the operations at the Airport from and after the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Sublessee 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

Sublessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

26. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under this Consent Agreement, the Lessee and the Sublessee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Sublessee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Sublessee shall immediately give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all impending or existing labor-related disruptions and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Sublessee at the Terminal, or against its operations thereat pursuant to this Consent Agreement, which in the opinion of the Port Authority (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of this Consent Agreement.

(b) Labor peace agreement. The Sublessee represents that, prior to or upon entering into this Consent Agreement, it has delivered to the Port Authority evidence of a signed labor peace agreement, in the form attached hereto as Exhibit X or, if Exhibit X is inapplicable, a written notification from an officer of the Sublessee on the Sublessee's letterhead that no labor organization (as defined by 29 U.S.C. Section 152(3)) has sought to represent the employees of the Sublessee at the Airport or of the date of such notification.

(c) Employee Retention. If the Sublessee's concession at the Concession Area is of the same type (i.e., food, retail, news/gifts or duty-free concession) as that of the immediately preceding concession operator at the Space (the "Predecessor Concession"), the Sublessee agrees to offer continued employment for a minimum period of ninety (90) days, unless there is just cause to terminate employment sooner, to employees of the Predecessor Concession who have been or will be displaced by cessation of the operations of the Predecessor Concession and who wish to work for the Sublessee at the Concession Area. The foregoing requirement shall be subject to the Sublessee's commercially reasonable determination that fewer employees are required at the Space than were required by the Predecessor Concession; except, however, that the Sublessee shall retain such staff as is deemed commercially reasonable on the basis of seniority with the Predecessor Concession at the premises. The Port Authority shall have the right to demand from the Sublessee documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. In the event the Sublessee fails to comply with this provision, the Port Authority have the right at any time during the continuance thereof to take such actions as the Port Authority may deem

appropriate including, without limitation, revocation of this Consent Agreement.

(d) Applicability of Provision. The provisions of this section shall apply to concession operators which employ ten (10) or more persons at the Space.

27. The Sublessee and Lessee specifically agree not to interpose any claims as counterclaims in any summary proceeding or in any action for non-payment of rents, fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

28. This Consent Agreement and any claim, dispute or controversy arising out of, under or related to this Consent Agreement the relationship of the parties hereunder, and /or the interpretation and enforcement of the rights and obligation of the parties hereunder shall be governed by, interpreted and construed in accordance with the laws of the State of New York, without regard to conflict of law principles.

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

IN WITNESS WHEREOF, the Port Authority, the Lessee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

DAVID KABAN

(Title) Assistant Director

(Seal)

ATTEST:

Secretary

SVP FINANCE

Neil Evans

BRITISH AIRWAYS PLC

By

(Title) KEITH WILLIAMS ~~President~~ Chief executive officer

(Corporate Seal)

ATTEST:

Secretary

DUTY FREE AMERICAS AIRPORTS, INC.

By

(Title) Jerome Falic ~~President~~ Chief Executive Officer

(Corporate Seal)

APPROVED FOR TRANSMITTAL

FORM	TERMS
	SP

EXHIBIT X

EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

DUTY FREE AMERICAS AIRPORTS, INC. (the "Company") has complied with Board Resolution "All airports – Labor Harmony Policy" passed October 18, 2007, which stipulates that the Company must sign a Labor Peace Agreement with a labor organization that seeks to represent the Company's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Company's operations.

FOR THE COMPANY:
DUTY FREE AMERICAS AIRPORTS, INC.

BY:_____

DATE:_____

FOR THE UNION:
[Insert Name of Labor Organization]

BY:_____

DATE:_____

Initialed:

_____
For the Port Authority

_____
For the Sublessee

_____
For the Lessee

SCHEDULE G

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

In accordance with regulations of the US Department of Transportation 49 CFR Part 23, the Port Authority has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) program under which qualified firms may have the opportunity to operate an airport business. The Port Authority has established an ACDBE participation goal, as measured by the total estimated annual gross receipts for the overall concession program. The goal is modified from time to time and posted on the Port Authority's website: www.panynj.gov.

The overall ACDBE goal is a key element of the Port Authority's concession program and Concessionaire shall take all necessary and reasonable steps to comply with the requirements of the Port Authority's ACDBE program. The Concessionaire commits to making good faith efforts to achieve the ACDBE goal. Pursuant to 49 CFR 23.25 (f), ACDBE participation must be, to the greatest extent practicable, in the form of direct ownership, management and operation of the concession or the ownership, management and operation of specific concession locations through subleases. The Port Authority will also consider participation through joint ventures in which ACDBEs control a distinct portion of the joint venture business and/or purchase of goods and services from ACDBEs. In connection with the aforesaid good faith efforts, as to those matters contracted out by the Concessionaire in its performance of this agreement, the Concessionaire shall use, to the maximum extent feasible and consistent with the Concessionaire's exercise of good business judgment including without limit the consideration of cost competitiveness, a good faith effort to meet the Port Authority's goals. Information regarding specific good faith steps can be found in the Port Authority's ACDBE Program located on its above-referenced website. In addition, the Concessionaire shall keep such records as shall enable the Port Authority to comply with its obligations under 49 CFR Part 23 regarding efforts to offer opportunities to ACDBEs.

Qualification as an ACDBE

To qualify as an ACDBE, the firm must meet the definition set forth below and be certified by the New York State or New Jersey Uniform Certification Program (UCP). The New York State UCP directory is available on-line at www.nysucp.net and the New Jersey UCP at www.njucp.net.

An ACDBE must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed $47.78 million and it must be (a) at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it. The personal net worth standard used in determining eligibility for purposes of

part 23 is $750,000.

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State or New Jersey UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but

which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, 233 Park Avenue South, 4th Floor, New York, New York 10003 or such other address as the Port Authority may designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee, the term Concessionaire shall mean the Lessee herein.

Initialed:

For the Port Authority

For the Lessee

For the Sublessee

CONCESSIONAIRE SUBLEASE AGREEMENT

(hereinafter referred to as the "Sublease")

between

BRITISH AIRWAYS PLC
a company registered in England under number 1777777, with offices at Waterside, P.O. Box 365, Harmondsworth, UB7 0GB; and Americas office located at 75-20 Astoria Boulevard, Jackson Heights, New York 11370;

(hereinafter referred to as "Sublandlord")

and

DUTY FREE AMERICAS AIRPORTS, INC.
a company registered in the United States under number 62-1494607, with offices at 6100 Hollywood Boulevard, 7th Floor, Hollywood, Florida 33024

(hereinafter referred to as "Concessionaire")

hereinafter referred to jointly as the "Parties"

FOR A PORTION OF TERMINAL 7 IN JOHN F. KENNEDY INTERNATIONAL AIRPORT

SUBLEASE FOR COACH AND ARMANI CONCEPTS, PROVIDED BY DUTY FREE AMERICAS

NOTICE ADDRESS:

SUBLANDLORD:
75-20 Astoria Boulevard
Jackson Heights, New York 11370
Attention: Steve Clark, Senior Vice-President, Customer Service

With a copy to:
James B. Blaney
Senior Counsel, Americas
75-20 Astoria Boulevard
Jackson Heights, New York 11370

PORT AUTHORITY:
Manager of Central Business
Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003

With copy to:
Chief, Leases Division
Port Authority of New York and New Jersey
Law Department
225 Park Avenue South
New York, New York 10003

CONCESSIONAIRE:
Duty Free Americas
Simon Falic
6100 Hollywood Boulevard, 7th Floor
Hollywood, Florida 33024

With copy to:
David Taney, Esq.
6100 Hollywood Boulevard, 7th Floor
Hollywood, Florida 33024

SCOPE OF SUBLEASE

This Sublease sets out the terms and conditions applicable to the Concessionaire for the rental of space at Terminal 7, John F.Kennedy Airport as confirmed by the Sublandlord.

It is agreed that the details set out in this Sublease and the Appendices to form the Sublease between the parties.

SUBLEASE PERIOD:

British Airways Plc and Duty Free Americas Airports, Inc.. enter into this Sublease, effective **May 1, 2011** until **'October 31, 2015'** inclusive.

By signing below, the Company's authorised representative confirms that he/she has authority to act on behalf of the Company and that the Company has agreed to the details set out in this Sublease:

For and on behalf of
BRITISH AIRWAYS PLC

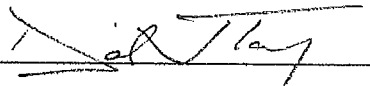
Signature:

Print Name: NEIL EVANS

Title: SVP FINANCE

Date: 7 APRIL 2011

For and on behalf of
DUTY FREE AMERICAS AIRPORTS, INC.

Signature: 

Print Name: David Taney

Title: General Counsel

Date: 4/5/11

DEFINITIONS AND INTERPRETATIONS

In this Agreement, except where the context otherwise requires, the following terms shall have the following meanings:

Additional Rent: The collective term for all sums of money required to be paid by Concessionaire to Sublandlord or the Port Authority, other than Base Rent, as that term is defined below, and including, without limitation, the Operations and Maintenance Fee and Marketing Fee, as those terms are hereinafter defined.

Address for payments to Port Authority: P.O. Box 17309, Newark, New Jersey 07194.

Address for payments to Sublandlord: British Airways, Concessions Management Team Terminal 7, JFK International Airport, Jamaica, New York 11430

Airport: John F. Kennedy International Airport.

Annual Statement: A statement from, and certified as being true, accurate and complete by, Concessionaire and delivered to the Sublandlord and the Port Authority, stating the amount of Gross Receipts from the Concessionaire for the previous calendar year or partial calendar year.

Audit: A complete audit to be made, by an independent certified public accountant selected by Sublandlord or the Port Authority, as the case may be, of the Records of the Concessionaire for the period covered by any Monthly Statement or Annual Statement.

Bond: Letter(s) of credit for the benefit of the Sublandlord and the Port Authority, respectively, issued by a party or parties approved by the Sublandlord and the Port Authority, as the case may be, as to the surety or letter of credit in its respective favor, which provides Sublandlord or the Port Authority, as the case may be, the right to make an immediate demand upon the issuer thereof for any Rent that may be owned to Sublandlord, or the Port Authority, as the case may be, by the Concessionaire.

Sublease Commencement Date: May 1, 2011

Common Areas: All portions of the Terminal, except for those portions (I) included within each of the premises subleased to Concessionaires including, but not limited to, the Concessionaire Premises; and (2) not open or available for use by the general public, as more fully set forth in Section 6.1.

Concessionaire Premises: That portion of the Premises subleased to the Concessionaire and depicted on Exhibit A, comprised of the following Spaces:

R8	644 Sq Ft	Coach Concept
R81	644 Sq Ft	Armani Concept

Concessionaire Sublease: This Sublease, which shall be void *ab initio* and of no force and effect unless and until such time as the Concessionaire, Sublandlord, and the Port Authority have executed a consent agreement in the form of a so-called " Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, which issuance is within the sole and absolute discretion of the Port Authority.

Concessionaires: All third parties to whom the Sublandlord subleases or licenses portions of the Premises.

CPI: The twelve (12) month average of the Consumer Price Index [U.S. -All Items in Commodity Groups-New York Area Only, Urban Wage Earners and Clerical Workers of the U.S. Department of Labor 1982-84= 100].

Default Rate: A rate of interest being the lesser of (a) the Prime Rate, plus four percent (4%); and (b) the highest rate then allowed under the usury laws of the State of New York.

Delivery Date: As it applies to any portion of the Concessionaire Premises, the date on which possession of said portion of the Concessionaire Premises is delivered to Concessionaire by British Airways.

Delivery Service: Federal Express or similar nationally recognized overnight courier service.

Disadvantaged Business Enterprise or DBE: An individual or entity meeting the requirements of a disadvantaged business enterprise as defined in US Department of Transportation Regulations Title 49, Code of Federal Regulations, Part 23, and certified as an ACDBE by the Port Authority.

Enplanement or **Enplaned Passenger:** Any local originating, connecting or through passenger that boards a flight from the Terminal, excluding passengers who have disembarked and reboarded for the purpose of continuing their journey on the same aircraft with the same flight number.

Event of Default: Certain failures by the Concessionaire, as more fully set forth in Section 13. I.

Expiration Date: October 3 1, 2015, unless sooner terminated in accordance with the provisions of this Sublease. as amended.

Federal Aviation Administration or FAA: The United States Federal Aviation Administration, and any successor agency, office or department thereof.

Floor Area of Concessionaire Premises:

R8	644 Sq Ft	Coach Concept
R81	644 Sq Ft	Armani Concept

Food Court Common Areas: That portion of the Common Areas primarily intended for (a) public circulation to and from certain food and beverage Concessionaires and (b) a public seating area containing tables and chairs for use by passengers, employees and other visitors to the Terminal to consume purchases from said food and beverage Concessionaires, as further depicted in Exhibit A.

GAAP: Generally Accepted Accounting Principles.

Governmental Authority or Governmental Authorities: The United States of America, the 3 States of New York and New Jersey, any political subdivision of either and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, or any quasigovernmental authority (to the extent the rulings of such quasi-governmental authority have the force of law), including the Port Authority, now existing or hereafter created, having jurisdiction over the Airport or any portion thereof.

Gross Receipts: As that term is defined in Section 2.1 (b)(iv), below.

Initial Build Out Costs: The aggregate of the so-called hard and soft costs incurred by the Concessionaire in connection with the development, design, construction, furnishing, fixturing and equipping of the Concessionaire Premises.

Initial Improvements: that work to be undertaken by Concessionaire in any portion of the Concessionaire Premises, following the Delivery Date of said portion of the Concessionaire Premises, as further described in Section 1.2(b) below.

Laws: All present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any applicable fire rating bureau or other body exercising similar functions, affecting the Airport or any portion thereof.

Master Lease: That certain Agreement of Lease dated as of January 4, 1988 between the Sublandlord as the Lessee therein and The Port Authority of New York and New Jersey, and all amendments, supplements and revisions thereof, whether heretofore or hereafter made (collectively "Supplements") and known as Lease No. A Y8-876.

Minimum Annual Guaranteed Rent: Ex. 2.a. per annum, subject to the adjustment, as set forth ID Section 2. I (a) for space R8/R81

Minimum Annual Guaranteed Rent Commencement Date: May 1st, 2011

Monthly Statement: A statement from and certified, as being true, accurate and complete by the Concessionaire to the Sublandlord and the Port Authority stating the amount of Gross Receipts from Concessionaire for the previous calendar month, and such other information as Sublandlord may reasonably request, each such statement to identify each location operated by Concessionaire within the Premises, irrespective of whether or not all such locations (if more than one) are operated under one or more Concessionaire Subleases.

Percentage Rent: That portion of the Gross Receipts of the Concessionaire to be paid as a component of Rent by the Concessionaire to the Sublandlord or Port Authority, as the case may be.

Percentage Rent Rates: Those rates identified as such in Exhibit D.

Permitted Operations: Operation of Coach and Emporio Armani retail stores for the sale of merchandise on a duty-free and/or tax-free and/or duty-paid basis.

Such brands may not be substituted or moved between locations without Sublandlord's express written consent, which consent shall not be unreasonably withheld or delayed. Concessionaire agrees that it has or will obtain all necessary rights, titles and licenses to permit such designated brands to be sold at the locations herein and provide Sublandlord with proof of such as requested. Concessionaire agrees that it will retain, to the extent reasonably possible, the ability both to retain such brands for the duration of this Agreement and to replace such brands as is necessary.

Either party may, in the reasonable exercise of its business judgment, request a review of the performance of any of the locations set forth herein. The basis for such review may be either or both of a location's financial performance or its suitability for the designated location or the Terminal in general. In the event Sublandlord and Concessionaire determine after such review that a particular brand is performing in a materially unsatisfactory fashion or is otherwise no longer appropriate for the Terminal, Sublandlord and Concessionaire will enter into good faith negotiations to consider a replacement brand. The reimbursement for unamortized capital and the capital investment required for such brand substitution and which party will be responsible therefor will be a component of such good faith negotiations.

Plans and Specifications: The plans and specifications approved by Sublandlord and the Port Authority, by which the Concessionaire will (a) design; (b) furnish; (c) fixture; and (d) equip the

Concessionaire Premises. All plans and specifications must comply with the Port Authority's Tenant Alteration Application process, a copy of said form of said Application is attached hereto as Exhibit E.

Port Authority: The Port Authority of New York and New Jersey, a body corporate and politic as established by compact between the States of New Jersey and New York with the consent of the Congress of the United States of America.

Port Authority Consent: A written consent agreement in the form of a so-called "Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, or amendments thereto, which issuance is within the sole and absolute discretion of the Port Authority.

Port Authority Percentage Rent: An amount equal to fifty percent (50%) of the Percentage Rent.

Premises: Those portions of the Terminal which are, from time-to-time, designated as such by the Sublandlord, but in no event shall it consist of less than the aggregate of (a) the Concessionaire Premises; (b) all other portions of the Terminal subleased to other concessionaires; and (c) and the Food Court Common Areas.

Prime Rate: That which is published, from time to time, in the Wall Street Journal as being the prime rate.

Protected Parties: All officers, directors, employees, agents and shareholders of the Sublandlord and its successors and assigns.

Records: Those records and books or account recording all transactions of the Concessionaire at, through, or in anyway connected with the Concessionaire Premises.

Rent: The collective term for Minimum Annual Guaranteed Rent, Percentage Rent and Additional Rent.

Sublandlord Percentage Rent: An amount equal to fifty percent (50%) of the Percentage Rent.

Sublandlord's Work: That work to be done by or on behalf of the Sublandlord as more fully set forth in Exhibit B.

Substantial Completion: That stage in the process of the Sublandlord 's Work when such is sufficiently complete, as reasonably determined by Sublandlord, so that the Concessionaire may beneficially occupy the Concessionaire Premises for its intended use,

Term: The period beginning on the Commencement Date and ending on the Expiration Date, unless sooner terminated pursuant to the terms of this Sublease.

Terminal: That portion of the Airport currently and commonly known as Terminal 7 or the British Airways Terminal.

Transportation Security Administration or **TSA**: The United States Transportation Security Administration, and any successor agency, office or department thereof

TABLE OF EXHIBITS:

A	Depiction of Concessionaire's Premises
B	Description of Sublandlord's Work
C	Disadvantaged Business Enterprise Provisions
D	Percentage Rent Rates
E	Form of Port Authority Tenant Alteration Application
F	Form of Guaranty
G	Affirmative Action Policy
H	Standards of Operation

SUBLEASE TERMS AND CONDITIONS

SECTION 1 – GRANT AND PREMISES

1.1: GRANT AND PREMISES

(a) Sublandlord, in consideration of the Rent to be paid and the covenants to be performed by Concessionaire, does hereby, demise and lease unto Concessionaire, and Concessionaire hereby rents and hires from Sublandlord, the Concessionaire Premises for the uses and purposes hereinafter set forth, subject, at all times, to the terms and conditions of the Master Lease and the Port Authority Consent, provided however, this Sublease shall be void ab initio until receipt of the executed Port Authority Consent.

(b) The foregoing grant and demise to Concessionaire includes the non-exclusive right of the Concessionaire and its officers, shareholders, partners, members, contractors, agents, employees and invitees and others acting by, through or under the Concessionaire to use the Airport, pursuant to the terms of the Master Lease, including, but not limited to, Section 6 (Common Area), thereof, in common with all others permitted to use the Airport by the Port Authority.

1.2: DELIVERY OF PREMISES; WORK OF SUBLANDLORD AND CONCESSIONAIRE

(a) Sublandlord will perform or cause to be performed, the Sublandlord's Work, if any, as more fully set forth in Exhibit B. Concessionaire, by its execution of this Sublease, represents, warrants and agrees that Sublandlord has no obligation, duty and has made no agreement with Concessionaire to do or cause to be done any other work in or to the Concessionaire Premises except as expressly set forth herein.

(b) Concessionaire covenants and agrees that, to the extent not required to be completed by the Sublandlord, Concessionaire and / or its retail brands shall (i) undertake, at no cost to the Sublandlord or Port Authority, improvement of the Concessionaire Premises, which improvement shall include the (I) design; (2) furnishings and fixtures; (3) leasehold improvements and; (4) equipping of the Concessionaire Premises (said work herein referred to as the " Initial Improvements"), and shall expend for said Initial Improvements an amount not less than Ex. 2.a. as defined in Exhibit J) and Concessionaire will provide to Sublandlord such documentation as is reasonably required to evidence and support such expenditure. Subject to delays beyond Concessionaire's control, Concessionaire shall cause the Initial Improvements to proceed diligently to completion in accordance with the Plans and Specifications. Concessionaire agrees to complete the Initial Improvements within 60 days of the Date of Delivery, except as such date may be extended by Sublandlord. Concessionaire covenants that it will, at all times, conform with all Laws, the Master Lease and the Tenant Alteration Application process of the Port Authority. Sublandlord will take reasonable steps to assist Concessionaire to secure all necessary Port Authority approvals.

SECTION 2 – RENTAL

2. 1: BASE RENT

For each calendar year, Concessionaire shall pay to Sublandlord and Port Authority, or such other party or parties as the Concessionaire is from time-to-time notified in writing, as Base Rent, an amount equal to the greater of the (I) Minimum Annual Guaranteed Rent, without regard to any waiver or abatement as set forth herein and (2) Percentage Rent. All payments of Base Rent shall be due and payable without prior demand or notice.

(a) MINIMUM ANNUAL GUARANTEED RENT.

(i) Calculation of Minimum Annual Guaranteed Rent

(A) Minimum Annual Guaranteed Rent shall be due and be paid in twelve (12) equal monthly installments, in advance, on the first day of the first month following the Minimum Annual Guaranteed Rent Commencement Date and continue through the remainder of the Term thereafter.

(B) Notwithstanding anything herein contained to the contrary, in the event the Concessionaire does not initially open for business on or before the Minimum Annual Guaranteed Rent Commencement Date, then, for the period commencing on the Minimum Annual Guaranteed Rent Commencement Date, until the date such Concessionaire initially opens for business ("Stub Period"), Concessionaire shall pay to Sublandlord, as liquidated damages, and not as a penalty, an amount equal to the Minimum Annual Guaranteed Rent for such Concessionaire Premises ("Stub Rent") pro rated, on a daily basis, and paid, in advance, on the first day of the first calendar month following the Stub Period. Upon the initial opening for business by such Concessionaire, the Minimum Annual Guaranteed Rent shall thereafter begin to accrue in accordance with the terms of this Sublease and be paid in accordance with the terms set forth herein.

(ii) Concessionaire acknowledges and agrees that, of the Minimum Annual Guaranteed Re[illegible] Ex. 2.a. thereof is due and payable by Concessionaire to the Port Authority and fifty [illegible]s due to the Sublandlord, on a monthly basis (as a Minimum Annual Guaranteed Rent).

Therefore, the Minimum Annual Guaranteed Rent as defined above shall be paid, directly to Port Authority and Sublandlord in equal monthly installments, on the first day of the month following the Minimum Annual Guaranteed Rent commencement Date, and the Minimum Annual Guaranteed Rent for the first calendar year shall be prorated on a per diem basis. Subsequent to the Minimum Annual Guaranteed Rent Commencement Date, the Concessionaire shall deliver to the Sublandlord a statement confirming the Minimum Annual Guaranteed Rent Commencement Date.

(iii) During each calendar year that an amount equal to eighty- five percent (85%) of the Percentage Rent therefor shall exceed the Minimum Annual Guaranteed Rent for the same calendar year, then the Minimum Annual Guaranteed Rent for the next succeeding calendar year shall be an amount equal to said eighty-five percent (85%) of the Percentage Rent.

(b) PERCENTAGE RENT.

(I) Percentage Rent from Concessionaire shall be equal to the product of the Percentage Rent Rates applicable to the merchandise sold or services offered by the Concessionaire within the Concessionaire Premises, multiplied by the Gross Receipts.

(ii) Commencing with the second (2nd) month of the Term, Percentage Rent shall be paid by Concessionaire to Sublandlord, as to the Sublandlord Percentage Rent, and the Port Authority, as to the Port Authority Percentage Rent, without prior notice or demand, within fifteen (15) days after the end of each month of the Term ("Percentage Rent Payment Date"); provided however, in no event shall either the Sublandlord Percentage Rent or Port Authority Percentage Rent be less than the amount due to the Sublandlord or Port Authority, as the case may be, as Minimum Annual Guaranteed Rent.

(iii) If, for any calendar year or partial calendar year, as the case may be, the total amount of monthly installments of Percentage Rent for such period is less than the total amount of Percentage Rent required to be paid for said period, Concessionaire shall pay to the Sublandlord or the Port Authority, or both, as the case may be, the amount of such deficiency together with the delivery of the Annual Statement. If, at the end of any calendar year or partial calendar year, as the case may be, the total amount of Percentage Rent paid by Concessionaire for such period was in excess of amount of Percentage Rent required to be paid hereunder for said period, then such excess shall be deemed to be prepaid Rent and shall be applied as a credit against Rent thereafter becoming due and payable by Concessionaire to Sublandlord or Port Authority, or both, as the case may be, until such credit is exhausted. This obligation shall survive the expiration or sooner termination of this Sublease. In the event the Percentage Rent paid in the final Sublease year exceeds the amounts owed to Sublandlord hereunder, such excess sum will be promptly repaid to Concessionaire following conclusion of the Sublease term.

(iv) The term Gross Receipts, for each calendar year or partial calendar year, shall mean and include all monies paid or payable to Concessionaire for sales made and, services rendered at or from the Concessionaire Premises, regardless of (A) when during a calendar year sales are made and (B) where the order is filled or from where it is shipped, if the order was taken at the Concessionaire Premises, provided however the following shall be excluded, or, if included, may be deducted therefrom: (I) taxes imposed by law which are separately stated to and paid by a customer and directly payable to the taxing authority by the Concessionaire; (2) receipts of Concessionaire which arise from its operations, if any, under any other agreement with the Port Authority and which are subject to a percentage rental or fee under that agreement; (3) refunds for merchandise returned by customers; (4) the amount of gratuities paid or given by patrons or customers to employees of Concessionaire or others employed at or serving at any of the facilities being operated by Concessionaire; (5) bona fide transfers of merchandise to or from the Concessionaire Premises to any other stores or warehouses of Concessionaire; (6) sales of Concessionaire's fixtures and store equipment not in the ordinary course of such Concessionaire's business; (7) returns to shippers, suppliers or manufacturers; and (8) insurance proceeds received from the settlement of claims for loss of or damages to merchandise, fixtures and other personal property of the Concessionaire other than the proceeds of business interruption insurance. During all time periods for which Gross Receipts are computed, in the event the foregoing definition produces a negative number, Gross Receipts shall be deemed to equal zero. The full amount of any payments received by Concessionaire from any third party as consideration for (i) promotions,(ii) advertising, or (iii) the prominent display of merchandise and/or the placement of promotional material in the Concessionaire Premises from a supplier of goods (such latter promotional considerations commonly referred to as "Retail Display Allowance") shall be included in the Gross Receipts for the year within which such payment was earned, irrespective of when received; provided that contributions received by Concessionaire from any third party for salary support and store improvements/fixtures shall not be included in Gross Receipts. The amount of Gross Receipts shall be determined and based upon the amount that Concessionaire reports to Sublandlord and the Port Authority as the Gross Receipts for each such reporting period, as adjusted, thereafter after examination of Concessionaire's books and record and/or Audit by either or both of the Sublandlord and the Port Authority. Except as otherwise provided for herein, if any charge for any of the products or services provided hereunder is not assessed, charged or collected, irrespective of the reason therefore, the proper amount of such charge shall, nevertheless, be included in Gross Receipts.

Further, no deduction shall be made from Gross Receipts by reason of any credit loss, charge or deduction that may be incurred by reason of the acceptance or use of credit cards or other credit or charge arrangements.

2.2: ADDITIONAL RENT.

Additional Rent, if any, shall be paid within ten (10) days after receipt of a bill therefor.

2.3: LATE CHARGE, DEFAULT RATE, LOCATION FOR PAYMENTS

(a) Unless specifically stated otherwise in this Sublease, Rent shall be due and payable as indicated herein. The parties hereby agree that late payment by Concessionaire of any Rent may cause Sublandlord to incur certain costs and expenses not contemplated under this Sublease; the exact amount of which costs are extremely difficult to determine. In the event Concessionaire fails to pay any Rent to Sublandlord on or before the 5th business day after same is due to Sublandlord, then Concessionaire shall pay to Sublandlord a late charge of five percent (5%) of the amount not so paid as damages for the failure to make prompt payment. In the event Concessionaire pays said late charge, but fails to pay contemporaneously therewith all unpaid amounts of Rent then due to Sublandlord and payable, Sublandord's acceptance of this late charge shall not constitute a waiver of Concessionaire's failure with respect to Concessionaire's nonpayment or prevent Sublandlord from exercising all other rights and remedies available to Sublandlord.

(b) Late Charges

(i) Any amount due from Concessionaire to Sublandlord, which is not paid when due (including, without limitation, amounts due as reimbursement to Sublandlord for costs incurred in performing obligations of the Concessionaire) shall bear interest at the Default Rate from the date due until paid (such interest hereinafter referred to as " Interest Charges"), unless otherwise specifically provided herein, but the payment of such Interest Charges shall not excuse or cure any failure or default under this Sublease. Interest Charges shall not accrue with respect to disputed items being contested in good faith by Concessionaire; however, Interest Charges shall accrue on any disputed item not paid within five (5) business days from the date of resolution computed from the date of resolution.

(ii) If Concessionaire should fail to pay any amount required under this Sublease or the Port Authority Consent to the Port Authority, including without limitation any payment of any Rent, 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 (herein below described) during the entirety of II which such amount remains unpaid, each such late charge not to exceed an amount equal to eighteenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four 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 (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. Each late charge shall be payable immediately upon demand made at any time therefore 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 this subsection with respect to such unpaid amount. Nothing herein is intended to, or shall be deemed to affect, alter, modify or diminish in any way any rights of the Port Authority under this Sublease or the Part Authority Consent, as the case may be. In the event that any late charge imposed pursuant to this subsection shall exceed a legal maximum

applicable to such late charge, then, in such event, each such late charge payable hereunder shall be payable instead at such legal maximum.

(c) Rent and all other sums payable by Concessionaire shall be paid in currency of the United States or other customary commercial manner at the Address for Payments to Sublandlord or Port Authority, as the case may be, or such other place as either or all may designate, from time to time, without any deductions or offsets, except as otherwise specifically permitted in this Sublease.

SECTION 3 – RECORDS AND BOOKS OF ACCOUNT, AUDIT

3. 1: RECORDS

a) Concessionaire covenants and agrees to maintain all Records in accordance with GAAP during the Term, and for two full calendar years after the expiration or earlier termination of the Term or the Port Authority Consent ("Records Term"). The Records shall be kept at all times within the Port of New York District. Without implying any limitations on the rights of the Port Authority, but in addition thereto, if any Records are maintained outside of the Port of New York District, but within the continental United States, the Port Authority or the Sublandlord, in their respective discretion, both, may (i) require that such Records be produced within the Port of New York District; or (ii) examine such Records at the location at which they have been maintained and in such event, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or both, as the case may be, when billed, all travel and related expenses, as determined by the Port Authority and the Sublandlord, for the Port Authority's and Sublandlord's auditors and other representatives, employees and officers in connection with such examination and audit, or, if any such Records have been maintained outside the continental United States, then, in addition to the costs set forth in (ii), above, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or all, as the case may be, when billed, all other costs of the examinations and audits of such Records, including, without limitation, salaries, benefits, travel costs and related expenses, overhead costs and fees and charges of third-party auditors retained by the Port Authority or the Sublandlord, or both, as the case may be, for the purpose of conducting such examinations and audits. The foregoing auditing costs, expenses and amounts due to the (i) Port Authority shall be deemed fees and charges under the Port Authority Consent, payable to the Port Authority with the same force and effect as all other fees and charges payable thereunder; or (ii) Sublandlord, as Additional Rent, and be payable upon demand therefor.

b) Notwithstanding anything contained in this Sublease to the contrary, for purposes of this Sublease, Records shall exclude any books and records relating to any other locations owned or occupied by Concessionaire located at the Airport or any other business operations of Concessionaire, provided however, that this exclusion shall neither bind nor apply to the Port Authority and its right to inspect and Audit as herein provided. The Port Authority shall also be entitled to examine and audit the books and records of account of any company or entity which is owned or controlled by Concessionaire, or which owns or controls Concessionaire, or which is under common control with the Concessionaire, if said company performs services similar to those performed by the Concessionaire, and the Concessionaire shall make available such books and records to the Port Authority for such purposes to the same extent as would be required pursuant to paragraph (c) of this section and solely to the extent that such books and records relate or pertain to operations at the Airport.

c) Concessionaire shall permit during the Records Term, (i) the examination and audit of the Records by the officers, employees and representatives of either or both of the Sublandlord and Port Authority ("'Audit"). Concessionaire shall make available to the Port Authority with in the Port of New York District for examination and Audit pursuant hereto all of the Records; (ii) the inspection by the officers, employees and representatives of either or both of the Port Authority and Sublandlord of any equipment used by Concessionaire including, but not limited to sales registration and tracking devices such as cash registers, sales slips, invoicing machines and any other equipment or devices for recording orders taken, or services rendered, as may be appropriate to Concessionaire business and necessary or desirable to keep accurate records of Gross Receipts.

d) In the event Concessionaire shall fail to maintain, keep or make available for examination and Audit the Records in the manner and at the times or location as provided herein then, in addition to all and without limiting any other rights and remedies of the Sublandlord or the Port Authority, either or both may:

(i) Estimate the Gross Receipts of the Concessionaire on any basis that the Port Authority or the Sublandlord, in their respective sole discretion, shall reasonably deem appropriate, such estimation to be final and binding on the Concessionaire (but not on the remaining party having the benefit of this provision) and Concessionaire's Percentage Rent based thereon to be payable to the party conducting the Audit; or

(j) If any such Records have been maintained outside of the Port of New York District, then the Port Authority or the Sublandlord, or all, may, in the exercise of the sole discretion of either, may require, on ten (10) days notice to Concessionaire, that such Records to be produced and made available within the Port of New York District for the Port Authority 's or Sublandlord's, or both, auditors and other representatives, employees and officers in connection with such examination and Audit.

3.2: REPORTS BY CONCESSIONAIRE

(a) Concessionaire shall furnish to Sublandlord and the Port Authority (i) the Monthly Statement by the Percentage Rent Payment Date, for the preceding month; and (ii) the Annual Statement on or before April 1st of each calendar year, for the preceding calendar year.

(b) Concessionaire shall timely provide to the Sublandlord and the Port Authority a Monthly Statement and Annual Statement together with all other documents, Records and materials requested or required to be delivered by Concessionaire to the Port Authority or Sublandlord.

3.3: SUBLANDLORD AUDIT ADJUSTMENTS; COSTS

If any Audit conducted by the Sublandlord of the Concessionaire discloses that the Gross Receipts as previously reported for the period audited were understated and additional Percentage Rent is due, then the Concessionaire shall be required to pay to (i) Sublandlord the additional Percentage Rent due thereto for the period audited within five (5) days after receipt of a statement therefor (together with a copy of the results of the Audit indicating the understatement); and (ii) if such understatement exceeds three percent (3%), within five (5) days of an invoice therefor, all reasonable and actual costs of each such Audit.

SECTION 4 – INITIAL CONDITION OF CONCESSIONAIRE PREMISES

4.1: ACCEPTANCE

(a) Upon Substantial Completion, Concessionaire shall accept the Concessionaire Premises in their then-current condition, subject to such work as may be necessary to complete the work, if any, to be done by the Sublandlord, which work shall be completed by Sublandlord as soon as is reasonably possible.

(b) Concessionaire, by the acceptance of the tender of delivery by Sublandlord of the Concessionaire Premises at the date of execution hereof, shall be deemed the unequivocal representation, warranty and agreement by the Concessionaire that (a) Substantial Completion of the Sublandlord's Work has occurred; (b) Concessionaire has, subject to full completion of Sublandlord 's Work, accepted the Concessionaire Premises in all respects; and (c) Sublandlord has no obligation, duty or has made any agreement to do or cause to be done any other work in or to the Concessionaire Premises except to the extent otherwise set forth in this Sublease.

(c) Sublandlord makes no warranty, either express or implied, as to the condition of the Concessionaire Premises or the suitability of the Concessionaire Premises for Concessionaire's purposes or needs. If during the construction of Improvements, latent defects are discovered, Sublandlord and Concessionaire shall negotiate in good faith with respect to the costs for which each shall be responsible.

4.2: CHANGES TO PREMISES

(a) The Initial Improvements with respect to each portion of the Concessionaire Premises shall be made only in accordance with the provisions of Exhibits B and E.

(b) Changes, if any, made to the Concessionaire Premises from and after the completion of the Initial Improvements shall be made only in accordance with the Plans and Specifications and, in all events, in compliance with the Port Authority's Tenant Alteration Application process, which process must be complied with, in addition to, and not in lieu of, the provisions of this Section 4.2.

(c) Full and complete plans and specifications for all work, facilities, improvements and finishes, and the time required to complete same (" Plans and Specifications"), shall be first reviewed and approved in writing by Sublandlord and then submitted and approved by the Port Authority before any work or construction is commenced. Approval of Sublandlord shall include architectural and aesthetic matters and Sublandlord reserves the right to reject any layout or design proposal submitted and to require Concessionaire to resubmit any such layout or design proposal until it meets Sublandlord's approval.

(d) All improvements, furniture, fixtures, equipment and finishes, including the plans and specifications thereof, constructed or installed by Concessionaire, its subtenants, agents or contractors shall conform in all respects to applicable Laws including, but not limited to, the Americans with Disabilities Act of 1990, as amended. Any approvals given by Sublandlord shall not constitute a representation or warranty as to such conformity; responsibility therefor shall at all times remain with Concessionaire.

(e) All designs, colors, materials and construction shall be furnished as set forth in the Plans and Specifications. Concessionaire acknowledges that Sublandlord, or its designee, may from time to time inspect the progress of the work for conformance to the Plans and Specifications. In the event Sublandlord, or its designee, determines, in their sole judgment, there is a material deviation from the Plans and Specifications, Concessionaire agrees, upon notice

from Sublandlord, to promptly effect repairs or modifications to the improvements so as to conform to the Plans and Specifications. Concessionaire acknowledges and agrees that the any improvements to the Concessionaire Premises are subject to the inspection and acceptance of Sublandlord and the Port Authority.

4.3: CHANGES TO THE TERMINAL

Concessionaire acknowledges that it is aware that Sublandlord and the Port Authority each have the right, without compensation, or reimbursement to Concessionaire, or abatement of Rent, to make alterations to the Terminal, including any modifications of the Common Areas and, in connection with such alterations, may erect temporary scaffolds and other temporary aids to construction on the exterior of the Concessionaire Premises, and to install, maintain, use, repair and replace within the Concessionaire Premises pipes, ducts, conduits, wires and all other mechanical equipment serving other parts of the Terminal or Airport. Sublandlord will not unreasonably interfere with Concessionaire's business in the event of any changes pursuant to this provision. During the time that any such scaffolding exists, Sublandlord, at its sole cost and expense, shall install signage on such scaffolding prominently displaying Concessionaire's tradename and other related wording required to indicate continued store operations.

SECTION 5 – CONDUCT OF BUSINESS BY CONCESSIONAIRE

5.1: PERMITTED OPERATIONS

(a) Concessionaire shall use the Concessionaire Premises only for the purpose of conducting the Permitted Operations and for no other use or purpose, without first obtaining the prior written consent of the Sublandlord and the Port Authority, as set forth in the Port Authority Consent. If any governmental license or permit shall be required for the proper and lawful conduct of any business or other activity conducted in the Concessionaire Premises, then Concessionaire shall duly procure and thereafter maintain each such license or permit and submit the same for inspection by Sublandlord or the Port Authority upon request therefor by Sublandlord and Port Authority, as the case may be

(b) Notwithstanding the foregoing, the Permitted Operations shall exclude any operation that:

(i) Materially interferes with the reasonable use, by third-parties, of the Common Areas;

(ii) Hinders emergency personnel (including, but not limited to police. fire and rescue personnel);

(iii) Constitutes a condition hazardous to the safety or health of the general public;

or

(iv) Is contrary to rules, regulations, policies or directives of the Port Authority.

(c) In addition to the uses excluded by (b), above, Concessionaire agrees that it may not receive any revenues or profits with respect to any of the following uses, operations or installations which the Port Authority has reserved to itself and its designees exclusively in the Terminal: VIP lounges, airline clubs, monorail facilities, if any, advertising (including, without limitation, static display, broadcast and other), pay telephones, rental of cellular phones intended for use solely within the Airport, facsimile transmission machines and other public communication services, concierge services (i.e., a center or location which offers a variety of services for passengers, including, but not limited to hotel reservations, sale of entertainment events tickets and lottery tickets, luggage storage and delivery, sightseeing tours, business services and provision of touring information), ground transportation, including vehicle rentals, hotel and other lodging reservations, vending machines dispensing anything, including but not limited to, catalog and electronic sales, (save and except for those owned and operated by Concessionaire within the Concessionaire Premises selling goods and services by Concessionaire from the Concessionaire Premises), other than products specifically permitted to be sold in the Concessionaire Premises pursuant to this Sublease and, if approved by the Port Authority, on-airport baggage carts or other on-airport baggage-moving devices, electronic amusements, and public service airport operation information, messages and announcements.

(d) Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sales a full and complete stock of merchandise consistent with only the Permitted Operations as more fully set forth in the Terminal Rules (Exhibit H). Upon request, Concessionaire must promptly provide Sublandlord, or its designee, with a complete list of all merchandise and prices. Concessionaire understands that its rights hereunder are nonexclusive and agrees that Sublandlord has the right to grant privileges under separate agreements for other concession services that may or may not be similar to the privileges granted herein to Concessionaire. In the event of a dispute between Concessionaire and any other

lessee, licensee or concessionaire as to the respective rights of the respective lessees, licensees or concessionaires, Sublandlord shall determine the rights of each lessee, licensee or concessionaire and Concessionaire agrees to be bound by such decision.

5.2: OPERATION OF BUSINESS

(a) Concessionaire agrees and covenants to be open for business and diligently conduct its business (I) in a commercially reasonable manner, fully staffed with personnel that have been trained and are qualified for the positions held and duties to be discharged; (2) on such days and during such hours as determined from time to time by the Sublandlord; and (3) in accordance with the rules and regulations promulgated from time to time by the Sublandlord to regulate the use, occupancy and operation of the Concessionaires in the Premises, all of the foregoing being the " Standards of Operation" as more fully set forth in Exhibit H.

(b) Concessionaire shall promptly comply with all present and future Laws of all Governmental Authorities and shall neither (i) do or permit anything to be done in or about the Concessionaire Premises which will violate any Laws; nor (ii) cause or knowingly permit anything to occur in the Concessionaire Premises which constitutes a violation or breach of the Master Lease or cause Sublandlord to be in breach or violation of said Master Lease.

(c) Concessionaire shall maintain a street pricing policy whereby certain goods, services, food or beverages, shall be subject to the restrictions and policies of the Port Authority.

(d) Concessionaire covenants and agrees to (I) assist and support all efforts of the Sublandlord and others to provide deliveries from the public access areas of the Terminal to and from the Premises and the Concessionaire Premises to and from the secure areas of the Terminal; and (2) coordinate with Sublandlord and others in matters essential to the efficient operation of the Premises and the Terminal.

(e) Sublandlord's Right to Monitor Performance

(i) Concessionaire shall maintain and operate the concessions granted hereunder in an orderly, proper and first-class manner which, in the sole judgment of Sublandlord. does not annoy, disturb or offend others at the Terminal. Sublandlord shall have the right to raise reasonable objections to the condition of the Concessionaire Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, the appearance and performance of service personnel and to require any such conditions or practices objectionable to Sublandlord to be remedied by Concessionaire. If requested by Concessionaire, Sublandlord shall reduce its objections to writing and provide Concessionaire an opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

(ii) Concessionaire hereby acknowledges and agrees that Sublandlord shall have the right, at its cost, to audit, review, monitor, inspect or test all Concessionaire' s operations at anytime during normal business hours through the use of its own direct review, the use of third parties and/or other means that do not unduly interfere with Concessionaire's operations. Concessionaire acknowledges that such audits and reviews will be conducted by Sublandlord, or its designee, and hereby agrees to cooperate with any such performance audit. Said performance audits may include minimum objective standards in the areas of (1) product quality, (2) customer service and (3) cleanliness and maintenance. If Concessionaire fails to meet minimum standards in any of these areas, Sublandlord may, at its reasonable discretion, assess liquidated damages as set forth herein.

(iii) Repeated violations and deficiencies in performance by Concessionaire, or its permitted sublessees, may be cause, at Sublandlord 's sole discretion, to terminate this Sublease.

(f) Failure to Comply with Standards of Operation

(i) Concessionaire acknowledges Sublandlord 's desire to provide the public and air traveler with the level and quality of service as described herein. Accordingly, Sublandlord has established a series of fees, as set forth in Table I of this Section 5.02(g), that it may assess, in its sole discretion, for various violations of this Sublease, as amended, as additional Marketing Fee (as said term is defined herein). Concessionaire and Sublandlord agree that the fees set forth herein are reasonable, and Concessionaire further agrees to pay to Sublandlord such fees in accordance with the rates or in the amounts specified herein upon written demand by Sublandlord. Concessionaire further acknowledges such fees are not exclusive remedies and Sublandlord may pursue other remedies, as allowed for in this Sublease, as amended, at its sole discretion.

(ii) Multiple Violations. Except for violations of requirements regarding operating hours, health code violations, and delivery and vendor access in fraction, which shall accrue immediately and without notice upon violation, other fees shall not be assessed unless the violation continues for more than three (3) calendar days after Sublandlord has given to Concessionaire written notice of the violation; provided, however, after Sublandlord has given Concessionaire notice of a violation of the same operating requirement more than twice during any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, the fee shall be immediately assessed with no opportunity to cure. Further, if more than two (2) violations of the same operating requirement occur within any twelve (12) month rolling year commencing upon the first notice of violation of said operating requirement, Sublandlord reserves the right, in its sole discretion, to deem said repeated violations a default hereunder and to seek any other remedies available to it under this Sublease, as amended, including, but not limited to, termination of this Sublease.

Table I - Performance Standard Fines

Infraction	Fee Schedule
Significant quantities of required merchandise as evidenced by empty shelves (resulting in loss of sales and customer service)	Ex. 2.a.
Premises unclean, trash not picked up	
Signage policy infraction	
Pricing policy infraction (following one Notices)	
Late Market Basket Survey	
Delivery and vendor access infractions	
Operating Hours infraction (Per location, in line with Terminal Operating Hours)	
Inadequate Staffing (per location, resulting in impacts to customer service or closure of Concession)	
Health Code Violations (per location, in line with audits by the Sublandlord and Health Inspectors) Scores below 90% Scores below 80% Scores below 70%	
Performance Audit Scores (per location, in line with Sublandlord performance standards) Scores below 90% Scores below 80% Scores below 70%	

(g) In addition to its general obligation to comply with applicable Laws, Concessionaire specifically agrees to comply with all Port Authority, Transportation Security Administration, Federal Aviation Administration and Sublandlord security directives, rules and regulations, in effect as of the Commencement Date or as may be modified or enacted from time to time throughout the Term. Concessionaire understands and agrees that fines and/or penalties may be assessed by the TSA or FAA for Concessionaire's noncompliance with the provisions of 49 CFR Parts 1540 and 1542 entitled "Airport Security" or by other agencies for noncompliance with regulations applicable to Concessionaire's operations. In the event the Port Authority or Sublandlord shall be subject to any fine or penalty by reason of any violation at the Terminal of any such rule, regulation or standard, the Port Authority or Sublandlord may conduct an investigation and make a determination as to the identity of the party responsible for the violation. If it is determined by the Port Authority or Sublandlord that Concessionaire, or any party for which Concessionaire is liable under this Sublease, as amended, is responsible for all or part of the fine or penalty, the Concessionaire shall pay said amount of the fine or penalty.

5.3: HAZARDOUS MATERIALS

(a) For the purposes of this Sublease, the following terms shall have the following meanings: (i) the term "Hazardous Materials" shall mean: (A) any materials or substances that, whether by its nature or use, are subject to regulation under any Environmental Requirement, or (B) any materials, substances or wastes which are toxic, ignitable, explosive, corrosive or reactive, or (C) asbestos, or (D) petroleum and petroleum-based products, or (E) formaldehyde, or *(F)* polychlorinated biphenyls (PCB's), or *(G)* freon and other chlorofluorocarbons or (H) such other materials as are designated in a notice from Sublandlord to Concessionaire (whether such notice is provided before or after Concessionaire first commences to use any such materials and;

(ii) the term "Environmental Requirement" shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U. S..C. §960 I et seq.), the Hazardous Materials Transportation Act (49 U. S..C. § 180 I et seq.), the Resource Conservation and Recovery Act (42 U. S..C.. §6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U. S..C.. §7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), all as presently in effect and as the same may hereafter be amended, any regulation pursuant thereto, or any other present or future law, ordinance, rule, regulation, order or directive addressing environmental, health or safety issues of or by any Governmental Authority.

(b) Both Concessionaire and Sublandlord acknowledge that one or more Governmental Authorities may require that employees of each and others be made aware of the conditions within which they are being asked to work and, in an effort to disclose such conditions to said employees, Sublandlord hereby (i) represents to Concessionaire that, other than those Hazardous Materials to which Sublandlord has notified Concessionaire in writing, there are no Hazardous Materials in the Terminal; and (ii) agrees that, if any Hazardous Materials are generated, manufactured, sold, transported or located at, on, in, under or about the Terminal, other than as a result of an act or omission of the Concessionaire, then Sublandlord shall at no cost, expense or liability to Concessionaire, (I) clean up and take whatever corrective action of any kind required under any Environmental Requirement; and (2) indemnify and hold harmless the Concessionaire from all losses, costs, expenses and liabilities therefrom, provided however the foregoing prohibition concerning Hazardous Materials shall not prevent the use of regular consumer products which contain amounts of such Hazardous Materials that are not prohibited by any law applicable thereto.

(c) Concessionaire covenants and agrees that by, through or under it (i) no Hazardous Materials will be generated, manufactured, sold. transported or located at, on, in, under or about the Concessionaire Premises; (ii) no Hazardous Material will be generated, manufactured, sold, transported or located at, in, on, under or about the Concessionaire Premises in a manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement and (iii) no Hazardous Materials will be transported, released, emitted, sold, discharged, leached, dumped or disposed of from the Concessionaire Premises onto or into the Common Areas.

(d) Concessionaire covenants and agrees that it shall (i) notify the Port Authority and Sublandlord promptly in the event of any spill or other release of any Hazardous Materials at, in, on, under or about the Concessionaire Premises which spill or release is required to be reported to a Governmental Authority under any Environmental Requirement; (ii) promptly forward to the Port Authority and Sublandlord copies of any notices it receives relating to the alleged violations of any Environmental Requirement; (iii) promptly pay when due any fine or assessment as a result of its acts or omissions or those of any party acting under its control or direction; and (iv) defend, indemnify, and hold harmless the Sublandlord and the Port Authority and their respective affiliates, subsidiaries, partners, members, management company, successors and assigns, and the employees, agents, officers, directors and Commissioners of any of them from and against any and all loss, claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) directly or indirectly arising out of, or in any way related to (I) any breach by it or any party acting under its control or direction of any of the provisions of this Section 5.03; (2) the presence, use, generation, transportation, disposal , spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Materials which are at, in, on, under, about, from or affecting the Concessionaire Premises, including, but without limitation any damage or injury resulting from any such Hazardous Materials to or affecting the Concessionaire Premises or any soil, water, air, vegetation, buildings, personal property, persons or animals; (3) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to

any such Hazardous Materials; or (4) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Materials. The obligations set forth in this Section 5.3 shall survive the expiration or sooner termination of the Sublease.

SECTION 6 – COMMON AREAS

6.1: DEFINITION OF COMMON AREAS

For the purpose of this Sublease, the term "Common Areas" shall mean, all portions of the interior of the Terminal, save and except for those portions included within each of the Concessionaire Premises, intended to be used and used by either (a) the public or (b) the Sublandlord or Concessionaires in the course of receiving and making deliveries to the Premises. The Common Areas shall include but are not limited to: (i) ticketing areas and facilities, gate seating areas, hallways, elevators, escalators, stairs, restrooms and comfort stations, service areas, passageways and other public areas, amenities, facilities and improvements in the Terminal; and (ii) those areas within the Terminal as may be provided by either the Sublandlord or the Port Authority, from time to time for the convenience and use by the public or the Sublandlord or Concessionaires.

6.2: USE OF COMMON AREAS

Upon payment of the Rent and the performance and observance of all terms and conditions in this Sublease to be performed and observed by the Concessionaire, the right to possession of the Concessionaire Premises shall also include the non-exclusive right to the use of the Common Areas with all others for whose convenience and use both the Common Areas have been or may hereafter be provided by the Port Authority or the Sublandlord, or both, subject however, to such rules and regulations for the use thereof as may be prescribed from time to time by either or both of the Sublandlord and the Port Authority.

6.3: OPERATION AND MAINTENANCE; TERMINAL AND COMMON AREAS

Sublandlord agrees, at no cost to Concessionaire, to keep all portions of the Terminal in good order and repair, and in full compliance with all Laws, including but not limited to all HVAC equipment, plumbing (including sewage systems), electrical, fire protection (including any sprinkler systems in the Terminal) and other systems and facilities servicing the Terminal, foundations, and the structural soundness of the floors and exterior walls in good order, repair and condition provided however the provisions of this section shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of the Sublandlord shall be controlled by either Article XI or XII, respectively, of the Master Lease and further provided that Sublandlord shall have the obligation to maintain or cause to be maintained the cleanliness and orderliness of the Food Court Common Areas, but such limited obligations shall not impose any obligation on the part of the Concessionaire to repair, restore, refurbish, correct, install , or in any other manner make any changes, alterations, improvements or the like to any portion of said Food Court Common Areas. The foregoing obligations of the Sublandlord shall include, but are not limited to, the responsibility and liability for the repair, maintenance, replacement and restoration of all systems servicing the Premises or all portions thereof, save and except for, and to the extent of, those systems installed within any of the Concessionaire Premises, by the Concessionaire to the extent that such system services only the Concessionaire Premises.

6.4: OPERATIONS AND MAINTENANCE FEE

Concessionaire shall pay to Sublandlord, as Additional Rent, an Operation and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of Concessionaire in the operation of the Terminal ("O&M Costs"). O&M Costs include, but are not limited to: trash removal; operation,

maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage charges; and all other direct costs and expenses properly chargeable to the operation, maintenance or repair of such systems and services. Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Floor Area of the Concessionaire Premises and the denominator shall be the sum of the weighted floor areas leasable to concessionaires to which O&M Costs are allocated by Sublandlord in the exercise of its business judgment. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M Costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount Concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to he paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid.

SECTION 7 – MAINTENANCE OF PREMISES

(a) Concessionaire shall keep the Concessionaire Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Concessionaire. Any liens will be treated in the same manner as liens pursuant to the Master Lease.

(b) Concessionaire shall cause the Concessionaire Premises to be, at all times, in a first-class condition, relative to the appearance thereof as of the date the Concessionaire initially opened for business in the Concessionaire Premises, ordinary wear and tear excepted. Concessionaire covenants and agrees that it shall refurbish and renovate the Concessionaire Premises (in accordance with the terms of this Sublease and the Tenant Alteration Application) as reasonably necessary before the expiration of the Term and in accordance with the performance requirements of this agreement. The scope and extent of necessary refurbishment and renovation for each portion of the Concessionaire Premises shall be jointly determined by Sublandlord and Concessionaire, where it particularly links to the appearance of the store, signage, quality of the fixtures and in line with the initial build out categories as defined within exhibit j.

SECTION 8 – INSURANCE AND INDEMNITY

8. I: CONCESSIONAIRE'S INSURANCE

Concessionaire shall obtain and keep in full force and effect (i) an "all risk" insurance policy for its property at the Concessionaire Premises in an amount equal to one hundred percent (100%) of the replacement value thereof, and (ii) a policy of commercial general liability (including premises, operations, product liability, liquor liability and automobile liability, if vehicles will be used on the airside portions of the Airport) on an occurrence basis, (with a broad form contractual liability endorsement under the general liability policy). Such policies shall provide that Concessionaire is named as the insured and Sublandlord and the Port Authority shall be added as additional insureds, as their respective interests may appear with respect to the insurance required to be carried pursuant to (i) above. Such policy described in (ii) above shall include a provision under which the insurer agrees to insure Concessionaire with respect to any cost, expense and liability arising out of, or based upon, any and all claims, accidents, injuries and damages for which Concessionaire is required to indemnify Sublandlord or the Port Authority under the provisions of this Sublease. In addition, such policy shall contain a provision that (a) no act or omission of the Port Authority, Sublandlord or Concessionaire shall affect or limit the obligation of the insurer to pay the amount of any loss sustained and (b) the policy shall be no cancelable with respect to either Sublandlord or the Port Authority unless thirty (30) days' prior written notice shall have been given to all of the Sublandlord and the Port Authority in the manner set forth in this Sublease for notices, which notice shall contain the policy number and the names of the insured and additional insureds. In addition, upon receipt by Concessionaire of any notice of cancellation or any other notice from the insurance carrier which may materially adversely affect the terms and substance (but not the amounts) of the coverage of the insureds under such policy of insurance, Concessionaire shall promptly deliver to Sublandlord and the Port Authority a copy of such notice. The minimum amounts of liability under the policy of insurance required to be carried pursuant to (ii) above shall be a combined single limit with respect to each occurrence in an amount of $2,000,000 for injury (or death) to persons and damage to property, which amount shall be increased from time to time after the second (2nd) calendar year (but not more frequently than once per year) to that amount of insurance which is then being customarily carried by tenants of first-class retail developments in the New York New Jersey metropolitan area. All insurance required to be carried by Concessionaire pursuant to the terms of this Sublease shall be effected under valid and enforceable policies issued by reputable and independent insurers permitted to do business in the State of New Jersey and New York and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) having a general policyholder rating of "'A" and a financial rating of at least " XI". In the event of vehicles being used under this Sublease, above-referenced auto liability insurance shall be in limits of no less than $5,000,000 combined single limit per accident for bodily injury and property damage. The policy(ies) of insurance required to be carried pursuant to (ii) above will include the following statement:" Further, unless otherwise agreed by the Port Authority, the liability policy shall be specifically endorsed, to prohibit the insurance carrier from raising any defenses involving in any way the jurisdiction of the tribunal, 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 without obtaining express advance written permission from the General Counsel of the Port Authority." Concessionaire and all officers and employees of Concessionaire who may handle or are responsible for the handling of receipts and disbursements shall be covered by insurance in an amount not less than Five Hundred Thousand Dollars ($500,000) for employee dishonesty coverage against any and all loss, theft, embezzlement or other fraudulent acts on the part of Concessionaire or Concessionaire's employees, and not less than One Hundred Thousand Dollars ($ 100,000) for money and securities on or off premises, transit and depositors forgery coverage, indemnifying the Sublandlord and Port Authority, as co-obligees, against any and all loss, theft, embezzlement or other fraudulent acts on the part of Concessionaire or Concessionaire's employees.

8.2: CERTIFICATES

On or prior to the date hereof, Concessionaire shall deliver to the Sublandlord and the Port Authority certificates of insurance, including evidence of waivers of subrogation required pursuant to this Sublease, required to be carried by the Concessionaire. Evidence of each renewal or replacement of a policy shall be similarly delivered not less than ten (10) days prior to the expiration of each such policy.

8.3: COVENANT TO HOLD HARMLESS

Concessionaire and Sublandlord covenant, each to the other, to defend and indemnify the other and their respective directors, officers, partners, shareholders, representatives, management company, agents and employees, and save them harmless (except to the extent of loss or damage resulting from the negligence of the party that would otherwise be so indemnified) from and against any and all claims, actions, demands, judgments, awards, fines, mechanics' liens or other liens, losses, damages, liability and expense, including attorneys' fees and court costs, in connection with all losses, including loss of life, personal injury and/or damage to property, arising from or out of any occurrence, upon or at the Premises, as to the Sublandlord, or the Concessionaire Premises as to the Concessionaire, or arising from or out of Concessionaire or Sublandlord's, as the case may be, failure to comply with any provision of this Sublease. In case either Sublandlord or Concessionaire or any other party so indemnified hereunder shall be made a party to any litigation commenced by or against either the Sublandlord or the Concessionaire (and not litigation commenced by or against one against the other), then the Concessionaire or Sublandlord, as the case may be, shall defend, indemnify, protect and save the other harmless and shall pay, as the same becomes due and payable, all costs, expenses and reasonable attorneys' fees and court costs incurred or paid by them in connection with such litigation. The provisions of this section shall survive the expiration, termination or earlier cancellation of this Sublease for any claims, suits, demands, actions, liabilities, loss or damage which occur prior to the expiration, termination or earlier cancellation of this Sublease.

8.4: WAIVER OF RIGHT OF RECOVERY INDEMNIFICATION

(a) Except as otherwise provided in this Sublease, neither Sublandlord nor Concessionaire shall be liable to the other or the other's insurance company (by way of subrogation or otherwise) for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the non-gross negligence of Sublandlord or the Concessionaire or their respective agents or employees.

(b) Concessionaire covenants and agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives (collectively the "Port Indemnitees") from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including reasonable legal 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 default of the Concessionaire in performing or observing any term or provision in this Sublease, or out of the use and occupancy of the Concessionaire Premises, and its officers, employees and persons who are doing business with Concessionaire, or out of any of the operations, acts or omissions of the Concessionaire, or out of the acts or omissions of others in the Concessionaire Premises with the Concessionaire consent. The foregoing indemnity shall also include claims and demands of the City of New York from which the Port Authority derives its rights in the Airport for indemnification arising by operation of law or through agreement of the Port Authority with the City of New York. If so directed by the Sublandlord or the Port Authority, the Concessionaire shall,

at its own expense, defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in such handling such party shall not, without obtaining the express written permission from the General Counsel of the Port Authority, raise any defense involving in anyway the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statute respecting suits against the Port Authority.

SECTION 9 - UTILITIES

Sublandlord agrees to initially provide gas, electrical, water, sewer and such other services as Sublandlord shall, in the exercise of its reasonable discretion, determine necessary to each portion of the Concessionaire Premises. With the exception of gas and electricity, as to each of which Sublandlord shall pay all costs for the consumption thereof in all of the Concessionaire Premises, the costs of which shall be included in O&M Costs, the Sublandlord shall have no obligation for the payment of any other utilities used in the Concessionaire Premises. If the Concessionaire Premises shall have installed therein meters for any of the utilities consumed by Concessionaire, the maintenance thereof shall be at the sole cost and expense of the Concessionaire.

SECTION 10 - ASSIGNMENT AND SUBLETTING

10.1: LIMITATIONS; PROHIBITIONS

Concessionaire covenants and agrees that it shall not transfer or assign this Sublease or its interest herein or all or any part of the letting hereunder, or all or any part of the Concessionaire Premises, without obtaining the prior written consent of Sublandlord, which shall not be unreasonably withheld, and the Port Authority. Any attempted transfer, assumption, assignment or sublease shall be void, *ab initio,* and infer no rights upon any third parties. No amendment, transfer, assumption or contract shall relieve the Concessionaire of any of its obligations under this Sublease. Consent to the foregoing by anyone or more of the Port Authority and Sublandlord shall not be deemed a waiver on the part of either or both of the Port Authority or Sublandlord to any prohibition against any future transfer, assignment, assumption or sublease. The term "transfer" includes, but is not limited to transactions in which any interest of the Concessionaire in this Sublease or the Concessionaire Premises are mortgaged or otherwise encumbered or in which the Concessionaire sublets, rents or otherwise permits occupancy or use of the Concessionaire Premises or any part thereof. If Concessionaire is a corporation, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the issued or outstanding stock of said corporation shall change, shall be deemed to be a transfer, provided, however if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "over-the-counter" market, then such sale, assignment or transfer of stock shall not be deemed a transfer. If Concessionaire is a corporation, or if Concessionaire is a corporation whose stock is owned by a corporation ("Parent"), any transfer of any issued or outstanding stock of the Concessionaire or Parent which is a transfer shall require the prior consent or approval of the Sublandlord and the Port Authority. From and after the date upon which a transfer occurs, and irrespective of whether or not either or both of the Sublandlord and the Port Authority shall issue their respective consent and approval, any abatement and waiver, if then in effect, shall thereafter cease and seventy-five percent (75%) of the Minimum Annual Guaranteed Rent shall, thereafter be due and payable if current senior management is not in control of the operations. Notwithstanding the foregoing exclusion, a sale of only those of the assets of any such corporation which are limited to less than all of the assets of the corporation, e.g., the Concessionaire Premises, shall be a "transfer" within the scope of this provision and require the prior written consent of the Port Authority and the Sublandlord. If Concessionaire is a partnership or joint venture, any sale, assignment or transfer, by operation of law or otherwise, of any interest in such partnership or joint venture shall be deemed to be a transfer. If Concessionaire is a limited liability company, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the membership interests in such limited liability company shall change, shall be deemed to be a transfer, provided, however, if the membership interests of such limited liability company are publicly traded on a national securities exchange or on the "over-the-counter" market, then this restriction on sale, assignment or transfer of membership interests shall be inapplicable.

Notwithstanding the foregoing provisions of this Article X containing a definition of the term "transfer" and exclusions or exceptions thereto, which shall not be binding upon or enforceable against the Port Authority, and regardless of whether the Sublandlord has in fact consented to any further subletting of the Concessionaire Premises or a proposed transfer, Sublandlord's consent will be of no force and effect and shall not be binding upon the Port Authority in any manner whatsoever. No such further subletting or a proposed transfer shall be effective and no estate or benefit shall be conferred on anyone until such time as the Port Authority has consented in writing, as determined in the Port Authority's sole and absolute discretion, to any such further subletting or a proposed transfer (including, without limitation, nothing otherwise permitted in this Article X shall become effective until such time as the transferee, any other applicable parties and the Port Authority have entered into an agreement in form and substance required by the Port Authority). In addition, the terms and provisions of the Port Authority Consent, which in any way discusses and/or addresses the subject matter covered in this Article X shall be controlling and

shall govern. Further, if this Sublease is assigned by Sublandlord and assumed by the Port Authority for any reason whatsoever, the Port Authority shall have the right to determine, in its sole and absolute discretion, whether any of the provisions of this Article X (which are stated to be between the Concessionaire and the Sublandlord) shall be binding upon and enforceable against the Port Authority and thereafter be considered to be a part thereof. Notwithstanding anything contained in this Article X to the contrary, Sublandlord shall not withhold its consent to an assignment or transfer of this Sublease to any entity wholly owning Concessionaire or wholly owned by Concessionaire.

10.2: DBE CHANGE NOTICE

If Concessionaire is a DBE, Concessionaire shall notify the Sublandlord and the Port Authority, in the manner as set forth in Section 17.6, below, of each and every change in the ownership or ownership structure of Concessionaire ("Change Notice") within thirty (30) days after each such change.

SECTION 11 - DAMAGE AND DESTRUCTION

11.1: DAMAGE TO THE CONCESSIONAIRE PREMISES

In the event of damage to, or destruction of; any portion of the Premises or Concessionaire Premises, or the fixtures and equipment therein and said portion, fixtures or equipment was originally within the Sublandlord' Work, or any system within the Concessionaire Premises being the obligation of the Sublandlord to maintain, replace, or restore, the Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. Notwithstanding any damage to the Concessionaire Premises, to the extent that the Concessionaire Premises can be reasonably operated without risk of injury or damage to person or property, Concessionaire agrees to open, or reopen, as the case may be, and, in all events, to reopen for business immediately upon the completion of the foregoing repairs, restoration and rebuilding. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then either party has the right to terminate the Concessionaire Sublease, as to that portion, or those portions of the Concessionaire Premises, so damaged. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises terminated to the floor area of the Concessionaire Premises as of the day of said damage. Rent shall wholly abate in the event the entire Concessionaire Premises is untenantable, or shall abate pro rata for the portion untenantable until the Concessionaire Premises are fully restored.

11.2: DAMAGE TO TERMINAL

In the event of damage to, or destruction of, any portion of the Terminal, other than as set forth in Section 11 .1, above, Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Master Lease, as to that portion, or those portions of the Concessionaire Premises so damaged. If Sublandlord exercises such right, and the portion of the Concessionaire Premises affected thereby includes the Concessionaire Premises, then this Sublease shall end, as of the date of said termination. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises as to which this Sublease was terminated to the floor area of the Concessionaire Premises as of the day of said damage.

SECTION 12 – EMINENT DOMAIN

12.1: CONDEMNATION

(a) If the whole of the Premises or any portion of the Concessionaire Premises shall be taken by any public authority under the power of eminent domain or sold to a public authority under threat or in lieu of such taking, then the Term shall cease as of the day upon which possession is taken by such public authority, and the Rent shall be paid up to that day.

(b) A voluntary sale or transfer of interest-of all or any part of the Premises or of the Terminal to any public or quasi-public body, agency, person or other entity, corporate or otherwise, having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purposes of this Article 12.

12.2: DAMAGES AND AWARDS

All awards and damages for such taking under the power of eminent domain or proceeds from any sale under threat or in lieu of such a taking, shall belong to and be the property of the Sublandlord or the Port Authority, irrespective of whether such damages shall be awarded or proceeds obtained as compensation for diminution in value to the leasehold improvements thereto, and Concessionaire shall have no claim against Sublandlord or the condemning authority with respect thereto; provided, however, neither the Sublandlord nor the Port Authority shall be entitled to any award specifically designated as compensation for, depreciation to, or cost of removal of, the stock and trade fixtures of the Concessionaire.

SECTION 13 – DEFAULT

13.1: EVENTS OF DEFAULTS BY CONCESSIONAIRE

Events of Default. It shall be an "Event of Default" hereunder if any of the following shall occur:

(a) Failure to Make Payment

(i) Concessionaire fails to make any payment of Rent to the Sublandlord, and such failure continues for a period of five (5) days after Concessionaire's receipt of written notice thereof.

(ii) Concessionaire fails to make any payment of Rent to the Port Authority within the cure *period permitted by the Port Authority.*

(b) Concessionaire defaults or otherwise fails to perform or observe any of the covenants, terms or conditions contained in this Sublease to be performed or otherwise observed by Concessionaire (except for the payment of Rent, as set forth in (a), above) and such default or failure is not cured or performed within fifteen (15) days after Concessionaire's receipt of written notice thereof (or, if Concessionaire has, within said (15) day period, commenced and continued curative action which requires a longer period, then a written solution must be provided to Sublandlord to determine action and date of resolution. The Sublandlord shall review the timeline to confirm acceptance of failure to perform in accordance with this Sublease).

(c) Pursuant to an order, judgment or decree entered by any court of competent jurisdiction that is not discharged or dismissed within thirty (30) days, (i) a receiver, trustee or liquidator of Concessionaire or of all or substantially all of the assets of Concessionaire shall be appointed or (ii) Concessionaire shall be adjudicated a bankrupt or insolvent, or (iii) a petition seeking reorganization of Concessionaire or an arrangement with creditors or a petition to take advantage of any insolvency law shall be approved and Rent shall not thereafter be paid in accordance with the terms hereof.

(d) If Concessionaire is a DBE, a failure to provide the Change Notice as required pursuant to Section 10.2, hereof.

(f) Failure to timely deliver the Bond, and each replacement thereof; provided that Concessionaire is given a reasonable notice and cure period.

(g) The act or omission of the Concessionaire which, under the terms of this Sublease or the Master Lease is prohibited and which, if not timely corrected, would result in the Port Authority having the right to terminate either or both of the Master Lease or this Sublease.

13.2: RIGHTS AND REMEDIES; SUBLANDLORD

(a) If there exists an Event of Default by Concessionaire, Sublandlord, after fifteen (15) days notice from Sublandlord that Sublandlord intends to cure such Event of Default, shall have the right, but not the obligation, to cure same and Concessionaire shall pay to Sublandlord, upon demand, as Additional Rent the reasonable cost thereof plus interest at the Default Rate until such Additional Rent has been paid in full.

(b) If there exists an Event of Default, Sublandlord shall have the right, in addition to the rights set forth in Section 13.2(a) above, to seek all remedies as are available at law or in equity.

(c) After a dispossess or removal in accordance with Law, Sublandlord shall use reasonable commercial efforts to re-sublet the Concessionaire Premises or any part or parts thereof either in the name of Sublandlord or otherwise, for a term or terms which may, at the option of Sublandlord, be greater or less than the period which would otherwise have constituted the balance of the Term, and Concessionaire shall be obligated to pay Sublandlord any deficiency between the Rent due hereunder and the amount, if any, of the Rent collected on account of the new sublease or subleases of the Concessionaire Premises for each calendar year, or portion thereof, which would otherwise have constituted the balance of the Term. In computing such damages there shall be added to said deficiency the costs for reasonable attorneys' and brokerage fees, which Sublandlord actually expends in connection with re-subletting the Concessionaire Premises. Such damages shall be paid by Concessionaire in installments on the dates specified in this Sublease for payment of Minimum Annual Guaranteed Rent and any suit brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Sublandlord to collect the deficiency for any subsequent period by a similar proceeding. Sublandlord shall not be liable for failure to re-sublet the Concessionaire Premises or, in the event that the Concessionaire Premises are re-sublet, for failure to collect the Rent under such re-subletting.

SECTION 14 – TAXES ON PROPERTY OF CONCESSIONAIRE

Concessionaire, solely, and neither the Sublandlord nor the Port Authority are or shall be responsible or liable for any taxes, assessments, levies, fees and other governmental charges and impositions of any and every kind or nature, regular or special, direct or indirect, foreseen or unforeseen or known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (i) Concessionaire's leasehold interest in the Concessionaire Premises, or (ii) furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Concessionaire Premises by Concessionaire.

SECTION 15 – HOLDING OVER

Any holding over after the expiration of the Term shall be construed to be a tenancy from month-to-month and the Minimum Annual Guaranteed Rent payable, on a monthly basis, shall be at an amount equal to one-twelfth (1/12th) of 200% of the Minimum Annual Guaranteed Rent required to be paid by Concessionaire for the last full year of the Term.

SECTION 16 – QUIET ENJOYMENT

Upon payment by Concessionaire of Rent and upon the timely observance and full performance of all the covenants, terms and conditions on Concessionaire's part to be observed and performed under this Sublease and the Port Authority Consent, Concessionaire shall peaceably and quietly hold and enjoy the Concessionaire Premises for the Term free from and without hindrance or interruption by Sublandlord or any other person or persons claiming by, through or under Sublandlord, subject however, to the Master Lease and the Port Authority Consent.

SECTION 17 – MISCELLANEOUS

17.1: ESTOPPEL STATEMENT

At any time and from time to time, both parties agree that, upon request in writing from the Sublandlord or the Port Authority, or their respective designee, to execute, acknowledge and deliver, within ten (10) days after request therefor, to the requesting party or its designee, a written statement certifying that this Sublease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent has been paid, the Minimum Annual Guaranteed Rent Commencement Date, the Expiration Date, and such other pertinent and reasonable information regarding this Sublease and Concessionaire's occupancy of the Concessionaire Premises as may be requested.

17.2: WAIVER; ELECTION OF REMEDIES

One or more waivers of any covenant or condition by Sublandlord or the Port Authority shall not be construed as a waiver of a subsequent breach of the same covenant or condition. And the consent or approval by Sublandlord or the Port Authority to or of any act of Concessionaire requiring consent or approval of either, any or both of the Sublandlord, and the Port Authority shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act. No breach by Concessionaire of a covenant or condition of this Sublease shall be deemed to have been waived by either, any or both of the Sublandlord or the Port Authority unless such waiver is in writing signed by each non-breaching party. Rights and remedies under this Sublease or under any specific section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which each party has or may have elsewhere under this Sublease or at law or in equity, whether or not such section, subsection or clause expressly so states.

17.3: ENTIRE AGREEMENT

The Glossary and Basic Sublease Provisions, this Sublease and all exhibits and/or addendum(s), and/or rider(s), if any, attached to this Sublease are hereby made a part of this Sublease, with full force and effect as if set forth herein. This Sublease supersedes all prior agreements between the parties hereto and sets forth all the covenants, promises, agreements and conditions, and understandings between Sublandlord and Concessionaire concerning the Concessionaire Premises, and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. The parties agree that any deletion of language from this Sublease prior to its mutual execution by Sublandlord and Concessionaire shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, obverse or opposite of the deleted language. No alteration, amendment, change or addition to this Sublease shall be binding upon Sublandlord or Concessionaire unless reduced to writing and signed by each party.

17.4: INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither the method of

computation of Rent, any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

17.5: DELAYS; FORCE MAJEURE

Time is of the essence in the performance under this Sublease. In the event Sublandlord or Concessionaire shall be delayed in the performance of any obligation, covenant, agreement or other undertaking required of it under this Sublease, by reasons of strikes; lockouts; labor disputes; Acts of God; inability to procure labor, materials, or reasonable substitutes therefor; or shall at any time be so delayed by reason of the diminution of power or power failure(s); restrictive governmental laws or controls; judicial orders; enemy or hostile governmental action; civil commotion; fire or other casualty, or reasons of a similar nature not the fault of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the time for performance shall in no event be extended due to financial or economic problems of any party. Notwithstanding anything to the contrary, the occurrence of any of the events of force majeure herein described shall not excuse Concessionaire's obligations to pay Rent on a timely basis.

17.6: NOTICES

Any notice or demand to Concessionaire or from Concessionaire to Sublandlord or the Port Authority shall be in writing and shall be mailed by either (a) certified mail addressed, return receipt requested with proper postage affixed thereto or (b) a Delivery Service, prepaid, if to Concessionaire, at the address of Concessionaire as set forth in the Glossary and Basic Sublease Provisions, or such other address as Concessionaire shall have last designated by notice in writing to Sublandlord and the Port Authority, and, if to Sublandlord or the Port Authority, to the address set forth in the Glossary and Basic Sublease Provisions, or such other address as Sublandlord shall have last designated by notice in writing to Concessionaire. Any notice sent or otherwise delivered in accordance with the foregoing shall be deemed served and effective upon the earlier of (i) the date of receipt or refusal to accept delivery, (ii) the second business day following the date upon which the notice has been delivered to the Delivery Service; or (iii) the third business day following the date upon which the notice has been deposited with the U.S. Postal Service with proper postage thereon.

17 .7: CAPTIONS AND SECTION NUMBERS

The captions, section numbers and article numbers and index appearing in this Sublease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Sublease or in any way affect this Sublease.

17.8: BROKERS' COMMISSIONS

Concessionaire and Sublandlord represent and warrant each to the other and the Port Authority that there are and shall be no claims for brokerage commissions or finder 's fees in connection with this Sublease, and each party agrees to indemnify the other, the Sublandlord and the Port Authority and hold each and all of them harmless from all liabilities arising from any claim for brokerage commissions and finder 's fees in connection with this Sublease. Such agreement shall survive the expiration or sooner termination of this Sublease.

17 .9: SUCCESSORS

All rights and liabilities herein given to, or imposed upon, the parties to this Sublease shall inure to and be imposed upon the respective heirs, executors, administrators, permitted successors and assigns of the said parties; and if there shall be more than one Concessionaire, they shall all he bound jointly and severally by the terms, covenants and agreements herein.

17.10: GOVERNING LAW

This Sublease shall be governed by and construed in accordance with laws of the State of New York. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties, to the extent possible; in any event, all other provisions of this Sublease shall be deemed valid and enforceable to the full extent.

17.1 I: SURVIVAL OF OBLIGATIONS

All obligations of both the Concessionaire and Sublandlord which cannot be ascertained to have been fully performed prior to the end of the Term, or any earlier termination hereof shall survive the expiration or termination of this Sublease, whichever occurs earlier.

17. 12: ATTORNEYS' FEES

If at any time after the date that this Sublease has been executed by Sublandlord and Concessionaire, either Sublandlord or Concessionaire institutes any action or proceeding against the other relating to the provisions of this Sublease or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of the Law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Notwithstanding anything to the contrary contained herein, if either Sublandlord or Concessionaire engages the services of attorneys (either outside counsel or in-house counsel) to enforce the provisions of this Sublease, to the extent that either incurs any cost or expense (including such reasonable attorneys' fees for outside counsel or payroll and overhead expenses for in-house counsel, as the case may be) in connection with such enforcement, including instituting, prosecuting or defending its rights in any action, proceeding or dispute by reason of any default by Concessionaire or Sublandlord, as the case may be, sums so paid or billed to Sublandlord or Concessionaire, as the case may be, together with all costs and disbursements, shall be paid by the Concessionaire to the Sublandlord, or Sublandlord to Concessionaire, as the case may be, within ten (10) days after demand therefor. If Concessionaire fails to timely pay same, such will be deemed Rent and thereafter be due together with interest at the Default Rate. If Sublandlord fails to timely pay, such amount may be offset from the Minimum Annual Guaranteed Rent thereafter becoming due and payable to Sublandlord, but may not be offset against any rent thereafter becoming due and payable to the Port Authority, together with interest at the Default Rate, until the full amount has been so offset. Any amounts overpaid to Sublandlord by Concessionaire shall be promptly repaid at the end of the Term.

17. 13: EXCULPATION

Concessionaire, for itself and its successors and assigns covenants and agrees that it or they shall enforce any obligation of the Concessionaire contained in this Sublease solely against Sublandlord and not against any of the Protected Parties or in any manner realized upon the personal liability or assets of any of the Protected Parties. This is intended and shall be construed and interpreted as a covenant on behalf of each the Concessionaire and its successors and assigns not to sue or seek enforcement of any judgment against any of the Protected Parties. In

the event that suit is brought to enforce any obligation of the Sublandlord, Concessionaire for itself and its successors and assigns, covenant and agree that judgment proceedings shall be enforced only against the interest of the Sublandlord in the Premises and in no event against any other assets of Sublandlord, and that, after application of the proceeds of any seizure and sale of said assets, the obligation of Sublandlord hereunder shall be then and thereafter deemed fully discharged.

17 .14: TERMINATION BY PORT AUTHORITY WITHOUT CAUSE; WAIVER AND RELEASE

(a) Concessionaire acknowledges that the Port Authority has reserved and has the right with Sublandlord's concurrence to terminate any of the Concessionaire Subleases and the Term upon thirty (30) days prior written notice to Sublandlord and each of the affected Concessionaire(s) whether or not there then exists an Event of Default, such termination hereinafter referred to as " Discretionary Termination."

(b) Sublandlord covenants and agrees that, if the Port Authority shall exercise its right to terminate this Sublease by a Discretionary Termination, then the Sublandlord shall pay to the Concessionaire an amount equal to the Unamortized Capital Investment, as defined in (c), below, as of the effective date of the Discretionary Termination.

(c) For purposes of subsection (b) above, "Capital Investment" shall be Concessionaire's actual aggregate expenditures for initially constructing and equipping the Concessionaire Premises; and the term "Unamortized Capital Investment" shall mean the amount of the Capital Investment that, but for the Discretionary Termination, would have been amortized for the period from the effective date of such termination to the Expiration Date.

17.15: LETTERS OF CREDIT

Concessionaire covenants and agrees that it shall deliver, or cause to be delivered to each of the Sublandlord and the Port Authority, prior to the date upon which the Concessionaire initially opens for business to the public in the Concessionaire Premises, an unconditional, irrevocable so-called "evergreen" letter of credit or surety bond, being in an amount of [50%] to the Port Authority and [50%] to the Sublandlord of the Minimum Annual Guaranteed Rent to be paid for the then-current calendar year, but in no event less than $287,500.00 for the Port Authority and $287,500.00 for the Sublandlord. The issuer of each said letter of credit or surety bond is to be approved by (i) as to the Letter of Credit for the Sublandlord, the Sublandlord; and (ii) as to the letter of credit for the Port Authority, by the Port Authority, and each of the two letters of credit are to provide for partial draws upon demand therefor by the respective beneficiary of each such letter credit.

17.16: RESERVED

17. 17: AUTHORITY OF EXECUTION

If Concessionaire is a corporation, limited liability company or limited partnership, Concessionaire shall furnish to Sublandlord at the time of execution of this Sublease (a) a certificate issued by the state of its formation that the Concessionaire is in good standing in said state, (b) a certified copy of its Certificate of Incorporation, Articles of Organization, Certificate of Formation, or such other documentation as used in the state of its formation whereby the Concessionaire was originally formed in said state, and (c) a certified copy of the resolution of the Board of Directors, General Partners, Managers or Managing Members of other party(ies) having the power of control of the Concessionaire approving this Sublease and authorizing its execution by the persons who have signed or will sign this Sublease.

17. 18: AFFIRMATIVE ACTION AND NON-DISCRIMINATION

(a) Concessionaire assures it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, color, sex, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises, either directly or indirectly, from the Port Authority. Concessionaire assures that it will require that its covered sub organizations will similarly undertake affirmative action programs, and that they will require assurance from their sub organizations to the same effect.

(b) This Sublease is subject to the requirements of the U.S. Department of Transpiration's regulations, 49 CFR Part 23. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Pan 23.

Concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Pan 23 that it enters and cause those businesses to similarly include the statements in further agreements.

EXHIBIT "A"
DEPICTION OF CONCESSIONAIRE'S PREMISES AND RENDERING

"R8_R81 Plans.ppt"

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

EXHIBIT "B"
DESCRIPTION OF SUBLANDLORD'S WORK

Sublandlord shall provide each component of the Concessionaire Premises in accordance with the Concession Design and Construction Manual attached hereto and by this reference made a part hereof.

"Concessions Design
& Construction Manu.

BRITISH AIRWAYS

JFK INTERNATIONAL AIRPORT

TERMINAL 7

CONCESSIONS DESIGN AND CONSTRUCTION MANUAL

UNISON-MAXIMUS

TRANSYSTEMS

Revised August 25, 2006

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SECTION 1 - GENERAL PROCEEDURES

1.0 INTRODUCTION

British Airways, dedicated to enriching the traveler's experience, is implementing an expansion to their JFK Terminal 7 Plan as it pertains to Concessionaires. This plan is to include new retail spaces, the on-going improvement and modification of existing leaseholds in order to present a unified design. The purpose of this Concessions Design & Construction manual is to identify the responsibilities and obligations of the parties seeking to join British Airways in fulfilling this endeavor.

This manual is separated into section.

Section 1 -	Definitions, codes, safety and security, permits / fees and a number of point's regarding working at airports.
Section 2 -	Outlines the three step design submission process.
Section 3 -	Design guidelines and technical requirements including but not limited to floors, walls, ceilings, signage etc.
Appendices	As listed in the Table of Contents

1.00 Organization

The Terminal Concessions projects are coordinated by TranSystems Corporation, the Design & Construction Coordinator, who serves as the liaison between the Concessionaire, the Concessionaire's design and construction personnel, British Airways, Unison / Maximus and the Port Authority. The Port Authority is the governing agency which enforces compliance with code requirements in the design and construction of all facilities at the Terminal. The Concessionaires is the responsible for his own dosing and construction personnel and must ensure that all work is in compliance with the Manual, all ode requirements and the submittal process.

1.1 Terms used in this Manual

"Owner" means British Airways (BA)
"Tenant / Concessionaire" means a permitted concession operator who is designing / constructing or operating a retail store or restaurant in the Terminal Building.
"Design and Construction Coordinator" (D&CC) means TranSystems Corporation
"Port Authority" means The Port Authority of New York and New Jersey (PANYNJ)
"Developer / Landlord" means Unison-Maximus (UM)

1.2 Applicable Codes and Standards

The tenant shall be responsible for reviewing and implementing, as part of their design, all codes and regulations applicable to the work. Review of the Tenant's documents by the Landlord, or the Design and Construction Coordinator, does not relieve the Tenant of responsibility to satisfy all applicable regulations.

Tenant design and construction must comply with applicable Federal, State and local laws, statutes, orders, codes, ordinances and regulations that are legally applicable to the work to be performed. For all construction at the Terminal, the Port Authority enforces Federal and State laws and regulations; New York City Building Codes; and the Port Authority and JFK Design/ Policy Standards. The latest editions of the following New York City codes and regulations should be utilized:

1. New York City Building Code and its Reference Standards
2. New York City Fire Prevention Code and Directives
3. New York City Local Laws
4. Rules of the Board of Standards ~ Appeals (BS&A)
5. New York State Labor Laws
6. New York State Energy Conservation Construction Code

This manual must NOT be referred to in construction documents.

1.3 Safety and Security

A safe, secure and healthy environment is to be maintained within the work place. Special procedures are required for air quality management within the leased premises during construction to ensure the Terminal is not adversely affected.

Security during construction is the Tenant's responsibility and all necessary precautions are to taken to secure the premises. The Landlord shall have no liability for any loss or damage including theft of building materials, equipment or supplies.

The following information is intended to assist the Concessionaire in developing design documents for review and approval. The outlined criteria identify specific requirements and physical limitations that influence the design, but still encourage individuality to achieve an interesting, exciting and unique shopping and dining environment.

1.4 Permits, Fees and Approvals

Tenants are responsible for obtaining all permits, paying all fees and obtaining all required approvals. Tenants upon completion of their work shall secure all applicable certificates of inspection and occupancy prior to occupying their space.

1.5 Statement of Professional Responsibility

All Concessionaire facilities must be designed by a practicing professional architect and/or engineer licensed in the State of New York. The professional must sign and seal the work, which must be confined to the profession in which he/she is licensed.

1.6 Information Releases

Through press releases, and the release of information in general, British Airways and Unison-Maximus keep the public informed and maintain public interest and support for activities in the Terminal. News releases should reflect the overall activities, goals and objectives of the airport, rather than emphasize an isolated event. Thus, all communications to the public media must first be submitted to the Owner's representative for approval and coordination with other releases.

1.7 Accessibility Standards

All facilities shall be designed and constructed in compliance with current Americans with Disabilities Act and Accessibility Guidelines (ADAAG), the New York Department of Building requirements and the Port Authority requirements.

1.8 Base Building Drawings for Tenant Use

The Tenant will be given by D&CC the following electronic drawing files;

1. LOD Key Floor Plan
2. Architectural Floor Plan
3. Architectural Reflected Ceiling Plan – if available.
4. Mechanical, Electrical, Plumbing and Sprinkler Plans of the premises, if available.
5. Sections and elevations and additional details as applicable to the premises.

1.9 Concessionaires / Tenant Design Construction Manual

Tenant's / Concessionaires, Architects, Engineers and contractors must be familiar with this Tenant Design Construction Manual - which is part of the Concessionaire's sublease and is hereby incorporated therein in its entirety - as well as with the Port Authority's Tenant Alteration Application Procedure & Standards Guide and Tenant Construction Review Manual. While the Manual refers to legally binding codes and standards, it is not in itself a code, standard or specification, but rather a guide for the Concessionaire's design consultants. The Manual must NOT be referred to in construction documents.

1.10 Working in the Airport

It is the responsibility of the Tenant and its Contractor to obtain and review guidelines or procedural manuals concerning security and construction at the Terminal and Airport. Points of

1.10 Working in the Airport continued

particular attention are listed below;

1. The Tenants representatives while confined to work in the premises must coordinate the movement of construction materials; noise and engineering service connections and shut downs with the Landlord, BA and the D&CC so as not to disturb the operations of the airport. These operations are to be scheduled by the Tenants Contractor giving five working days notice of the intention of such work and will only be allowed to proceed following written approval. The Landlord reserves the right to stop the Tenant's Work at any time should any such operation be deemed to be disruptive to the operations of the Airport.

2. Security passes will be required of the Tenant's Contractor and their personnel in those areas termed 'Airside' – beyond the secure check in locations. Personnel not badged will need to be escorted per security procedures in affect at the Terminal.

3. Deliveries to and removals from the Terminal will also require security clearances that must be complied with for all the Tenant's Contractor and Sub-Contractors per the existing Airport / Terminal Security Requirements.

4. Welding, cutting, grinding, coring or any such similar undertaking for any work within or outside of the premises will not be permitted without written 'Special Service Notice' from the Landlord. All such request for such work must be submitted at least five full working days in advance of such intention and could require special undertakings such as venting of fumes or stand by fire safety personnel. This applies to roof access as well.

5. The coring of the floor can only be allowed following the x-raying of the area to ensure clearances from structure or other in-slab services. The area beneath must be inspected and at the time of the core(s) being made the Contractor must have a representative below to ensure safety of any falling material or water damage from the equipment.

6. Should any element of the premises subject the existing structure to point loads either on the slab or suspended from the structure above raise concern by BA, Landlord or the D&CC representatives the Landlord reserves the right to have such concern evaluated by the Tenant's Structural Engineer at the Tenants expense. If required a signed and sealed evaluation / drawing could be requested. Questions of this nature raised by the PANYNJ during the submission process will be evaluated prior to the Approval to proceed to construction or become apart of the Rider Comments.

7. The requirement to 'tie into' or to temporarily shut down the existing fire alarm system within the premises requires a 'Special Service Notice.' All such request for such work

1.10 Working in the Airport continued

7. must be submitted at least five full working days in advance of such intention. In the event of shut down any special security and fire watch personnel needed will to be employed at the Tenant's expense.

8. The Tenant's and their Design Professionals will be required to thoroughly investigate the area of the premise to determine where and how all engineering services are to be tied into for the space. While some of the areas are established 'Retail Spaces' others are not. In such conditions it is the responsibility of the Tenant's Design Professionals to determine the point of tie in (connection) and extend the service as necessary to the premise as a part of the building contract. The services in question must also be evaluated for load / capacity and calculations if necessary provided to PANYNJ, BA, Landlord or D&CC. This includes but is not limited to the following; phone data lines, drainage, power, HVAC, sprinklers, fire alarm, natural gas, airport speakers etc.

End of Section

SECTION 2 – TENANT DESIGN SUBMISSIONS

2.0 General

1. Drawings, samples and specifications for the proposed premises are to be submitted to the Landlord, BA and the D&CC for review. D&CC – TranSystems will act as the distributor of information to and from the Tenant's Design Team. The sequence and process are defined in this section. The final submission drawings must be sealed by Architects and Engineers licensed in the State of New York.
2. All Tenant work to be in compliance with codes and particular attention is drawn to the non-combustible classification of the building, related flame spread ratings, smoke development classification of materials and the seismic restraint of construction elements.
3. The general clearances in and around fixed and free standing furniture must comply with ADA guidelines, 36" minimum. An ADA shelf / ledge or surface of appropriate width and height must be near to one of the cash register positions.
4. The Tenant's designers are free to use their conventional layer systems and CAD programs. At the project close-out the 'Record Drawings' are to be submitted in the following formats.
    A. One CD with all contract drawings updated to show the 'As Built' condition. This represents the 'CD of Record Drawings.'
    B. One new / clean printed set of Contract Drawings updated per item A above, this will not require the signature and seal of the Architects or Engineers.
    C. On the CD noted in A above the Tenant's Design Team is to place a simplified drawing named and layered as described below.
5. The Tenant's Design Team are to provide a single, plan drawing in AutoCAD version 2006 or later in 2D without any three dimensional objects or blocks and all line-work flat on the 'Z' plane in the following layer convention which will be inserted into the terminal master plan;
    A. Airport Column Lines – color 1 – line wt .12
    B. Airport Construction – color 3 – line wt .12
    C. Tenant Construction – color 41 – line wt .12
    D. Tenant Fixed / Free Standing Furniture – color 4 – line wt .12
    E. Tenant Electrical & Data Floor & Wall outlets – color 5 – line wt .12
    F. Tenant RCP all ceiling elements – FPE / MEP – color 7 – line wt. .12
    G Tenant Merchandizing plan, general text mags, etc. – color 8 – ln. wt.12.
    H This plan constitutes a separate drawing without a border sheet or text, other than that noted for the merchandizing plan, or any other detail notes, section or detail marks and is to be titled 'the premise name, space designation number and date in the following format;; mm/dd/yy..

2.1 FIRST DESIGN SUBMISSION

2.2 The Tenant's designer's attention is directed to the details / drawings appended to the back of this manual and the section heading '3 Design Criteria and Technical Requirements.'

2.3 The first Submission is to be presented on 11" x 17" sheets mounted to ¼" black Foam Core board. The boards are to be read horizontally with a line one inch (1") above the bottom edge allowing for the Tennant's Logo on the left, a title in the middle and Design Team Logo on the right. See Details drawings appended to the back of this manual. Note there is Materials Board described in 2.8 below.

2.4 Colored / rendered Floor plan – Three copies mounted per 2.3 above. Text is to be used to spell out the floor, free standing floor fixtures, wall units, special features and their respective finishes. In confined areas dimensioned clearances are to be shown to comply with clearances noted above.

2.5 Black & White Merchandizing plan – Three copies mounted per 2.3 above. Text is to be used to spell out the general locations of product intended to be displayed / sold. The purpose of this plan is to confirm the intentions of the Lease Documents with the Landlord and avoid design revisions due to misunderstandings. This is not intended to be exhaustive but sufficient so that the Tenant's designers are clear as to the kind or type of fixture is required.

2.6 Black & White Reflected ceiling plan – Three copies mounted per 2.3 above. General arrangements of ceiling features, lighting, intended heights and types of finish spelled out.

2.7 Colored / rendered Storefront Elevation - Three copies mounted per 2.3 above. The elevation may be skewed to represent a perspective if desired and must show the finishes with text to spell out features and materials intended. The Tenant's designers are to review the fascia signage zone details at the back of this manual.

2.8 One 11"x 17" materials board of ¼" black Foam Core board is required showing materials intended for use fixed to the board face. This may be supplemented with graphics if apart of the intended finishes or store lighting systems or a special feature needs to be clarified. An additional board may be added if necessary. The back of the board must explain the materials or graphics shown on the front in simple ghost layout of rectangles or squares with the description contained within the shapes. Following completion of a board the remaining two copies require the board to be color scanned and the print fixed to the front of the Foam Core per 2.3 above. A simple Xerox of the material clarifications on the back must be duplicated per the original.

2.9 The Tenant's proposal will be evaluated and comments returned within one week from the date of receipt.

2.10 SECOND DESIGN SUBMISSION

2.11 Upon receipt of the comments the Tenant's Design Team will have two weeks to prepare and submit the second submission; three weeks will be permitted if requested.

2.12 The format for this submission is the start of the development of the CD set. Drawings in 24" x 36" format are acceptable for PANYNJ retail projects. Should the Client's designers prefer 22" x 34" to ease the half set publication in 11" x 17" this is acceptable as well.

2.13 The intent of the first CD set is to provide clarification to the comments raised while allowing the Contract Documents to progress as quickly as possible. The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. Title page with usual airport key plan, terminal location plan and site location plan with north and working north arrows shown. A code evaluation must be shown and escape distances indicated. The usual listing of Client / Owner / Landlord / Space No. and store title together with a list of the drawings.
B. The general conditions may be either book form or part of the drawing set.
C. The specifications may be either book form or part of the drawing set.
D. Architectural plans at ¼" scale for setting out, finishes, fixture types etc.
E. Architectural ceiling plans at ¼" scale for lighting, coordination with MEP.
F. Architectural elevations at ½" scale both storefront and internal as required.
G. Architectural construction details as required.
H. Both wall fixed and free standing fixture details
I. Signage proposals and details at scales that clearly show materials and sizes.
J. Fixture cut sheets in book format.

2.14 This CD submission forms the first chance to evaluate the MEP requirements and is of particular importance to the evaluation team.

2.15 The Tenant's design team is again reminded of the importance to perform a thorough site investigation in order to find those services required. Should the investigation show that the necessary services needed and the routings proposed require disruption to other retail establishments, concourse or holding areas or any other space then careful consideration will be need to evaluate the proposal. Any such findings will need to be noted and added to the drawings to allow bidding contractors to provide accurate estimates for the work to be done.

2.16 The Tenant's design team is reminded that the site investigations necessary to locate a service must also include an evaluation of the capacity of that service to suit their means. Some detail measurements may be necessary to evaluate flow rates, power etc.

2.17 The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. All the Engineering Specifications may be placed on the drawing sheets or in a book together with the others if that is the preferred method.
B. Fire Prevention drawing for the plan information at the scales noted above for Architectural and detail sheets as required.
C. HVAC drawing for the ceiling plan information at the scales noted above for Architectural and detail sheets as required.
D. Electrical / Power drawing for the plan and ceiling information at the scales noted above for Architectural and detail sheets as required.

2.18 Should the services of a Structural Engineer be required, then there specifications may be added to the drawings or included in the book format and would follow those scales noted above with appropriate details sheets as required.

2.19 The evaluation of this submission by BA, Landlord and D&CC will be one week and the drawings do not need to be signed and sealed.

2.20 **THIRD DESIGN SUBMISSION**

2.21 The Tenant's design team will evaluate comments and revise and issue the final CDs / Design within a one week period, two weeks will be granted upon request. Changes to the CDs need only be noted in an accompanying letter signed by the Architect / Engineer referring on a point by point basis to the comments listed by the Landlord / BA / D&CC. This issue of the CDs must be singed and sealed by the design professionals. The documents must include the standard PANYNJ – TAA (Tenant Construction of Alteration Application) form signed and sealed by the design professional. This form must be correctly filled out with the exact information required by the PORT.

2.22 At this point the Port Authority Approval Process phase begins.

2.23 The D&CC will review the signed and sealed CD documents for compliance with the comments list and then submit all documents to the PANYNJ on behalf of the Tenant within two working days of receipt. Number of copies of each document / CD set to be confirmed by D&CC.

2.24 The review process by the PORT will take an estimated three to five weeks. The PANYNJ comments referred to as, 'The Rider,' will be transmitted directly from the D&CC to the Tenant's design team upon receipt. During this period if not earlier the Tenant's design team is advised to seek bids.

2.25 The Rider will clarify conditions under which the Pre Construction Meeting may be allowed to proceed. Should the Rider require resubmission of any part of the CD documentation prior to approval or the Pre-Con meeting being scheduled the Tenant's design team must comply specifically with each point noted in the Rider. Such points are signified in the Rider with an 'asterisk.' Alterations so required must be bubbled and so noted on the documentation and returned promptly to the D&CC for resubmission to the PORT.

2.26 Should the Rider grant approval to proceed to the Pre-Construction Meeting upon condition that specific items are clarified or confirmed then upon such undertaking being given by the Tenant's design team in writing the D&CC will arrange a date at its sole and absolute discretion. The Tenant's Architect-of-Record is solely responsible for securing acceptance of all Rider Comment responses prior to project close-out.

2.27 The Tenant and their Professional Team will attend the Port Authority Pre-Construction Meeting in order to obtain the Alteration Permit. At this point, the construction phase will begin.

2.27 The Tenants design team will provide construction administration services in conformance with the agreed standards. At least 10 working days prior to substantial completion the Project Close-out phase can begin. The Tenant's Architect will submit controlled inspection and close-out documents to the D&CC for submittal to and approval by the PANYNJ.

2.28 Within 5 working days after approval from the Port Authority, the D&C C will endeavor to schedule the date for final inspection by the Port Authority. The Tenant's Architect will attend the final inspection to obtain the Final Permit to Occupy (FPO) from the Port Authority. Fixturing and merchandising may occur at any time. However, the store may not open until Port Authority approval is secured.

End of Section

SECTION 3 - DESIGN CRITERIA AND TECHNICAL REQUIREMENTS

3.0 GENERAL – DESIGN CONDITIONS

The Overall floor plan, A-01, illustrates the locations of the various food and retail concessions leaseholds. Concessions leaseholds assigned to food are designated with the letters 'F' or 'D' and leaseholds for retail are labeled with the letter 'R.' new leaseholds are further defined according to Design Conditions A through D as follows:

3.1 Design Condition A

This applies to new retails spaces which are enclosed with full height walls and have storefronts defined by closures, walls or glass. For example Space F14, refer to applicable LOD plans and elevations.

3.2 Design Condition B

This applies to new open 'arcade' or 'kiosk' retail spaces which have an open grille or grid type ceiling and their perimeter is principally defined by side folding or overhead roll down grilles. For examples Spaces R11, R12 and R13, refer to applicable LOD plans and elevations.

3.3 Design Condition C

This applies to new, enclosed food service retail space D03 for which the storefront is enclosed by means of solid walls, glass partitions and glass doors, refer to LOD plans and elevations.

3.4 Design Condition D

This applies to open café' or restaurant seating areas defined by low walls or by other flexible or moveable barriers. For example see café seating area D18C or seating area adjacent to restaurant Space F2. Refer to applicable LOD plans and elevations.

3.5 GENERAL REQUIREMENTS

3.5.1 Floors

The level of the finished floor within the concession spaces shall align with that of the adjacent public area finished floor.

The Concessionaire is required to patch adjacent concourse terrazzo or carpet if it is damaged during construction. Floors in kitchen, food preparation and storage areas, including under counter and beverage service areas must have a quarry tile or welded sheet vinyl non-slip surface. Where a quarry tile finish is proposed a fully waterproofed membrane must be applied under the quarry tile to prevent leakage to areas below. A 6-inch high cove base in quarry tile or welded vinyl is required. Floor drains, grease traps are to be installed per code.

3.5.1 Floors Continued

If the space requires floor penetrations, the Tenant's contractor is required to follow procedures noted in Section 1.0 above. This applies to conditions should the penetrations be required outside the Tenant's space for example in the routing of services to the space in need.

The Tenant is not permitted to construct mezzanines or raised platforms in the leased premises.

3.5.2 Ceilings

The overall ceiling height within the lease space is to be a minimum of 8 feet. Open ceilings or exposed structure treatments are not acceptable except as specifically shown in the Design Guidelines, Design Condition B for example. Ceilings are required to be installed in all areas to maintain return-air plenums. All ceiling materials must be noncombustible, equal to Class A installation. Ceiling finishes shall have a flame spread rating not exceeding 200. The plenum must be accessible when base building or Concessionaire piping and/or equipment are located above.

Ceiling furrdowns or bulkheads are permitted. However, furrdowns or soffits must not restrict access to plumbing or HVAC equipment. Access doors are not permitted in gypsum board furrdowns or soffits. All damage to existing ceilings will be repaired at the Tenants expense. Ceilings in food and beverage spaces are to comply with all City of New York Health Department requirements.

3.5.3 Roofs

All required penetrations of the existing terminal roof for exhaust hoods, vent stacks, supplemental HVAC equipment or any other equipment are to be performed by the Tenant's Contractor, at the Tenant's expense. The Tenant must consider the following in dealing with roof-top equipment

1. Roof access
2. Existing roof warranties and specific Owner requirements to maintain such coverage.
3. Security clearances are required to inspect and undertake work on the roof, see Section 1 above.
4. Equipment shut-offs
5. Walkway access
6. Concealed piping
7. Existing equipment and penthouse clearances
8. Roof protection during construction
9. Temporary weatherproof protection of openings during construction
10. Lifting and hoisting of equipment
11. Structural calculations of penetrations and reinforcing of openings if required
12. Effects on roof drainage
13. Storage of equipment and materials on the roof during construction
14. Protection of roofing material from oil and grease emitted by kitchen exhaust equipment

All modifications or installations of additional equipment require review and consultation by the Owner's consultant team including the D&CC, structural engineer and MEP/FP engineer. The installation of such equipment will be at the Tenant's expense.

3.5.4 Walls

All interior demising walls between Concessionaires shall be gypsum board on metal stud framing. Partitions between multiple Concessionaires and any common, public or service corridor will extend to the structure above. The partitions between Concessionaires must have a one hour fire rating and must go to the underside of structure above. All demising partitions will be constructed by the Concessionaires at the Concessionaire's expense. All interior partitions are to extend 8 inches above the finished ceiling. All interior walls are to be constructed by the Concessionaire at the Concessionaire's expense. Permanent attachment to concrete columns with mechanical fasteners or adhesives is not permitted. The Concessionaire is permitted to furr columns with systems that are self-supporting or free standing within the leasehold. If heavy shelving, or attachments, is to be installed, the demising or Concessionaire's wall must be reinforced.

If fire-rated walls or other existing construction must be opened or cut through to extend services into a leasehold, the Concessionaire must preserve the original rating and construction.

3.6 Security

The Concessionaire is required to provide a means of securing the leasehold during non-operational hours.

3.7 IMAGERY – FOOD CONCESSIONAIRE

3.7.1 Food Concessionaire - Display

Creative display of food and beverages is required. The presentation must be clean, well-organized and devoid of clutter. Sneeze guards must be set back a minimum of 6 inches from the edge of counter and be a maximum height of 4'-6" above the finished floor. All horizontal joints are to be butt-glazed for maximum visibility. Glazing must be either tempered or safety glass. No acrylic glazing is permitted.

3.7.2 Food Concessionaire - Equipment

Concessionaire equipment on counters is to be set back a minimum of 6 inches from the front counter edge and recessed into the counter top so that no portion exceeds 42 inches in height. Beverage machines and other miscellaneous equipment on the counter are subject to design review. No simulated wood finishes will be permitted on equipment within public view.

Napkins, condiments, utensils, straws and trays must be set back from the front of the counter and must be dispensed from permanent holders recessed into the front counter top.

All paper goods and supplies are to be stored in areas not visible to the public. All equipment is to be furnished, installed and maintained by the Concessionaire at the Concessionaire's expense.

3.7.3 Food Concessionaire - Lighting

Lighting within the Concessionaire's leasehold and outside the leasehold area – as shown on the Design Guideline Drawings - is to be provided by the Concessionaire.

3.7.4 Food Concessionaire - General Signage

In addition to the basic signage, additional signage is normally required of the food Concessionaire. Menu boards and other signs must convey information in an organized, simple, straightforward manner.

The design and graphics of the signage are an integral part of the store concept. All supplemental menu graphics must be professionally produced and attractively displayed. Temporary displays are not allowed. See Section 2.5 for additional signage information.

3.7.5 Food Concessionaire - Menu Boards

The Concessionaire is to provide one or more menu boards designed as an integral part of the design concept. Menu boards must have changeable price and menu graphics. Graphics depicting food items or a supporting overall image are encouraged.

Internally illuminated menu boards are acceptable. Also acceptable are illuminated menu boards using a supplemental light source. The use of photographs for food displays is encouraged. Photographs must be produced by a professional.

"Daily Special" signs or signs for seasonal or temporary promotions must be integrated into the overall design of the menu board and of the back wall.

3.7.6 Food Concessionaire - Pick Up/Order Signage

The food Concessionaire has the option to have "Order Here" and "Pick Up Here" signs. The design and materials must be consistent with the overall design and colors used in the space. All "Order Here" signs must be supported from the counter top and may not be suspended from the ceiling.

3.7.7 Food Concessionaire - Storage

The Concessionaire's supplies must be stored on appropriate racks or in cabinets within the Concessionaire's leasehold. Such storage must be concealed from public view with doors or sliding panels.

3.8 IMAGERY - RETAIL CONCESSIONAIRE

3.8.1 Retail Concessionaire - Display

The zone behind the storefront where merchandise is displayed is where the customer receives their first full impression of the store. It is critical that special attention be paid to the area through the use of fixturing, props, furniture, and/or mannequins. These elements are to be consistent with the space in both design and materials.

3.8.2 Retail Concessionaire - Signage

All signage on and within the Concessionaire's space is subject to design review and approval, including all signs for sale promotions, seasonal promotions, product displays and brand displays. See Section 3.14 below for Storefront Signage and Appendices for detail signage information.

3.8.2 Retail Concessionaire – Signage Continued

Signage must be professionally designed, attractively displayed and produced in colors and materials consistent with the overall store image.

3.8.3 Retail Concessionaire - FF&E

All fixtures, furnishings and equipment shall be provided by the Concessionaire, at the Concessionaire's expense. Fixtures and furnishings play an important role in establishing the character of the store. They should be made of high quality, durable materials similar or complementary to those in the space. Simulated wood grain or other simulated materials on fixture or furniture is not acceptable.

The fixture layout should accommodate passengers with hand-held luggage, bag carts and baby strollers, as well as persons in wheelchairs who require maneuvering clearances.

Any equipment used in the store that is visible to the public is to be compatible with the store design.

All interior finishes are required to meet ASTM E-84, Type 1, Class A fire retardant requirements. All floor finishes shall also meet DOC FF1 (methanine pill test) and ASTM E648 (critical radiant flux test) with a minimum critical radiant flux of 0.5 watts per square centimeter.

3.9 STOREFRONT / PRIMARY SIGNAGE

Signage is an integral part of the overall design of the Terminal experience. Accordingly, the signage of the Concessionaire's space must be designed to maintain that consistency. The Concessionaire is permitted to use the corporate logo, sign type and lettering styles, when compatible with design criteria. The Concessionaire is required to coordinate primary and secondary signage into a complementary design. The Concessionaire must avoid obstructing Terminal way-finding and information signage. See Section 2.4 for specific signage guidelines for food and retail concession leaseholds.

3.9.1 General Signage Standards

The Concessionaire is fully responsible for the design, workmanship, installation and grammatical correctness of the signs and for coordinating the work of the sign contractor.

The Owner reserves the right to reject any signage that it deems inappropriate for the Terminal.

No exterior signage will be permitted on any part of the Terminal nor shall any signage be positioned so as to be visible from outside any window.

3.9.2 Primary Sign Element

Each Concessionaire is required to design, fabricate, install and maintain one primary sign above the entrance to the space – where a soffit/fascia condition exists - or incorporated into the storefront - if a soffit condition does not exist. The sign shall be limited to the Concessionaire's trading name only.

Any Concessionaire having storefronts on more than one side may use one sign on each storefront. The Concessionaire must comply with the following criteria:

- Etched, beveled, or sandblasted glass, dimensional metal and other materials with permanent appearance are encouraged. Three-dimensional illuminated halo or back-lit individually mounted letters are not acceptable. Letters may be milled metal / Lexan or acrylic and spray painted but can not be thicker than 1-1/2" when pinned to the fascia. The storefront signage will be front lit by the Tenant per details shown in the Appendices.

- For signs occurring on soffits or fascias, the maximum field height for signage (i.e. individual letters, double line of letters and/or sign backgrounds) is 12" overall. See applicable details.

3.9.3 Supplemental Signage

The Concessionaire is encouraged to integrate supplemental signage into the storefront design to support the overall store image and to provide greater visibility. End walls and columns may not be used for secondary signage.

No displays or signs are permitted outside the lease line, except where specifically shown in the Guideline Drawings.

All signs are subject to the approval of British Airways. Note the following:

1. Letters or logos applied or painted directly on the inside face of glass storefronts are not permitted.

2. Supergraphic treatment of large amounts storefronts is not permitted.

3. Hand-lettered non-professional signs and newspaper advertisements are not permitted.

4. Advertising for brand names (soft drinks, for example) is not permitted.

5. Animated, flashing or sound-producing elements are not permitted.

6. All graphics must have a non-glare, matte finish. The type must be large enough and its style simple enough to make the text clearly legible.

3.10 INTERIOR FINISHES

The selection and application of finishes will define the Concessionaire's image. Establishing a standard for quality, durability and aesthetic value is essential and the finishes will be evaluated and considered on that basis. The Concessionaire's image does not end at the storefront or at the front of counter, but continues to all areas exposed to the public. It is important to develop a color and finish palette that is both inviting and complementary to the overall image. Quality craftsmanship is a critical component of good finish applications.

3.10.1 Flooring

High quality, durable materials must be selected to withstand heavy traffic. Stone, ceramic tile, marble, wood or durable carpet are acceptable options. The Concessionaire must provide a continuous base around the perimeter of the lease space with material that is similar to the flooring as well as compatible with the storefront. Rubber or vinyl base is discouraged.

3.10.2 Ceilings / Walls / Doors

The Concessionaire is to use high quality, durable products for ceiling, walls and doors. Specific requirements include the following

1. Ceilings must be accessible for maintenance whenever piping or equipment, by base building or Concessionaire, occurs.

2. The following materials are not permitted:

    a. rough-sawn cedar or other unfinished woods
    b. imitation of natural materials, such a simulated wood, brick or laminates
    c. pegboard walls or fixturing systems
    d. painted drywall surfaces below 9 feet
    e. window coverings
    f. slat wall material

3. Concessionaire's interior doors must be solid core or hollow metal with a finish quality similar to the quality of the walls.

3.11 LIGHTING

The Concessionaire is encouraged to be creative in lighting design to maximize the quality and uniqueness of the environment. Energy efficient lighting is required. All lighting locations, specifications and product data sheets, including light source, must be submitted for review.

3.12 ACOUSTICS

The Concessionaire is encouraged to use materials and designs that minimize the transmission of sound to the concourse and adjacent spaces.

Food and beverage Concessionaires must isolate noises from food preparation, dishwashing and cleaning areas, using demising walls if necessary.

Music systems are permitted within leaseholds, but sound levels must be controlled to limit the sound to the leasehold boundaries.

3.13 CONSTRUCTION PROCEDURES

These construction procedures are intended to allow flexibility and accessibility to the Concessionaire's contractor for the timely execution of his work without compromising airline operations, passenger flow or airport security. Airport and airline operations and security must not be affected during any sequence of Concessionaire's construction. Therefore, some

3.13 Construction Procedures Continued

construction may be required during restricted working hours and during evening hours.

3.13.1 Concessionaire Examination of Site

By executing lease documents, the Concessionaires represent that they have:

1. Visited the site.
2. Made due allowances for difficulties and contingencies to be encountered.
3. Compared contract documents with work in place.
4. Informed themselves of existing conditions and work being performed by others.
5. Notified the D&CC of any inconsistency, or error discovered within the lease or between Lease Exhibit and existing conditions.
6. Agreed to inspection terms during construction
7. Agreed to provide verified as-built drawings to the D&CC.

3.13.2 Temporary Partitions

In most cases, construction by Concessionaire will occur behind temporary partitions which are to be constructed by the respective Concessionaire according to approved plans. In some cases, where such temporary partitions are not practical, the Concessionaire is to provide and maintain temporary dust partitions to seal-openings to all adjacent areas, provide temporary security and protection to the public during construction. The following points also apply:

1. Temporary construction partitions must be located a maximum of 2 feet beyond the lease line.

2. Partitions must extend full height to the existing structure or ceiling to positively seal off the construction area. Partitions in view of the public are to be vinyl-covered gypsum board on metal studs.

3. All finishes are to be returned to their original condition when temporary partitions are removed.

3.13.2 Temporary Partitions - continued

4. Construction signage – approved by British Airways - is required on temporary partitions.

5. Access doors into construction areas must be solid core or hollow metal doors with commercial grade hardware and must be mounted in hollow metal frames.

3.13.3 Security

The Concessionaire is entirely responsible for the security of the leased premises during construction and must take all necessary steps to maintain airport security. The Owner shall have no liability for loss or theft of any property.

The Concessionaire's contractor shall enter the building at landside entrances approved by the Owner.

Access by air-side or AOA ramp is strictly prohibited. Access to construction areas within the building must be through passageways and corridors as approved by the Owner or the designated D&CC. The access route must be shown on construction documents.

3.13.4 Construction Coordination

The following rules and regulations apply to the Concessionaire's contractors performing work at the Terminal.

In general, the Concessionaire's contractor is to confine his operations to the construction area defined by his Contract Limit Lines (CLL). Where operations require work or staging beyond those limits, such work is to be coordinated with the Owner or their designated D&CC using the following guidelines:

1. All work to be installed beyond the CLL, such as bracing, support steel, installation of conduits or lines etc., is to be coordinated with the Owner, their designated D&CC or with other contractors of the Concessionaire, where applicable.

   The Concessionaire's contractor shall attend the Terminal's mechanical coordination meetings. The contractor must sign off the coordination with other mechanical trades, if work is occurring beyond the CLL's.

3.13.4 Construction Coordination - continued

2. Where the Concessionaire's contractor's work precedes any Terminal mechanical work, the Concessionaire's contractor will furnish accurate as-builts, tying back dimensionally to building steel to locate their work. As-built documents of this work will be forwarded to British Airways or their designated D&CC within five (5) working days of work being performed in the field, for use by others in coordination of subsequent work.

3. Where the Concessionaire's contractor's work occurs after the Terminal's coordination of mechanical work in adjacent spaces, the Concessionaire's contractor will obtain copies of the "Coordination Drawing(s)" for the area and shall indicate his work on the plan. This drawing will be forwarded ten (10) working days prior to any work proceeding in the field outside their CLL and will be submitted to the Owner's D&CC for review.

4. No core drilling will occur in the Terminal outside the CLL. Any damage which occurs due to such activity will be the responsibility of the Concessionaire's contractor. Any necessary repairs not completed by the Concessionaire's contractor will be performed by a contractor selected by the Owner and applicable costs will be back-charged to the Concessionaire's contractor.

5. All shutdowns or tie-ins to existing services are to be made with a minimum of 48 hours written notice to the Owner. The Concessionaire's contractor is responsible to drain down and refill any systems affected and to furnish valves and dampers to isolate their work from the Terminal's systems, whether or not specifically indicated.

6. The Concessionaire's contractor will coordinate all deliveries with British Airways through their designated D&CC. Indicate the date, time and duration of deliveries and coordinate the location of all drop-offs. Minimum 48 hour notices will be given for all standard deliveries, and five (5) days written notice for all deliveries requiring cranes, boom equipment or requiring coordination to or blocking of roadway access.

7. The Concessionaire's contractor is required to provide competent job site supervision, full time while any of their work-force is present at the job site.XXXXXXXXXXXXXX capable and authorized to make binding decisions on behalf of the Concessionaire's contractor. , and who will be present

8. The Concessionaire's contractor will provide British Airways or their designated D&CC with emergency contact numbers for this individual and also for all major mechanical subcontractors working for them at the site.

3.13.4 Construction Coordination – continued

9. The Concessionaire's contractor is required to make available a competent representative of his firm to attend a weekly coordination meeting with British Airways to coordinate all operations and schedules and to give notice of upcoming work or deliveries.

10. All builders' materials, gang boxes, rubbish containers, etc. are to be kept within the confines of the CLL or at pre-approved locations outside the CLL.

11. The Concessionaire's contractor will coordinate all rubbish removal, storage of mini containers, placement of roll-off pickups and drop-off times with British Airways.

12. The Concessionaire's contractor is responsible for lockup and protection of all his builders' materials, tools and equipment during the course of construction.

13. The Concessionaire's contractors are responsible for procurement of their own security badges from the Port Authority and shall coordinate procurement with British Airways.

14. The Concessionaire's contractor is aware that all work will be performed by union personnel of trades claiming jurisdiction. The Concessionaire's contractor is advised that all additional labor which results from their construction activities such as costs for stand-by trades, master machinists, laborers, teamsters, either for work completed during or beyond normal working hours, will be their responsibility and should be arranged for and paid directly by the Concessionaire's contractor.

15. The Concessionaire's contractor shall establish and obtain approval of any required axis lines and benchmarks for performance of their work. The contractor shall coordinate back to these benchmarks, axis lines and starting points as applicable.

16. The Concessionaire's contractor will be responsible for the damage caused by its own personnel or by any of the subcontractors, including suppliers and vendors of the Concessionaire's contractor, to existing construction equipment, fixtures, finished surfaces, adjacent area of construction, existing buildings, properties or utilities. The Concessionaire's contractor is responsible for protection of the preceding work in the vicinity of its work. Any disturbance or impairment resulting directly or indirectly from the work of the Concessionaire's contractor will be immediately restored, repaired, or replaced to the satisfaction of British Airways and without additional cost to British Airways. Refusal by the Concessionaire's contractor to correct the damaged work after notice from the Owner's contractor will necessitate correction by others with all related costs charged to the Concessionaire's contractor.

3.13.4 Construction Coordination – continued

17. The Concessionaire's contractor shall make all efforts to coordinate his work with Terminal Base Building construction at the interface of the CCL (Contract Limit Line).

18. The Concessionaire's contractor must be aware of the structural capacities of areas to be used for the Concessionaire's contractor's equipment and material storage and shall not exceed rated capacities without taking appropriate steps to compensate for the imposing of loads which may exceed the design limits. All storage of materials outside the CLL must be coordinated with British Airways. Any modifications to the structure must be analyzed and detailed by the Concessionaire's contractor's engineer, a professional engineer licensed in New York State, and must be submitted for review by a structural engineer selected by British Airways. All related costs including costs of the engineering review shall be included in the Concessionaire's contract price for such work.

19. The Concessionaire's contractor shall include all costs related to any and all required laboratory testing including controlled inspections required by the Port Authority.

20. The Concessionaire's contractor should note that no elevators or personnel/material hoists are available for their use on the Terminal jobsite. Use of any of the Terminal's service elevators – when permissible - shall be coordinated in advance through British Airways.

21. The Concessionaire's contractor will provide any signs, warning devices, barricades, fences and guardrails which are required for the safe performance of its work, and to control vehicular and pedestrian traffic required by its operation in accordance with applicable codes. Any fines levied against the Owner's contractor by OSHA due to failure of the Concessionaire's contractor to comply with OSHA requirements shall be paid by the Concessionaire's contractor.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS

The Terminal has in place an MEP infrastructure adequate to accommodate the needs of the concessions program. Based on the extent and nature of the work proposed by the respective Concessionaires in this phase of the work, the utility capacities shall be verified by the Concessionaire's engineering consultants. Supplemental requirements or unusual circumstances caused by the Concessionaire's development may require that supplemental equipment be installed by an approved contractor at the Concessionaire's expense. Modifications, tie-ins to existing services and supplemental equipment construction must be engineered by a professional engineer registered in New York State. See Appendix 1 - Design Condition Drawings, for graphic layout of services available to the leaseholds.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS - continued

Plans must show all routings and connections of new services to existing lines, ductwork, piping, telephones, switchboards or motor control centers. The Concessionaire must provide complete heat loss/gain and electrical power calculation forms. See Appendix 2-Schedules for calculation forms.

3.14.1 HVAC

The Terminal is served with chilled and heated water from the Port Authority's central utility plant. Air handling units are currently in place to provide a standard design capacity. The base building supply air provided by British Airways is 1.0 cfm/ft^2 at 57°F. The Concessionaire must verify the existing air supply to the leasehold and determine how much more, if any, is needed.

The existing primary air ductwork may be used to cool the leasehold, provided engineering calculations show that it is adequate to meet new leasehold design loads.

The Concessionaire's HVAC design for each leasehold must meet the following criteria:

1. Heating - Winter inside comfort design temperature: 75°F db -
2. Cooling - Summer inside comfort design temperature: 78°F db
3. Outside design temperatures - as indicated in the current edition of the ASHRAE Handbook of Fundamentals, 2 1/2 percent conditions
4. The existing maximum supply air to conditioned building areas is calculated at 1.0 cfm/ft^2. The Concessionaire is responsible for supplying supplemental HVAC if additional air-conditioned air or make-up air is required because of increased loads in the leasehold.

The Concessionaire must provide the design, engineering and installation of the HVAC system including the following:

1. All medium pressure ductwork from the main trunk ducts to the VAV boxes including duct taps and control dampers
2. All low-pressure ductwork, including that necessary for supply, return air, exhaust, and make-up air
3. All grilles and diffusers for supply, return air, exhaust and make-up air

3.14.1 HVAC - continued

4. Controls: All Concessionaire's equipment must have direct digital controls (DDC); the Concessionaire's control equipment must be compatible with those installed in the Terminal (manufactured by Trend). The Concessionaire is responsible for providing all DDC control panels required for their installation and for connecting to the existing Terminal BMS system and should contact:

   Trend Controls Group
   200-214 West 4th Street
   Plainefield, NJ 07061
   (908.755.9500)

5. A heating system using fan powered VAV boxes or induction boxes with hot-water coils and the required hot-water piping
6. A kitchen hood exhaust and tempered make-up air systems package that includes both exhaust fans and make-up air fans which must be installed by an approved Contractor. The submitted design must include sizing of roof penetrations
   a. Roof exhaust fans must be of the belt drive, up-blast, vertical discharge type and must bear the AMCA certified ratings seals for air and sound performance. There must be a built-in grease drain.
   b. The filtered make-up air unit should have belt-driven double width/double inlet, forward curved centrifugal supply fans.
   c. The pre-wired control center must include, but not be limited to, an integral master disconnect switch with fuse blocks for main power connection, magnetic motor starters with thermal overloads and manual reset, a fused 115 volt control transformer and a distribution terminal control strip for connecting the control wiring. Wiring must be complete, requiring only one-point field connection for power service and one-point field connection for low voltage.

7. All supplemental cooling and heating service must be designed by the Concessionaire's engineer and installed by an approved contractor. Supplemental chilled and heating water air-handling units may be installed within the Concessionaire's lease space or, with written approval, may be installed on the roof.

8. Supplemental DX units are not desirable and will be subject to Owner approval. All other resources must be considered first and approval will be granted only if documented evidence shows that the units are necessary and unavoidable. Location and size of rooftop equipment penetrations will be subject to Owner review and approval.

3.14.2 Electrical

Base building power provided by British Airways includes one separate disconnect switch per leasehold. The feeder (all 3ph, 4 wire, 60Hz) and switch are sized at 10 VA/per ft^2 for retail Concessionaire leaseholds and 24 VA/per ft^2 for food Concessionaire leaseholds. Food Concessionaires will be required to reimburse the Owner for electrical service based on a flat rate fee per square foot or based on meter readings, as determined by British Airways.

The Concessionaire is responsible for the design, engineering and installation of electrical service within the lease space and for all connections and coordination with base building electrical systems. This includes panels, transformers, wire and conduit, light fixtures, switches, outlets and any other items required to complete a functional system.

3.14.3 Plumbing

The Concessionaire must provide the design, engineering and installation of any required plumbing at the concessionaire's expense including the following:

1. All domestic cold water piping
2. All domestic hot water piping including hot water heaters
3. All sanitary sewer (waste) piping, including floor drains and grease interceptors to be connected to the base building waste connection
4. All sanitary sewer vent piping
5. Water heaters when required - they must be accessible and include T&P relief-valve piping to the nearest floor or hub drain in the lease space; all water heaters shall be gas-fired
6. Domestic hot water heaters for hand sinks, if required, can be electric or gas, fully insulated and designed for a service water temperature not to exceed 140°F

All sanitary, vent and cold-water piping must connect to existing lines in the immediate Concessionaire area and be furnished and installed by the Concessionaire.

For food service areas, all Concessionaire drainage piping must be connected to a grease waste line extending to a grease interceptor. Locations should be coordinated with existing conditions, as described above, and with Concessionaire operations.

The Concessionaire must test all existing waste lines for capacity and is responsible for any necessary cleaning or repairs to existing plumbing before connections are made.

3.15 Lighting

All temporary lighting at 10 foot candles and any final required additional lighting shall be provided by the Concessionaire at the Concessionaire's expense in accordance with the Manual. Reference Section 2.0, General Design Criteria.

3.16 Fire Protection

All Concessionaire's leaseholds must be equipped with a sprinkler system except for kiosks or open-ceiling retail spaces which are positioned below ceilings which are presently equipped with sprinklers. The Concessionaire must provide the engineering design modification and installation of the fire sprinkler system for the leasehold, which includes:

1. The design, modification and installation of wet-pipe fire sprinkler systems
2. The design, modification and installation of new and/or existing fire sprinkler heads for lease space layout
3. The design and installation of adequate fire protection systems for such equipment as kitchen grease hoods, as required.

The Concessionaire is responsible for the design, engineering and installation of the sprinkler system within their leasehold and for connecting the sprinkler system to the existing Terminal fire protection system. Contact the following contractor:

Sirina Fire Protection Corporation
151 Herrick Road
Garden City Park, NY 11040
(516.942.0400)

The kitchen hood fire protection system should be connected, by the Concessionaire, at the Concessionaire's expense, to the base building fire alarm system.

If the Concessionaire adds new ductwork for supply, return or exhaust or if the Concessionaire adds supplemental air handling units to the lease space, the Concessionaire's contractor shall install duct-mounted smoke detectors that are connected to the base building's fire alarm system. The Concessionaire's contractor shall install new devices, wiring, etc., and the final connections to the base building's fire alarm system shall be made by the Owner's fire alarm system vendor, at the Concessionaire's expense.

The base building fire alarm system, provided by the Owner, at the Owner's expense, includes one fire alarm horn/strobe per open space (minimum) plus one additional horn/strobe per 400 square feet in accordance with NFPA 72. Fire alarm devices are not generally required in leaseholds, except for in large leases where audio-visual devices must be installed. The designation of the fire alarm devices will be handled on a case-by-case basis in coordination with the Concessionaire's leasehold. It will be the responsibility of the Concessionaire, at the Concessionaire's expense, to provide any required fire alarm devices required for adequate visibility based on the design of the leasehold.

Lease spaces are not independent fire protection zones. Fire protection zones are based on column locations, and several leaseholds may be in the same fire protection zone.

3.17 Telephone

The Concessionaire will be responsible for ordering voice and data circuits from the various Telecommunications Service Providers (e.g. Bell Atlantic, AT&T, Sprint). For routing the Telecommunications circuits to the leasehold, the Concessionaire must use the building cable plant, provided by the British Airways. Originating from the nearest Communications Support Room (SCR), a fifty pair category five (CAT5) cable shall be installed by the Concessionaire terminated within the leasehold.

3.18 Natural Gas

For any natural gas supply lines required for cooking or for hot water heating appliances, the concessionaire is responsible for the design, engineering and installation within their leasehold and for connecting the gas line to the existing natural gas supply in the terminal. Any venting required shall also be provided by the concessionaire as will any required metering.

3.19 Structural

The Base Building structure will accommodate floor loading of 100 psf live load, which cannot be exceeded by the Concessionaire.

END OF SECTION

EXHIBIT "D"
PERCENTAGE RENT RATES

Effective May 1st 2011 through October 31, 2015:

Amount of Annual Gross Receipts	Percentage Rent Rates
Ex. 2.a.	

Minimum Annual Guarantee Rent

Ex. 2.a.) per annum commencing May 1st 2011 subject to adjustments as set forth in Section 2.1 (a)

EXHIBIT "C"
DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS

N/A

EXHIBIT "E"
FORM OF PORT AUTHORITY TENANT ALTERATION (TAA)

DFA to add TAA Application

EXHIBIT "F"
GUARANTY

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EXHIBIT "G"
AFFIRMATIVE ACTION POLICY

"AFFIRMATIVE
ACTION POLICY.pdf"

AFFIRMATIVE ACTION-EOUAL OPPORTIJNTIY MINORITY BUSINESS ENTERPRISES WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS

Part 1. Affirmative Action Guidelines - Equal Employment Opportunity

(1) 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 _____ of Port Authority Agreement No. _____ (herein called the "Lease") with (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 bereby 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.

(2) 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 f=a1e 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 Contractors 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 sale 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 SID, 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 havin 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 at 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 him 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 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 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 each minority and female off-the-street applicant 3lld 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, referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, 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 bas 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 trainin 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 doe~ 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 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.

(II) 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 circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor a sociation, joint contractor-union, contractor community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling anyone or more of its obligations under Paragraph (b) hereof provided that: tile Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group a f women is underutilized)

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at lease as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records.

Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or Labor), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 official or other area. residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISESIWOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise, which is at least fifty-one percentrum owned by, or in the case of a publicly owned business, at least fifty-one percentrum of the stock of which is owned by Citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall be :IS defined in paragraph TI(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible"

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WEE is not selected as a joint venture or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBE in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBE maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBE on a timely basis

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBE5, where appropriate.

Certification of MBEs and WBE hereunder shall be made by the Office of Business and 10h Opportunity a f the Port Authority. If the Contractor wishes to utilize a firm not already certificd by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority shall 11 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 WEE 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 WEE goals.

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WEE 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

EXHIBIT "H"
STANDARDS OF OPERATION – TERMINAL RULES

"Standards of
Operation_Terminal I

TERMINAL RULES

Concessionaire covenants and agrees that it shall conform with each of the following rules and regulations and each modification, revision, deletion, or addition thereto made by the Sublandlord, in the exercise of the reasonable judgment of the Sublandlord, and shall cause similar conformance by its employees, agents, contractors, and all others over whom Concessionaire has any right to control or direct while in the Airport. Notwithstanding the foregoing, in the event there is an inconsistency or conflict between anyone or more of the Terminal Rules and Laws, then the Laws shall control and prevail. Sublandlord shall not be responsible to Concessionaire for the noncompliance by any other concessionaire with the Terminal Rules.

1. Concessionaire shall not place, construct, or maintain on the store front of the Concessionaire Premises, the doors, the exterior walls, the Common Areas or any portion thereof any signs, advertisements, names, insignias, trademarks, descriptive materials, or similar items without Sublandlord's prior written consent. All signs, promotional material and displays within the Concessionaire Premises must, at all times, be attractively displayed and professionally produced. Sub landlord, at Concessionaire's expense, as Additional Rent, may remove any sign placed, constructed or maintained that does not comply with the provisions hereof. Further, Concessionaire shall not, without Sublandlord's prior written consent, place, construct or maintain in or for the Concessionaire Premises any search lights, flashing lights, loud speakers, phonographs, or other similar visual or audio media which may be heard or otherwise experienced outside the Concessionaire Premises.

2. Concessionaire shall not, by itself, or through any officer, salesperson, employee, agent or otherwise solicit business in the vestibules, entrances, elevator lobbies, corridors, hallways or elevators of the Terminal.

3. Quality and Character of Merchandise

   a. Merchandising. Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sale a full and complete stock of merchandise consistent with only the Permitted Operations. Concessionaire shall ensure that all such merchandise is at all times attractively and logically arranged and that all merchandise displays are fully stocked with product.

   b. Product Selection. Concessionaire may from time to time, with written approval of the Sublandlord, or its designee, add or delete items from its merchandise offerings provided that such additions or deletions shall be consistent with those authorized in this Sublease, as amended, and do not conflict with the rights of other concessionaires at the Terminal as may be determined by Sublandlord, in its sole discretion.

   c. Quality of Merchandise. Concessionaire shall offer for sale only high quality products and those which are safe, sanitary, properly labeled and as advertised. Upon written notice to Concessionaire by Sublandlord of any violation of this provision, Concessionaire shall forthwith correct the condition objected to within four (4) hours after receipt of such notice.

d. Sublandlord 's Right to Object. Concessionaire shall upon written demand from Sublandlord cease selling any item that Sublandlord shall determine is objectionable for sale or display at the Terminal and immediately remove such item from its inventory and not thereafter offer such item for sale at the Terminal.

e. Replacement and Refunds. Concessionaire shall , at all times during the term of this Sublease, as amended, and without any additional charge to customers, replace any merchandise determined by customers to be unsatisfactory, flawed or defective or shall provide customers a full re fund therefore provided said customers have complied with any applicable warranty and use provisions applicable to the merchandise.

4. Concessionaire shall accept as payment for goods and services all nationally recognized credit or charge cards including, at least, American Express, Master Card, VISA and Discover. Concessionaire shall provide, without charge, change making services at each cashier's location in the Concessionaire Premises. Such service shall be equally provided to all persons, regardless if any purchase has been made or not.

5. Concessionaire shall not use or permit the use in the Concessionaire Premises of anything that may be dangerous to life or limb. Concessionaire shall not in any manner deface or injure the Terminal or any part thereof, or overload the floors of the Concessionaire Premises. Concessionaire shall not do any1hing or permit any1hing to be done in the Concessionaire Premises in any way tending to create a nuisance, or tending to disturb any other concessionaire in the Terminal..

6. Adherence to Standards.

f. Concessionaire shall ensure that all requirements of the Port Authority and County and/or State Boards of Health, and health and sanitary regulations adopted by the Authority, County, State or any governmental legal authority, are fully complied with in all Facilities. Concessionaire shall give access for inspection purposes to any duly authorized representatives of such governing bodies and to Sublandlord. Concessionaire shall provide Sublandlord with copies of all inspection reports within forty-eight (48) hours of receipt. This paragraph does not require Concessionaire to waive any applicable attorney-client or attorney work product privileges.

g. Additional Compliance. Concessionaire shall comply with all applicable governmental laws, ordinances and regulations in the conduct of its operations under this Sublease, as amended.

h. Concessionaire's Standards. Concessionaire shall submit to Sublandlord a copy of any of its own customer service, operations, etc. standards, plans and/or manuals, and shall ensure continuous adherence to Concessionaire's own standards In addition to Sublandlord's standards as set forth herein.

7. Concessionaire, at its so le cost and expense, shall provide exterminating service for the Concessionaire Premises, which services shall be performed as needed, and in all events, upon demand by the Sublandlord or Port Authority.

8. Trash and Refuse.

i. Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling of all trash, grease and other refuse caused as a result of the operation of the Concessionaire Premises and shall provide for its timely removal. Piling of boxes, cartons, barrels or other similar items in view of a public area is prohibited. Concessionaire shall keep any areas used for trash and garbage storage prior to removal from Terminal in a clean and orderly condition so as not to attract rodents, pests and birds or create an offensive odor.

j. In transporting trash, grease and other refuse from the Concessionaire Premises, Concessionaire shall use only carts, vehicles or conveyances that are covered, leak proof and equipped with wheels suitable for operating without damage to the Terminal. Such disposal shall take place during hours as may be directed by Sublandlord.

k. The plumbing facilities, within the Concessionaire Premises and elsewhere in the Terminal, shall not be used for any purpose other than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. If installed in connection with the Concessionaire Premises, Concessionaire shall , at its own expense, check and clean at least monthly all grease traps and grease receptors. The expense of any breakage, stoppage, or damage resulting from a violation of this provision, wherever such occurs, shall be borne by Concessionaire who may, or whose employees, agents, or invitees may, have caused it.

l. If at any time during the Term, the Port Authority establishes a Terminal-wide recycling program, Concessionaire agrees to participate in any such program at its own cost.

9. The portion of the Common Areas, if any, immediately adjoining the Concessionaire Premises shall be kept clean and free from Concessionaire's dirt and rubbish by Concessionaire to the reasonable satisfaction of Sublandlord. Concessionaire shall not encumber or obstruct the corridors or stairways of the Terminal with furniture, equipment, boxes, crates, floor mats, merchandise, goods or otherwise. In the event of a violation, Sublandlord may move such objects into the Concessionaire Premises or to any other suitable location.

10. Personnel

m. The management, maintenance and operation of the Concessionaire Premises and the concession conducted thereon shall be at all times during the Term under the supervision and direction of an active, qualified, competent and experienced manager, who shall at all times be authorized to represent and act for Concessionaire. Said manager shall have full authority to make day-to-day business decisions on behalf of Concessionaire, with respect to the concession operations contemplated by this Agreement, and shall represent the Concessionaire in dealings with Sublandlord, and coordinate all concession activities with Sublandlord. Concessionaire shall cause such manager to be assigned a duty station or office in the Concessionaire Premises at which he or she shall be available during normal business hours. During the absence of such manager, Concessionaire will, at all times during Store Hours, assign or cause to be

assigned, a qualified subordinate to assume and be directly responsible for the carrying out of his or her duties.

n. Concessionaire shall recruit, train, supervise, direct and deploy the number of representatives, agents and employees, collectively referred to as "personnel" necessary to promptly provide services to all customers and to meet all of the requirements of this Sublease, as amended. Concessionaire shall be continuously responsible for actively managing personnel levels to ensure that changes in passenger activity, due to schedule changes, load factor changes or flight delays are adequately accommodated through increased levels of personnel. Any actual or perceived degradation in (i) the customer service requirements set forth in this Sublease or other duties, rights or responsibilities set forth in this Sublease provided by Concessionaire in the course of conducting Concessionaire's permitted uses; or (ii) the training and competence of Concessionaire's personnel shall be conveyed to the Concessionaire and Concessionaire hereby agrees that it shall promptly institute training programs and or add additional adequately trained and capable staff to the satisfaction of Sublandlord.

o. In addition to the staffing level requirements set forth herein, Concessionaire shall ensure that all personnel utilized in the Concessionaire Premises shall conform to the following:

I. All personnel employed by the Concessionaire shall be neat, clean and courteous at all times.

II . No loud, boisterous or otherwise improper actions or language shall be permitted while on or about the Terminal.

III . Concessionaire shall, at its sole cost and expense, provide each member of the sales staff with a uniform of a design to be approved by Sublandlord, in its discretion, which shall be worn whenever said staff are in the Concessionaire Premises.

IV. Personnel shall prominently display nametags, Airport Identification badges and any other specified airport badges and or pins while on duty in the Terminal.

v. All personnel shall be actively working while on the sales floor in view of the public. No personnel shall be engaged in personal conversation (via telephone, etc.) or activities such as reading, writing, eating, etc.

VI. All personnel shall be attentive to customer needs, display a positive attitude and refrain from discussing personal issues problems within the sales areas of the Concessionaire Premises.

VII. All personnel shall know and utilize practices of good customer service such as (1) assisting customers with purchase decisions; (2) identify product alternatives; (3) posses and display good product knowledge; and (4) utilize appropriate suggestive selling.

VIII. All personnel shall provide warm, friendly, smiling, prompt and courteous service.

IX. All personnel shall be proficient with and trained in the required operations of all equipment and devices used in the Concessionaire Premises to facilitate sales (i .e. point of sale devices, credit card transaction equipment, etc.).

x. All personnel shall be familiar with all applicable policies of this Sublease, the Terminal and Concessionaire.

XI. All personnel engaged in sales activities shall speak and comprehend English, at a level appropriate to their duties.

p. Sublandlord shall have the right to object to the demeanor, conduct, and appearance of any employee of Concessionaire or any of its invitees or those doing business with it, whereupon Concessionaire shall take all steps necessary to remedy the cause of the objection. If requested by Concessionaire, Sub landlord shall present its objections in writing and provide the opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

11. The delivery or shipping of merchandise, supplies, and fixtures to and from the concessionaire Premises shall be subject to such rules and regulations as in the reasonable judgment of Sublandlord are necessary for the proper operation of the Terminal.

12. Concessionaire acknowledges that all locks and similar devices on and to the Concessionaire Premises are to be keyed or otherwise within the control from or by a master key or other device within the possession and control of the Subland lord. At no time during the Term, shall the Concessionaire have the right to place any locks or similar devices on or to any portion of the interior or exterior of the Concessionaire Premises without each being capable of being opened by the master key or other controlling device of the Sublandlord. To the extent that the Concessionaire shall desire to install, within the Concessionaire Premises any combination or other form of locks, no such equipment may be installed without first obtaining the prior written consent and approval of the Sublandlord, and providing to Sublandlord the key, combination, or other means of opening same at any time.

13. Concessionaire's Maintenance Obligations.

q. Concessionaire will maintain the Concessionaire Premises and every part thereof in good appearance, repair and safe condition. Concessionaire shall maintain and repair all leasehold improvements on the Concessionaire Premises and all furnishing, fixtures and equipment therein, whether installed by Concessionaire or by others, including repainting or redecorating as necessary and replacing or repairing worn carpet, tile, fixtures or furnishings. All such maintenance and repairs shall be of quality equal to or better than the original in materials and workmanship and all work, including paint colors, shall be subject to the prior written approval of both Sublandlord and the Port Authority.

r. Concessionaire shall, without cost to Sublandlord, provide all janitorial services for the Concessionaire Premises. Concessionaire shall ensure that the Concessionaire Premises, and the public areas adjacent to the Concessionaire Premises, are kept free from all rubbish, filth and refuse.

s. On or about each anniversary of the Commencement Date, representatives of Sub landlord and Concessionaire shall tour the Concessionaire Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Concessionaire Premise in first-class condition, and Concessionaire shall promptly undertake such refurbishment at its sole cost and expense. For purposes of these Terminal Rules, refurbishment shall mean the routine repainting or redecoration of public areas within the Concessionaire Premises, including the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures or finishes.

t. Concessionaire agrees to employ sufficient personnel, and provide necessary equipment to keep the Concessionaire Premises and all furniture, furnishings, fixtures and equipment clean, neat, safe, sanitary and in good working order and condition at all times pursuant to the maintenance requirements of these Terminal Rules.

u. Sublandlord shall be the sole judge of the quality of maintenance. The Port Authority, Sublandlord, or their designees, may at any time, without notice, enter upon the Leased Premises to determine if satisfactory maintenance is being performed. If it is determined that said maintenance is not satisfactory, the Port Authority and/or Sublandlord shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire within fifteen (15) days after receipt of written notice, British Airways or its designee thereafter shall have the right to enter upon the Leased Premises and perform the maintenance therefore, and Concessionaire agrees to promptly reimburse British Airways for the cost thereof, plus fifteen percent (15%) for administrative overhead.

v. The Sublandlord and the Port Authority and their respective agents shall have the right to enter the Concessionaire Premises for the purpose of making repairs, alterations, or additions which Sub landlord shall deem necessary and take all materials into and upon said Concessionaire Premises that may be required to make such repairs, improvements additions or alterations, without in any way being deemed or held guilty of an eviction of Concessionaire and the Rent reserved herein shall in no wise abate while said repairs, alterations or additions are being made. Concessionaire shall not be entitled to maintain a setoff or counterclaim for damages by reason of loss or interruption to the business of Concessionaire because of the prosecution of any such work.

14. Hours of Operation.

w. Concessionaire shall ensure that all portions of the Concessionaire Premises are continuously and uninterruptedly open for business and provide all services and sales activities as required by this Agreement at such hours as may be established from time to time by Sublandlord, in its sole and absolute discretion (hereinafter referred to as "Store Hours"). Concessionaire hereby understands and agrees that the Store Hours may be seven (7) days per week, including local, state and federal holidays, twenty-four (24) hours per day.

x. In the event of delayed flights within those portions of the Terminal in which any portion of the Concessionaire Premises are located, Concessionaire shall remain continuously open and provide all services and sales activities as required by the Agreement in any such Facility until said flights depart the gate or Sublandlord otherwise

instructs, even if such period is beyond the current Store Hours for said portion of the Concessionaire Premises.

y. If Sublandlord deems it necessary, on an emergency basis, to serve the public during other than Store Hours, Concessionaire shall remain continuously open and provide all services and sales activities in such portion of the Concessionaire Premises as required by Sublandlord during the emergency period.

z. Concessionaire shall prominently post in each of the Facilities, in an area visible to customers, the current listing of the Facility's hours of operation. 15. Concessionaire shall be required to respond to any complaints in writing within 10 days of receipt, with a good faith effort to explain, resolve or rectify the corresponding problem. Concessionaire shall provide Sublandlord, or its designee, with a copy of any complaint received the same day it is received by the Concessionaire and shall provide Sublandlord with a copy of the written response the same day it is sent. Complaints received by Sublandlord shall be forwarded to the Concessionaire, who shall respond utilizing the above procedure. Concessionaire shall be required to implement and utilize a customer comment system (cards, telephone, web, etc.). All such completed comments and Concessionaire' s summary reports shall be provided to the Sublandlord within 10 days of receipt and/or completion. 16. Sub landlord reserves the right, to make such other and further reasonable rules and regulations as in its judgment may, from time to time, be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other further rules and regulations shall be binding upon the parties with the same force and effect as if they had been inserted herein at the time of the execution hereof.

EXHIBIT "I"
PERMITTED OPERATIONS AND BRANDED CONCEPTS

To be completed by Duty Free Americas

EXHIBIT "I"
PERMITTED OPERATIONS AND BRANDED CONCEPTS

Operation of Coach and Emporio Armani retail stores for the sale of merchandise on a duty-free and/or tax-free and/or duty-paid basis.

Such brands may not be substituted or moved between locations without Sublandlord's express written consent, which consent shall not be unreasonably withheld or delayed. Concessionaire agrees that it has or will obtain all necessary rights, titles and licenses to permit such designated brands to be sold at the locations herein and provide Sublandlord with proof of such as requested. Concessionaire agrees that it will retain, to the extent reasonably possible, the ability both to retain such brands for the duration of this Agreement and to replace such brands as is necessary.

Either party may, in the reasonable exercise of its business judgment, request a review of the performance of any of the locations set forth herein. The basis for such review may be either or both of a location's financial performance or its suitability for the designated location or the Terminal in general. In the event Sublandlord and Concessionaire determine after such review that a particular brand is performing in a materially unsatisfactory fashion or is otherwise no longer appropriate for the Terminal, Sublandlord and Concessionaire will enter into good faith negotiations to consider a replacement brand. The reimbursement for unamortized capital and the capital investment required for such brand substitution and which party will be responsible therefor will be a component of such good faith negotiations.

EXHIBIT 'J'
INITIAL INVESTMENT COSTS FOR COACH AND ARMANI CONCEPTS

"JFK T7 CAMM
Estimate 083010.pdf"

Exemption (2.a.)

Form - All-Purpose Ack. N.Y. (rev 1/4/2000)

For the Port Authority of NY & NJ

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 12TH day of SEPTEMBER in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared DAVID KAGAN, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Gail E. Mitchell
(notarial seal and stamp)

GAIL E. MITCHELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MI6026210
Qualified In Queens County
My Commission Expires June 14, 2014

For British Airways Plc

STATE OF NEW YORK)
) ss.
COUNTY OF QUEENS)

On the 17th day of June in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared Neil Evans Sr. VP Finance 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

JAMES B. BLANEY
Notary Public, State of New York
No.02BL[illegible]
Qualified in Qu[illegible]ty
Commission Expire[illegible]/2014

JAMES B. BLANEY
Notary Public, State of New York
No.02BL4919572
Qualified in Queens County
Commission Expires 08/14/2014

For Duty free Americas Airports, Inc.

STATE OF FLORIDA)
) ss.
COUNTY OF BROWARD)

On the 27 day of April in the year 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared Jerome Falic, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

DAVID J. TANEY
MY COMMISSION # DD 722206
EXPIRES: November 7, 2011
Bonded Thru Notary Public Underwriters

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE LESSEE AND THE
SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Agreement No. AYE-033
Lease No. AYB-876
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of December 12, 2009 (the "Effective Date"), by and among THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called the "Port Authority"), BRITISH AIRWAYS PLC (hereinafter called the "Lessee") and PROJECT HORIZON, INC. d/b/a InMotion Entertainment (hereinafter called the "Sublessee"), a corporation organized and existing under the laws of the State of Florida with an office and place of business at ~~15 West 28th Street, 5th Floor, New York, NY 10001, whose representative is Amy Wolf.~~ 1801 Executive Park Court, Suite 100, Jacksonville, FL 32216 whose Representative is P. Jeremy Smith, JR. GJW PJS

WITNESSETH, That:

WHEREAS, the Port Authority and the Lessee have heretofore entered into an agreement of lease, dated as of January 4, 1988, and identified by Port Authority Agreement No. AYB-876 (which agreement, as the same has been or may hereafter be supplemented and amended, is hereinafter called the "Lease") pursuant to which the Lessee hired and took from the Port Authority certain premises at John F. Kennedy International Airport (herein called the "Airport") all as more particularly described in the Lease (said premises being hereinafter referred to as the "Premises");

WHEREAS, the Lessee has requested the consent of the Port Authority to the attached proposed concessionaire sublease agreement, made as of December 12, 2009, between the Lessee and the Sublessee (hereinafter called the "Sublease") covering portions of the Premises under the Lease (such portions being hereinafter collectively referred to as the "Space");

WHEREAS, the applicable provisions of the Lease require, and the Sublease provides, that the Sublease shall be subject and subordinate to the Lease as the same may be amended, supplemented or extended and, further, that it shall not take effect without the prior written consent of the Port Authority thereto embodied in an instrument signed by the Port Authority;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Lessee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents

to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Lessee or the Sublessee, on the earliest to occur of the day preceding the date of expiration or earlier termination of the Lease, the effective date of any revocation of this Consent Agreement pursuant to paragraph 8 hereof, or such earlier date as the Lessee and the Sublessee may agree upon subject to the terms and provisions hereof. Notwithstanding the foregoing, however, no termination of the Sublease shall diminish, limit, alter, affect, modify or impair the obligations, liabilities, or responsibilities of the Lessee under the Lease or release or relieve the Lessee from the same or from any of the terms, provisions, covenants and conditions of the Lease on its part to be kept, performed or observed. The Sublessee shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Lessee shall at any time be in default of its obligations under the Lease, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Lessee. No such payment shall relieve the Lessee from any obligation under the Lease or under this Consent Agreement but all such payments shall be credited against the obligations of the Lessee or of the Sublessee, as the Port Authority may determine for each payment or part thereof.

4. (a) Neither this Consent, nor anything contained herein nor the consent granted hereunder shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Lessee under the Lease, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Lease nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Lessee under the Lease, nor shall the same affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Lessee under the Lease nor constitute or be deemed to constitute a release of the Lessee from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Lessee and the Sublessee with respect to the various matters set forth therein. Neither this Consent Agreement nor anything contained herein nor the consent granted hereunder shall constitute an agreement between the Port Authority and the Lessee that the provisions of the Sublease shall apply and pertain as between the Lessee and the Port Authority, it being understood that the terms, provisions, covenants, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent Agreement and those of the Sublease, this Consent Agreement shall be controlling. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent Agreement or shall thereafter grant its consent or

approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Lease as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Lease shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Lessee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease (in whole or in part) the Space or any part thereof, be deemed to imply or infer that Port Authority consent or approval thereto pursuant to the Lease will be given or that Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) (i) The Sublessee acknowledges and agrees that it shall pay directly to the Port Authority Ex. 2.a. of the Minimum Annual Guaranteed Rent, Percentage Rent and Additional Rent, as such terms are defined in the Sublease.

(ii) Notwithstanding anything to the contrary stated in Section 13.1 (a) of the Sublease, the Port Authority does not and shall not grant or Sublease a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority. Nor shall the Port Authority grant any rent abatements which are not consistent with the Port Authority's general practices and/or policies with regard to rent abatement.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Lease.

6. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

7. The granting of the consent hereunder by the Port Authority shall not be or be deemed to operate as a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease or other agreement (by the Lessee or by the Sublessee) with respect to the use or occupancy of the Space or any other portion or area of the Premises under the Lease, or to any

assignment of the Lease or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

8. (a) The Port Authority shall have the right to revoke this Consent Agreement at any time without cause on thirty (30) days' notice to the Sublessee, which notice shall be jointly subscribed by the Port Authority and the Lessee, as to any one or more of the Spaces at the Premises at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Lease or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby.

(b) In the event the Port Authority exercises it right to revoke this Consent Agreement for any reason other than "without cause", the Sublessee 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 including, without limitation, any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent Agreement including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent Agreement.

9. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent Agreement and the Sublease or the use and occupancy of the Space thereunder.

10. The Lessee and the Sublessee hereby represent and covenant to the Port Authority that they have complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Lessee and the Sublessee under the Sublease or its or their use and/or occupancy of the Space or the Premises. The obligation of the Lessee and the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

11. (a) Notwithstanding anything to the contrary stated in Section 2.3 of the Sublease, the Sublessee shall fail to pay any amount required under this Consent Agreement 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 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent Agreement. 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 paragraph, with respect to such unpaid amount. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent Agreement shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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.

(c) Nothing in this paragraph 11 is intended, or shall be deemed, to affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Consent Agreement, including, without limitation, the Port Authority's rights to revoke this Consent Agreement or (ii) any obligations of the Sublessee under this Consent Agreement.

12. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees and also others on the Space covered by the Sublease or at the Premises or on the Airport with the consent of the Sublessee.

13. It is hereby acknowledged and agreed by the Lessee and the Sublessee that the Port Authority has no obligation under the Lease, this Consent Agreement or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Premises, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Lease or upon revocation of this Consent Agreement with or without cause (in accordance with the terms of paragraph 8 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Lessee to pay, subsidize or finance said capital investment.

14. (a) Without in any way affecting the obligations of the Lessee under the Lease and under this Consent Agreement and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements as if it were the Lessee under the Lease. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent Agreement by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the City Lease (as defined hereinbelow) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Lessee under the Lease and the Lessee shall also be severally responsible therefor including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

15. (a) In addition to the insurance required to be maintained by the Lessee

under the Lease, the Sublessee in its own name as insured and including the Port Authority and the Lessee as additional insureds shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority or the Lessee, or both, and with respect to any claim or action against the Port Authority or the Lessee, or both, by the Sublessee as though the Port Authority and the Lessee were the named insureds thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority and the Lessee thereunder as additional insureds. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under subparagraph (a) above.

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable additions, deletions, amendments or modifications to the above-scheduled insurance requirements, or may require such other and additional insurance, in such amounts, against such other insurable hazards, as the Port Authority may deem required.

(c) As to the insurance required by the provisions of subparagraph (a) of this paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

16. Without limiting the generality of the provisions of this Consent Agreement, the terms, provisions, conditions and agreements of the Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Lease or this Consent Agreement then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Lease.

17. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

18. (a) Nothing contained in this Consent Agreement nor in the Sublease, including, without limitation, the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Lease. Neither a partnership nor any joint venture is hereby, or by the Sublease, created or implied notwithstanding the provisions of Article II of the Sublease.

(b) Without limiting the generality and notwithstanding the provisions of paragraph 4(a) herein, the Sublessee and the Lessee further acknowledge and expressly agree that the Port Authority shall have the right to enforce the Sublease directly against the Sublessee, including but not limited to all insurance provisions thereof.

19. Nothing contained in this Consent Agreement or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Lessee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Lease and an approved Alteration Application which the Lessee shall prepare and submit to the Port Authority.

20. (a) (a) The Sublessee shall deliver to the Port Authority, as initial security for all obligations under this Consent Agreement, 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 District, in favor of the Port Authority in the amount of Twenty-two Thousand Five Hundred Dollars and No Cents ($22,500.00). The form and terms of such letter of credit, as well as the institution issuing it, shall be subject to the prior and continuing approval of the Port Authority. Such letter of credit shall provide that it shall continue throughout the effective letting under this Consent Agreement 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. Upon notice of cancellation of a letter of credit, the Sublessee 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 cash or bonds 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. Failure to provide such a letter of credit at any time during the effective letting, 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 Consent Agreement on the part of the Sublessee. Upon acceptance of such letter of credit by the Port Authority, and upon request by the Sublessee made thereafter, the Port Authority will return the security deposit, if any, thereafter, the Port Authority will return the security deposit, if any, theretofore made under and in accordance with the provisions of this paragraph. The Sublessee 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 permission under this Consent Agreement and fulfillment of the obligations of the Sublessee hereunder. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Sublessee on demand of the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount.

(b) The Sublessee hereby certifies that its Federal Tax Identification Number is for the purposes of subparagraph (a) above.

21. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Sublessee and their respective offices shall be as set forth in this Consent Agreement. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent Agreement as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent Agreement as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

22. This Consent Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Sublessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The Sublessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Sublessee agrees to comply with the terms and provisions of Schedule G, attached hereto and hereto made a part hereof.

23. City Lease Provisions:

(a) Certain Definitions.

(i) "City Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar

with the contents of, the City Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the City Lease.

(c) In accordance with the provisions of the City Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent Agreement is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Consent Agreement for more than one (1) month in advance (excluding security and other deposits required under this Consent Agreement);

(iii) With respect to this Consent Agreement, the Sublessee on the termination of the City Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the City Lease that arise out of the Sublessess's operations at the Airport, or arise out of the acts or omissions of the Sublessess's officers, employees, agents, representatives, contractors, customers, business visitors and guests at the Airport with the Sublessess's consent;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the City Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent Agreement, which shall provide the Port Authority with the right to revoke this Consent Agreement and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent Agreement.

24. Without in any way limiting the provisions hereof, unless otherwise notified by the Port Authority in writing, in the event the Sublessee shall continue to perform the operations permitted under this Consent Agreement and/or the Sublease, after the expiration, revocation or termination of the term granted under this Consent Agreement or the Sublease, as such effective term

may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Consent Agreement or other remedies the Port Authority may have by law or otherwise, the Sublessee 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 Sublessee shall cease to perform the operations at the Airport under the Sublease, equal to twice the sum of the monthly amount due to the Port Authority under this Consent Agreement. Nothing herein contained shall give, or be deemed to give, the Sublessee any right to continue to perform the privilege granted under this Consent Agreement at the Airport after the expiration, revocation or termination of the term granted under this Consent Agreement and/or Sublease. The Sublessee acknowledges that the failure of the Sublessee to cease to perform the operations at the Airport from and after the effective date of such expiration, revocation or termination will or may cause the Port Authority injury, damage or loss. The Sublessee 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 Sublessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

25. The Sublessee and Lessee specifically agree not to interpose any claims as counterclaims in any summary proceeding for possession or in any action for non-payment of rents, fees or other amounts which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

26. Notwithstanding anything to the contrary stated in the Sublease, Section 6.4 shall be, and be deemed, deleted in its entirely and the following Section 6.4 shall be substituted in lieu thereof:

"Section 6.4 Operation and Maintenance Fee ("O&M Fee").

Concessionaire shall pay to Sublandlord an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of concessionaire in the operation of the concession space within the Terminal ("O&M Costs"). O&M Costs include, but are not limited to: trash removal; operations, maintenance, and repair of heating, cooling and ventilation systems; water, power, gas and sewerage charges; and all other direct costs and expenses properly chargeable to the operation, maintenance or repair of such systems and services.

Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Weighted Floor Area of the Concessionaire Premises, as that term is herein defined, and the denominator shall be the sum of the weighted floor areas leased and occupied by Concessionaires to which O&M Costs are allocated by

Sublandlord. The calculation of the amount of costs and expenses incurred by Sublandlord in connection with the operation of the concession space within the Terminal, which shall be an allocation which is derived from the total costs and expenses incurred by Sublandlord in connection with the Terminal as a whole, shall be determined by the Sublandlord in good faith, in a consistent manner from year-to-year, and, in addition, in a manner capable of substantiation. The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionarie, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payment s are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid. For purposes of this Sublease, the Weighted Floor Area of the Concessionaire Premises is 100% of the Floor Area of the Concessionaire Premises."

27. The Consent Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The Sublessee agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23. The Sublessee agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreement. Further, the Sublessee agrees to comply with the terms and provisions of Schedule G,

28. Labor Harmony at the Airport

(a) General. In connection with its operations at the Airport under the Consent Agreement, the Sublessee shall serve the public interest by promoting labor harmony, it being acknowledged that strikes, picketing, or boycotts may disrupt the efficient operation of the Terminal. The Sublessee recognizes the essential benefit to have continued and full operation of the Airport as a whole and the Terminal as a transportation center. The Sublessee shall immediately give oral notice to the Port Authority (to be followed reasonably promptly by written notices and reports) of any and all impending or existing labor-related disruptions and the progress thereof.

If any type of strike, picketing, boycott or other labor-related disruption is directed against the Sublessee at the Terminal, or against its operations thereat pursuant to the Consent Agreement, which in the opinion of the Port Authority (i) physically interferes with the operation of the Airport, the Terminal or the Space, or (ii) physically interferes with public access between the Space and any portion of the Terminal or the Airport, or (iii) physically interferes with the operations of other operators at the Airport or the Terminal, or (iv) presents a danger to the health and safety of users of the Airport or the Terminal, including persons employed thereat or members of the public, the Port Authority shall have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of the Consent Agreement.

(b) Labor peace agreement. The Sublessee represents that, prior to or upon entering into the Consent Agreement, it has delivered to the Port Authority evidence of a signed labor peace agreement, in the form attached hereto as Exhibit X or, in the event Exhibit X is inapplicable, then a signed officer's certification to such effect in the required form provided by the Port Authority.

(c) Employee Retention. If the Sublessee's concession at the Space is of the same type (i.e., food, retail, news/gifts or duty-free concession) as that of the immediately preceding concession operator at the Space (the "**Predecessor Concession**"), the Sublessee agrees to offer continued employment for a minimum period of ninety (90) days, unless there is just cause to terminate employment sooner, to employees of the Predecessor Concession who have been or will be displaced by cessation of the operations of the Predecessor Concession and who wish to work for the Sublessee at the Space. The foregoing requirement shall be subject to the Sublessee's commercially reasonable determination that fewer employees are required at the Subleased premises than were required by the Predecessor Concession; except, however, that the Sublessee shall retain such staff as is deemed commercially reasonable on the basis of seniority with the Predecessor Concession at the subleased premises. The Port Authority shall have the right to demand from the Sublessee documentation of the name, date of hire, and employment occupation classification of all employees covered by this provision. In the event the Sublessee fails to comply with this provision, the Port Authority have the right at any time during the continuance thereof to take such actions as the Port Authority may deem appropriate including, without limitation, revocation of the Consent Agreement.

(d) Applicability of Provision. The provisions of this section shall apply to concession operators which employ ten (10) or more persons at the Space.

29. This Consent Agreement and any claim, dispute or controversy arising out of, under or related to this permit shall be governed by, interpreted and construed in accordance with the laws of the State of New York, without regard to choice of law principles.

30. No Commissioner, director, officer, agent or employee of either party shall be charged personally by the other party with any liability, or held liable to the other party, under any term or provision of this Consent Agreement, or because of the party's execution or attempted execution, or because of any breach thereof.

IN WITNESS WHEREOF, the Port Authority, the Lessee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By Ronald DePose

(Title) Asst Dir, CCAS

(Seal)

ATTEST:

~~Secretary~~ DIRECTOR

BRITISH AIRWAYS PLC

By

(Title) DIRECTOR President

(Corporate Seal)

ATTEST:

Asst Secretary

PROJECT HORIZON, INC. d/b/a InMotion Entertainment

By P Jeremy Smith Jr

(Title) P Jeremy Smith Jr President

(Corporate Seal)

EXHIBIT X

EVIDENCE OF SIGNED LABOR PEACE AGREEMENT

PROJECT HORIZON, INC. (the "Company") has complied with Board Resolution "All airports – Labor Harmony Policy" passed October 18, 2007, which stipulates that the Company must sign a Labor Peace Agreement with a labor organization that seeks to represent the Company's employees and that contains provisions under which the labor organization and its members agree to refrain from engaging in any picketing, work stoppages, boycotts or any other economic interference with the Company's operations.

FOR THE COMPANY:
PROJECT HORIZON, INC.

BY:_____

DATE:_____

FOR THE UNION:
[Insert Name of Labor Organization]

BY:_____

DATE:_____

Initialed:

_____
For the Port Authority

_____
For the Sublessee

_____
For the Lessee

SCHEDULE G

AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PARTICIPATION

In accordance with regulations of the US Department of Transportation 49 CFR Part 23, the Port Authority has implemented an Airport Concession Disadvantaged Business Enterprise (ACDBE) program under which qualified firms may have the opportunity to operate an airport business. The Port Authority has established an ACDBE participation goal, as measured by the total estimated annual gross receipts for the overall concession program. The goal is modified from time to time and posted on the Port Authority's website: www.panynj.gov.

The overall ACDBE goal is a key element of the Port Authority's concession program and Concessionaire shall take all necessary and reasonable steps to comply with the requirements of the Port Authority's ACDBE program. The Concessionaire commits to making good faith efforts to achieve the ACDBE goal. Pursuant to 49 CFR 23.25 (f), ACDBE participation must be, to the greatest extent practicable, in the form of direct ownership, management and operation of the concession or the ownership, management and operation of specific concession locations through subleases. The Port Authority will also consider participation through joint ventures in which ACDBEs control a distinct portion of the joint venture business and/or purchase of goods and services from ACDBEs. In connection with the aforesaid good faith efforts, as to those matters contracted out by the Concessionaire in its performance of this agreement, the Concessionaire shall use, to the maximum extent feasible and consistent with the Concessionaire's exercise of good business judgment including without limit the consideration of cost competitiveness, a good faith effort to meet the Port Authority's goals. Information regarding specific good faith steps can be found in the Port Authority's ACDBE Program located on its above-referenced website. In addition, the Concessionaire shall keep such records as shall enable the Port Authority to comply with its obligations under 49 CFR Part 23 regarding efforts to offer opportunities to ACDBEs.

Qualification as an ACDBE

To qualify as an ACDBE, the firm must meet the definition set forth below and be certified by the New York State or New Jersey Uniform Certification Program (UCP). The New York State UCP directory is available on-line at www.nysucp.net and the New Jersey UCP at www.njucp.net.

An ACDBE must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed $47.78 million and it must be (a) at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially or economically disadvantaged individuals who own it. The personal net worth standard used in determining eligibility for purposes of

part 23 is $750,000.

The ACDBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Port Authority makes a rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged":

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, Maldives Islands, Nepal and Sri Lanka; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as ACDBE, the Port Authority, as a certifying partner in the New York State and New Jersey UCPs will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

Certification of ACDBEs hereunder shall be made by the New York State or New Jersey UCP. If Concessionaire wishes to utilize a firm not listed in the UCP directories but

which the Concessionaire believes should be certified as an ACDBE, that firm shall submit to the Port Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required under 49 CFR Part 23. All such requests shall be in writing, addressed to Lash Green, Director, Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, 233 Park Avenue South, 4th Floor, New York, New York 10003 or such other address as the Port Authority may designate from time to time. Contact OBJOcert@panynj.gov for inquiries or assistance.

General

In the event the signatory to this agreement is a Port Authority permittee, the term Concessionaire shall mean the Permittee herein. In the event the signatory to this agreement is a Port Authority lessee, the term Concessionaire shall mean the Lessee herein. In the event the signatory to this agreement is a Sublessee of a Port Authority Lessee, the term Concessionaire shall mean the Sublessee herein.

Initialed:

_____
For the Port Authority

_____
For the Lessee

_____
For the Sublessee

CONCESSIONAIRE SUBLEASE

between

BRITISH AIRWAYS PLC

(hereinafter referred to as "**Sublandlord**")

and

PROJECT HORIZON, INC.
d/b/a INMOTION ENTERTAINMENT

(hereinafter referred to as "**Concessionaire**")

For

A PORTION OF TERMINAL 7 IN
JOHN F. KENNEDY INTERNATIONAL AIRPORT

NOTICE ADDRESS:

SUBLANDLORD:
75-20 Astoria Boulevard
Jackson Heights, New York 11370
Attention: Steve Clark, Senior Vice-President, Customer Service

With a copy to:
James B. Blaney
Senior Counsel, Americas
75-20 Astoria Boulevard
Jackson Heights, New York 11370

PORT AUTHORITY:
Manager of Central Business
Port Authority of New York and New Jersey
225 Park Avenue South
New York, New York 10003

With copy to:
Chief, Leases Division
Port Authority of New York and New Jersey
Law Department
225 Park Avenue South
New York, New York 10003

CONCESSIONAIRE:
InMotion Entertainment
4801 Executive Court Park, Suite 100
Jacksonville, FL 32216
Attn: Jeremy P. Smith, Jr., President

With copy to:
Jacobs & Dembert, P.A.
One South Street - Suite 1910
Baltimore, Maryland 21202
Attn: James S. Jacobs, Esquire

SCOPE OF SUBLEASE

This Sublease sets out the terms and conditions applicable to the Concessionaire for the rental of space at Terminal 7, John F. Kennedy International Airport as confirmed by the Sublandlord.

It is agreed that the details set out in this Sublease and the Appendices to form the agreement between the parties.

AGREEMENT PERIOD:

British Airways Plc and Project Horizon, Inc. enter into this Sublease, effective as of December 12, 2009 (the "Effective Date") until '**31st October 2015**' inclusive, except as specifically provided herein.

By signing below, each Company's authorised representative confirms that he/she has authority to act on behalf of the Company and that the Company has agreed to the details set out in this agreement:

For and on behalf of BRITISH AIRWAYS PLC	**For and on behalf of PROJECT HORIZON, INC.**
Signature:	Signature:
Print Contact: NEIL EVANS	Print Contact Name: P. Terrence Smith Jr.
Title: SVP FINANCE	Title: President
Date: 5 NOVEMBER 2009	Date: 11/16/09

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DEFINITIONS AND INTERPRETATIONS

In this Agreement, except where the context otherwise requires, the following terms shall have the following meanings:

Additional Rent: The collective term for all sums of money required to be paid by Concessionaire to Sublandlord or the Port Authority, other than Base Rent, as that term is defined below, and including, without limitation, the Operations and Maintenance Fee and Marketing Fee, as those terms are hereinafter defined.

Address for payments to Port Authority: P.O. Box 17309, Newark, New Jersey 07194.

Address for payments to Sublandlord: British Airways, Concessions Management Team Terminal 7, JFK International Airport, Jamaica, New York 11430

Airport: John F. Kennedy International Airport.

Annual Statement: A statement from, and certified as being true, accurate and complete by, Concessionaire and delivered to the Sublandlord and the Port Authority, stating the amount of Gross Receipts from the Concessionaire for the previous calendar year or partial calendar year.

Audit: A complete audit to be made, by an independent certified public accountant selected by Sublandlord or the Port Authority, as the case may be, of the Records of the Concessionaire for the period covered by any Monthly Statement or Annual Statement.

Bond: Letter(s) of credit for the benefit of the Sublandlord and the Port Authority, respectively, issued by a party or parties approved by the Sublandlord and the Port Authority, as the case may be, as to the surety or letter of credit in its respective favor, which provides Sublandlord or the Port Authority, as the case may be, the right to make an immediate demand upon the issuer thereof for any Rent that may be owned to Sublandlord, or the Port Authority, as the case may be, by the Concessionaire.

Commencement Date: December 12, 2009.

Common Areas: All portions of the Terminal, except for those portions (I) included within each of the premises subleased to concessionaires including, but not limited to, the Concessionaire Premises; and (2) not open or available for use by the general public, as more fully set forth in Section 6.1.

Concessionaire Premises: That portion of the Premises subleased to the Concessionaire and depicted on Exhibit A, comprised of the following Spaces:

InMotion R7 667 sq ft (inclusive of store, cash wrap and storage)

Concessionaire Sublease: This Sublease, which shall be void *ab initio* and of no force and effect unless and until such time as the Concessionaire, Sublandlord, and the Port Authority have executed a consent agreement in the form of a so-called " Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, which issuance is within the sole and absolute discretion of the Port Authority.

Concessionaires: All third parties to whom the Sublandlord subleases or licenses portions of the Premises.

CPI: The twelve (12) month average of the Consumer Price Index [U.S. -All Items in Commodity Groups-New York Area Only, Urban Wage Earners and Clerical Workers of the U.S. Department of Labor 1982-84= 100].

Default Rate: A rate of interest being the lesser of (a) the Prime Rate, plus four percent (4%); and (b) the highest rate then allowed under the usury laws of the State of New York.

Delivery Date: As it applies to any portion of the Concessionaire Premises, the date on which possession of said portion of the Concessionaire Premises is delivered to Concessionaire by British Airways.

Delivery Service: Federal Express or similar nationally recognized overnight courier service.

Disadvantaged Business Enterprise or DBE: An individual or entity meeting the requirements of a disadvantaged business enterprise as defined in US Department of Transportation Regulations Title 49, Code of Federal Regulations, Part 23, and certified as an ACDBE by the Port Authority.

Enplanement or **Enplaned Passenger:** Any local originating, connecting or through passenger that boards a flight from the Terminal, excluding passengers who have disembarked and reboarded for the purpose of continuing their journey on the same aircraft with the same flight number.

Event of Default: Certain failures by the Concessionaire, as more fully set forth in Section 13. I.

Expiration Date: October 31, 2015, unless sooner terminated in accordance with the provisions of this Sublease, as amended, but in the event the Master Lease is extended to a date after December 31, 2015, the Expiration Date shall be December 31, 2015.

Federal Aviation Administration or FAA: The United States Federal Aviation Administration, and any successor agency, office or department thereof.

Floor Area of Concessionaire Premises: R7 667 sq ft

Food Court Common Areas: That portion of the Common Areas primarily intended for (a) public circulation to and from certain food and beverage Concessionaires and (b) a public seating area containing tables and chairs for use by passengers, employees and other visitors to the Terminal to consume purchases from said food and beverage Concessionaires, as further depicted in Exhibit A.

GAAP: Generally Accepted Accounting Principles.

Governmental Authority or Governmental Authorities: The United States of America, the States of New York and New Jersey, any political subdivision of either and any agency, department, commission, board, bureau or instrumentality of any of the foregoing, or any quasigovernmental authority (to the extent the rulings of such quasi-governmental authority have the force of law), including the Port Authority, now existing or hereafter created, having jurisdiction over the Airport or any portion thereof.

Gross Receipts: As that term is defined in Section 2.1 (b)(iv), below.

Initial Build Out Costs: The aggregate of the so-called hard and soft costs incurred by the Concessionaire in connection with the development, design, construction, furnishing, fixturing and equipping of the Concessionaire Premises with the Initial Improvements.

Initial Improvements: that work to be undertaken by Concessionaire in the Concessionaire Premises, following the Start Date of Construction, as further described in Section 1.2(b) below;

Laws: All present and future laws, rules, orders, ordinances, regulations, statutes, requirements, codes and executive orders, extraordinary as well as ordinary, of all Governmental Authorities now existing or hereafter created, and of any applicable fire rating bureau or other body exercising similar functions, affecting the Airport or any portion thereof.

Master Lease: That certain Agreement of Lease dated as of January 4, 1988 between the Sublandlord as the Lessee therein and The Port Authority of New York and New Jersey, and all amendments, supplements and revisions thereof, whether heretofore or hereafter made (collectively "Supplements") and known as Lease No. AYB-876.

Minimum Annual Guaranteed Rent: Ex. 2.a. per annum, subject to the adjustment, as set forth in Section 2. I (a) for space R7, as set forth on Exhibit D.

Minimum Annual Guaranteed Rent Commencement Date: December 12, 2009.

Monthly Statement: A statement from and certified, as being true, accurate and complete by the Concessionaire to the Sublandlord and the Port Authority stating the amount of Gross Receipts from Concessionaire for the previous calendar month, and such other information as Sublandlord may reasonably request, each such statement to identify each location operated by Concessionaire within the Premises, irrespective of whether or not all such locations (if more than one) are operated under one or more Concessionaire Subleases.

Percentage Rent: That portion of the Gross Receipts of the Concessionaire to be paid as a component of Rent by the Concessionaire to the Sublandlord or Port Authority, as the case may be.

Percentage Rent Rates : Those rates identified as such in Exhibit D.

Permitted Operations: As described in Exhibit I. It is further provided that the foregoing are subject, in all events, to the limitations set forth in Section 5.1 hereof

Plans and Specifications: The plans and specifications approved by Sublandlord and the Port Authority, by which the Concessionaire will (a) design; (b) furnish; (c) fixture; and (d) equip the Concessionaire Premises. All plans and specifications must comply with the Port Authority's Tenant Alteration Application process, a copy of said form of said Application is attached hereto as Exhibit E.

Port Authority: The Port Authority of New York and New Jersey, a body corporate and politic as established by compact between the States of New Jersey and New York with the consent of the Congress of the United States of America.

Port Authority Consent: A written consent agreement in the form of a so-called "Privilege Permit", or other form of consent agreement provided by the Port Authority, evidencing the consent of the Port Authority to this Sublease, or amendments thereto, which issuance is within the sole and absolute discretion of the Port Authority.

Port Authority Percentage Rent: An amount equal to Ex. 2.a. of the Percentage Rent.

Premises: Those portions of the Terminal which are, from time-to-time, designated as such by the Sublandlord, but in no event shall it consist of less than the aggregate of (a) the Concessionaire Premises; (b) all other portions of the Terminal subleased to other concessionaires; and (c) and the Food Court Common Areas.

Prime Rate: That which is published, from time to time, in the Wall Street Journal as being the prime rate.

Protected Parties: All officers, directors, employees, agents and shareholders of the Sublandlord and its successors and assigns.

Records: Those records and books or account recording all transactions of the Concessionaire at, through, or in anyway connected with the Concessionaire Premises.

Rent: The collective term for Minimum Annual Guaranteed Rent, Percentage Rent and Additional Rent.

Sublandlord Percentage Rent: An amount equal to Ex. 2.a. of the Percentage Rent.

Sublandlord's Work: That work to be done by or on behalf of the Sublandlord as more fully set forth in Exhibit B.

Substantial Completion: That stage in the process of the Sublandlord 's Work when such is sufficiently complete, as reasonably determined by Sublandlord, so that the Concessionaire may beneficially occupy the Concessionaire Premises for its intended use,

Term: The period beginning on the Commencement Date and ending on the Expiration Date, unless sooner terminated pursuant to the terms of this Sublease.

Terminal: That portion of the Airport currently and commonly known as Terminal 7 or the British Airways Terminal.

Transportation Security Administration or **TSA**: The United States Transportation Security Administration, and any successor agency, office or department thereof

TABLE OF EXHIBITS:

A	Depiction of Concessionaire's Premises
B	Description of Sublandlord's Work
C	Percentage Rent Rates
D	Form of Port Authority and Tenant Alternation
E	Guaranty
F	Affirmative Action Policy
G	Terminal Rules
H	Permitted Operations and Branded Concepts Schedule 6.4
I	Concessionaire Renderings for the Permitted Premises

CONTRACT TERMS AND CONDITIONS

SECTION 1 – GRANT AND PREMISES

1.1: GRANT AND PREMISES

(a) Sublandlord, in consideration of the Rent to be paid and the covenants to be performed by Concessionaire, does hereby, demise and lease unto Concessionaire, and Concessionaire hereby rents and hires from Sublandlord, the Concessionaire Premises for the uses and purposes hereinafter set forth, subject, at all times, to the terms and conditions of the Master Lease and the Port Authority Consent, provided however, this Sublease shall be void ab initio until receipt of the executed Port Authority Consent.

(b) The foregoing grant and demise to Concessionaire includes the non-exclusive right of the Concessionaire and its officers, shareholders, partners, members, contractors, agents, employees and invitees and others acting by, through or under the Concessionaire to use the Airport, pursuant to the terms of the Master Lease, including, but not limited to, Section 6 (Common Area), thereof, in common with all others permitted to use the Airport by the Port Authority.

1.2: DELIVERY OF PREMISES; WORK OF SUBLANDLORD AND CONCESSIONAIRE

(a) Sublandlord will perform or cause to be performed, the Sublandlord's Work, if any, as more fully set forth in Exhibit B. Concessionaire, by its execution of this Sublease, represents, warrants and agrees that Sublandlord has no obligation, duty and has made no agreement with Concessionaire to do or cause to be done any other work in or to the Concessionaire Premises except as expressly set forth herein.

(b) Concessionaire covenants and agrees that, to the extent not required to be completed by the Sublandlord, it shall undertake, at no cost to the Sublandlord or Port Authority, improvement of the Concessionaire Premises, which improvement shall include the (I) design; (2) furnishings and fixtures; (3) leasehold improvements and; (4) equipping of the Concessionaire Premises (said work herein referred to as the "Initial Improvements"), and shall expend for said Initial Improvements an amount not less than $225,000.00, which amount may be expended in advance of commencement of this Concessionaire Sublease), and Concessionaire will provide to Sublandlord such documentation as is reasonably required to evidence and support such expenditure. Subject to delays beyond Concessionaire's control, Concessionaire shall cause the Initial Improvements to proceed diligently to completion in accordance with the Plans and Specifications. Concessionaire agrees to complete the Initial Improvements within 3 months of the Start Date of Construction, except as such date may be extended by Sublandlord. Concessionaire covenants that it will, at all times, conform with all Laws, the Master Lease and the Tenant Alteration Application process of the Port Authority. Sublandlord will take reasonable steps to assist Concessionaire to secure all necessary Port Authority approvals.

1.3: REMOTE PLAY POINT SYSTEMS

(a) Concessionaire and Sublandlord have agreed that Concessionaire shall, on or before the Commencement Date, install two remote play point systems (the "Systems"), as described in Exhibit I, at the two locations depicted in Exhibit A, for which Sublandlord will establish the necessary data line and power connections to Concessionaire's reasonable specifications therefor for the proper operation of the Systems. Concessionaire shall have the responsibility to pay for the Systems and the installation thereof and the ongoing costs (as reasonably estimated by Sublandlord and billed to Concessionaire on a monthly basis) of the data and power line connections, but not the maintenance of the connections, which shall be the

sole responsibility of the Sublandlord. Concessionaire shall use its commercially reasonable efforts to maintain the Systems in good operating condition.

(b) All proceeds from the Systems shall be included in Concessionaire's Gross Receipts.

(c) Notwithstanding anything to the contrary contained in this Section 1.3, Concessionaire shall have the right, upon not less than thirty (30) days prior written notice to Sublandlord, to remove the Systems from the Terminal in the event that, in Concessionaire's reasonable determination, the Systems cannot be operated profitably, including without limitation, because of the level of sales generated by the Systems, vandalism or reliability of data line and power connections.

SECTION 2 – RENTAL

2.1: BASE RENT

For each calendar year after the Commencement Date, Concessionaire shall pay to Sublandlord and Port Authority, or such other party or parties as the Concessionaire is from time-to-time notified in writing, as Base Rent, an amount equal to the greater of the (I) Minimum Annual Guaranteed Rent, without regard to any waiver or abatement except as set forth herein and (2) Percentage Rent. All payments of Base Rent shall be due and payable without prior demand or notice.

(a) MINIMUM ANNUAL GUARANTEED RENT.

(i) Calculation of Minimum Annual Guaranteed Rent

(A) Minimum Annual Guaranteed Rent shall be due and be paid in twelve (12) equal monthly installments, in advance, beginning on the Minimum Annual Guaranteed Rent Commencement Date. The Minimum Annual Guaranteed Rent shall be pro rated for any partial years of this Lease.

INTENTIONALLY OMITTED

(ii) Concessionaire acknowledges and agrees that, of the Minimum Annual Guaranteed Rent, fifty percent (50%) thereof is due and payable by Concessionaire to the Port Authority, on a monthly basis ("Port Authority Minimum Annual Guaranteed Rent"). Therefore, Port Authority Minimum Annual Guaranteed Rent shall be paid, directly to the Port Authority, in equal monthly installments, on the first day of the month following the Minimum Annual Guaranteed Rent commencement Date, and the Minimum Annual Guaranteed Rent for the first calendar year shall be prorated on a per diem basis. Subsequent to the Minimum Annual Guaranteed Rent Commencement Date, the Concessionaire shall deliver to the Sublandlord a statement confirming the Minimum Annual Guaranteed Rent Commencement Date.

(iii) During each calendar year that an amount equal to) of the total of the Minimum Annual Guaranteed Rent and Percentage Rent shall exceed the Minimum Annual Guaranteed Rent for the same calendar year, then the Minimum Annual Guaranteed Rent for the next succeeding calendar year shall be an amount equal to said of the total of the Minimum Annual Guaranteed Rent and Percentage Rent.

(b) PERCENTAGE RENT.

(i) Percentage Rent from Concessionaire shall be equal to the product of the Percentage Rent Rates applicable to the merchandise sold or services offered by the Concessionaire within the Concessionaire Premises, multiplied by the Gross Receipts.

(ii) Commencing with the second (2nd) month of the Term, Percentage Rent shall be paid by Concessionaire to Sublandlord, as to the Sublandlord Percentage Rent, and the Port Authority, as to the Port Authority Percentage Rent, without prior notice or demand, within fifteen (15) days after the end of each month of the Term ("Percentage Rent Payment Date"); provided however, in no event shall either the Sublandlord Percentage Rent or Port Authority Percentage Rent be less than the amount due to the Sub landlord or Port Authority, as the case may be, as Minimum Annual Guaranteed Rent.

(iii) If, for any calendar year or partial calendar year, as the case may be, the total amount of monthly installments of Percentage Rent for such period is less than the total amount of Percentage Rent required to be paid for said period, Concessionaire shall pay to

Initial: BA: Concessionaire:

the Sublandlord or the Port Authority, or both, as the case may be, the amount of such deficiency together with the delivery of the Annual Statement. If, at the end of any calendar year or partial calendar year, as the case may be, the total amount of Percentage Rent paid by Concessionaire for such period was in excess of amount of Percentage Rent required to be paid hereunder for said period, then such excess shall be deemed to be prepaid Percentage Rent and shall be applied as a credit against Minimum Annual Guaranteed Rent or Percentage Rent thereafter becoming due and payable by Concessionaire to Sublandlord or Port Authority, or both, as the case may be, until such credit is exhausted. This obligation shall survive the expiration or sooner termination of this Sublease. In the event the Percentage Rent paid in the final Sublease year exceeds the amounts owed to Sublandlord hereunder, such excess sum will be promptly repaid to Concessionaire following conclusion of the Sublease term.

(iv) The term Gross Receipts, for each calendar year or partial calendar year, shall mean and include all monies paid or payable to Concessionaire for sales made and, services rendered at or from the Concessionaire Premises, regardless of (A) when during a calendar year sales are made and (B) where the order is filled or from where it is shipped, if the order was taken at the Concessionaire Premises, provided however the following shall be excluded, or, if included, may be deducted therefrom: (I) taxes imposed by law which are separately stated to and paid by a customer and directly payable to the taxing authority by the Concessionaire; (2) receipts of Concessionaire which arise from its operations, if any, under any other agreement with the Port Authority and which are subject to a percentage rental or fee under that agreement; (3) refunds for merchandise returned by customers; (4) the amount of gratuities paid or given by patrons or customers to employees of Concessionaire or others employed at or serving at any of the facilities being operated by Concessionaire; (5) bona fide transfers of merchandise to or from the Concessionaire Premises to any other stores or warehouses of Concessionaire; (6) sales of Concessionaire's fixtures and store equipment not in the ordinary course of such Concessionaire's business; (7) returns to shippers, suppliers or manufacturers; and (8) insurance proceeds received from the settlement of claims for loss of or damages to merchandise, fixtures and other personal property of the Concessionaire other than the proceeds of business interruption insurance. During all time periods for which Gross Receipts are computed, in the event the foregoing definition produces a negative number, Gross Receipts shall be deemed to equal zero. The full amount of any payments received by Concessionaire from any third party as consideration for (i) promotions,(ii) advertising, or (iii) the prominent display of merchandise and/or the placement of promotional material in the Concessionaire Premises from a supplier of goods (such latter promotional considerations commonly referred to as "Retail Display Allowance") shall be included in the Gross Receipts for the year within which such payment was earned, irrespective of when received. The amount of Gross Receipts shall be determined and based upon the amount that Concessionaire reports to Sublandlord and the Port Authority as the Gross Receipts for each such reporting period, as adjusted, thereafter after examination of Concessionaire's books and record and/or Audit by either or both of the Sublandlord and the Port Authority. Except as otherwise provided for herein, if any charge for any of the products or services provided hereunder is not assessed, charged or collected, irrespective of the reason therefor, the proper amount of such charge shall, nevertheless, be included in Gross Receipts. Further, no deduction shall be made from Gross Receipts by reason of any credit loss, charge or deduction that may be incurred by reason of the acceptance or use of credit cards or other credit or charge arrangements.

2.2: ADDITIONAL RENT.

Additional Rent, if any, shall be paid within ten (10) days after receipt of a bill therefor.

2.3: LATE CHARGE, DEFAULT RATE, LOCATION FOR PAYMENTS

(a) Unless specifically stated otherwise in this Sublease, Rent shall be due and payable as indicated herein. The parties hereby agree that late payment by Concessionaire of any Rent may cause Sublandlord to incur certain costs and expenses not contemplated under this

Sublease; the exact amount of which costs are extremely difficult to determine. In the event Concessionaire fails to pay any Rent to Sublandlord on or before the 5th day after same is due to Sublandlord, then Concessionaire shall pay to Sublandlord a late charge of five percent (5%) of the amount not so paid as damages for the failure to make prompt payment. In the event Concessionaire pays said late charge, but fails to pay contemporaneously therewith all unpaid amounts of Rent then due to Sublandlord and payable, Sublandlord's acceptance of this late charge shall not constitute a waiver of Concessionaire's failure with respect to Concessionaire's nonpayment or prevent Sublandlord from exercising all other rights and remedies available to Sublandlord.

(b) Late Charges

(i) Any amount due from Concessionaire to Sublandlord, which is not paid when due (including, without limitation, amounts due as reimbursement to Sublandlord for costs incurred in performing obligations of the Concessionaire) shall bear interest at the Default Rate from the date due until paid (such interest hereinafter referred to as " Interest Charges"), unless otherwise specifically provided herein, but the payment of such Interest Charges shall not excuse or cure any failure or default under this Sublease. Interest Charges shall not accrue with respect to disputed items being contested in good faith by Concessionaire; however, Interest Charges shall accrue on any disputed item not paid within five (5) days from the date of resolution computed from the date of resolution.

(ii) If Concessionaire should fail to pay any amount required under this Sublease or the Port Authority Consent to the Port Authority, including without limitation any payment of any Rent, 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 (herein below described) during the entirety of II which such amount remains unpaid, each such late charge not to exceed an amount equal to eighteenths of one percent of such unpaid amount for each late charge period. There shall be twenty-four 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 (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. Each late charge shall be payable immediately upon demand made at any time therefore 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 this subsection with respect to such unpaid amount. Nothing herein is intended to, or shall be deemed to affect, alter, modify or diminish in any way any rights of the Port Authority under this Sublease or the Port Authority Consent, as the case may be. In the event that any late charge imposed pursuant to this subsection shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable hereunder shall be payable instead at such legal maximum.

(c) Rent and all other sums payable by Concessionaire shall be paid in currency of the United States or other customary commercial manner at the Address for Payments to Sublandlord or Port Authority, as the case may be, or such other place as either or all may designate, from time to time, without any deductions or offsets, except as otherwise specifically permitted in this Sublease.

SECTION 3 – RECORDS AND BOOKS OF ACCOUNT, AUDIT

3.1: RECORDS

a) Concessionaire covenants and agrees to maintain all Records in accordance with GAAP during the Term, and for two full calendar years after the expiration or earlier termination of the Term or the Port Authority Consent ("Records Term"). The Records shall be kept at all times within the Port of New York District. Without implying any limitations on the rights of the Port Authority, but in addition thereto, if any Records are maintained outside of the Port of New York District, but within the continental United States, the Port Authority or the Sublandlord, in their respective discretion, both, may (i) require that such Records be produced within the Port of New York District; or (ii) examine such Records at the location at which they have been maintained and in such event, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or both, as the case may be, when billed, all travel and related expenses, as determined by the Port Authority and the Sublandlord, for the Port Authority's and Sublandlord's auditors and other representatives, employees and officers in connection with such examination and audit, or, if any such Records have been maintained outside the continental United States, then, in addition to the costs set forth in (ii), above, Concessionaire shall be required to pay to the Port Authority or the Sublandlord, or all, as the case may be, when billed, all other costs of the examinations and audits of such Records, including, without limitation, salaries, benefits, travel costs and related expenses, overhead costs and fees and charges of third-party auditors retained by the Port Authority or the Sublandlord, or both, as the case may be, for the purpose of conducting such examinations and audits. The foregoing auditing costs, expenses and amounts due to the (i) Port Authority shall be deemed fees and charges under the Port Authority Consent, payable to the Port Authority with the same force and effect as all other fees and charges payable thereunder; or (ii) Sublandlord, as Additional Rent, and be payable upon demand therefor.

b) Notwithstanding anything contained in this Sublease to the contrary, for purposes of this Sublease, Records shall exclude any books and records relating to any other locations owned or occupied by Concessionaire located at the Airport or any other business operations of Concessionaire, provided however, that this exclusion shall neither bind nor apply to the Port Authority and its right to inspect and Audit as herein provided. The Port Authority shall also be entitled to examine and audit the books and records of account of any company or entity which is owned or controlled by Concessionaire, or which owns or controls Concessionaire, or which is under common control with the Concessionaire, if said company performs services similar to those performed by the Concessionaire, and the Concessionaire shall make available such books and records to the Port Authority for such purposes to the same extent as would be required pursuant to paragraph (c) of this section.

c) Concessionaire shall permit during the Records Term, (i) the examination and audit of the Records by the officers, employees and representatives of either or both of the Sublandlord and Port Authority ("Audit"). Concessionaire shall make available to the Port Authority within the Port of New York District for examination and Audit pursuant hereto all of the Records; (ii) the inspection by the officers, employees and representatives of either or both of the Port Authority and Sublandlord of any equipment used by Concessionaire including, but not limited to sales registration and tracking devices such as cash registers, sales slips, invoicing machines and any other equipment or devices for recording orders taken, or services rendered, as may be appropriate to Concessionaire business and necessary or desirable to keep accurate records of Gross Receipts.

d) In the event Concessionaire shall fail to maintain, keep or make available for examination and Audit the Records in the manner and at the times or location as provided herein then, in addition to all and without limiting any other rights and remedies of the Sublandlord or the Port Authority, either or both may:

(i) Estimate the Gross Receipts of the Concessionaire on any basis that the

Port Authority or the Sublandlord, in their respective sole discretion, shall deem appropriate, such estimation to be final and binding on the Concessionaire (but not on the remaining party having the benefit of this provision) and Concessionaire's Percentage Rent based thereon to be payable to the party conducting the Audit; or

(ii) If any such Records have been maintained outside of the Port of New York District, then the Port Authority or the Sublandlord, or all, may, in the exercise of the sole discretion of either, may require, on ten (10) days notice to Concessionaire, that such Records to be produced and made available within the Port of New York District for the Port Authority 's or Sublandlord's, or both, auditors and other representatives, employees and officers in connection with such examination and Audit.

3.2: REPORTS BY CONCESSIONAIRE

(a) Concessionaire shall furnish to Sublandlord and the Port Authority (i) the Monthly Statement by the Percentage Rent Payment Date, for the preceding month; and (ii) the Annual Statement on or before April 1st of each calendar year, for the preceding calendar year.

(b) Concessionaire shall timely provide to the Sublandlord and the Port Authority a Monthly Statement and Annual Statement together with all other documents, Records and materials requested or required to be delivered by Concessionaire to the Port Authority or Sublandlord.

3.3: SUBLANDLORD AUDIT ADJUSTMENTS; COSTS

If any Audit conducted by the Sublandlord of the Concessionaire discloses that the Gross Receipts as previously reported for the period audited were understated and additional Percentage Rent is due, then the Concessionaire shall be required to pay to (i) Sublandlord the additional Percentage Rent due thereto for the period audited within five (5) days after receipt of a statement therefor (together with a copy of the results of the Audit indicating the understatement); and (ii) in the event the Percentage Rent underpayment exceeds five percent (5%) of the amount determined to be due by the Audit, within five (5) days of an invoice therefor, all costs of each such Audit.

SECTION 4 – INITIAL CONDITION OF CONCESSIONAIRE PREMISES

4.1: ACCEPTANCE

(a) Upon Substantial Completion, Concessionaire shall accept the Concessionaire Premises in their then-current condition, subject to such work as may be necessary to complete the work, if any, to be done by the Sublandlord, which work shall be completed by Sublandlord as soon as is reasonably possible.

(b) Concessionaire, by the acceptance of the tender of delivery by Sublandlord of the Concessionaire Premises at the date of execution hereof, shall be deemed the unequivocal representation, warranty and agreement by the Concessionaire that (a) Substantial Completion of the Sublandlord's Work has occurred; (b) Concessionaire has, subject to full completion of Sublandlord 's Work, accepted the Concessionaire Premises in all respects; and (c) Sublandlord has no obligation, duty or has made any agreement to do or cause to be done any other work in or to the Concessionaire Premises except to the extent otherwise set forth in this Sublease.

(c) Sublandlord makes no warranty, either express or implied, as to the condition of The Concessionaire Premises or the suitability of the Concessionaire Premises for Concessionaire's purposes or needs. If during the construction of Improvements, latent defects are discovered, Sublandlord and Concessionaire shall negotiate in good faith with respect to the costs for which each shall be responsible.

4.2: CHANGES TO PREMISES

(a) The Initial Improvements with respect to each portion of the Concessionaire Premises shall be made only in accordance with the provisions of Exhibits B and E

(b) Changes, if any, made to the Concessionaire Premises from and after the completion of the Initial Improvements shall be made only in accordance with the Plans and Specifications and, in all events, in compliance with the Port Authority's Tenant Alteration Application process, which process must be complied with, in addition to, and not in lieu of, the provisions of this Section 4.2.

(c) Full and complete plans and specifications for all work, facilities, improvements and finishes, and the time required to complete same (" Plans and Specifications"), shall be first reviewed and approved in writing by Sublandlord and then submitted and approved by the Port Authority before any work or construction is commenced. Approval of Sublandlord shall include architectural and aesthetic matters and Sublandlord reserves the right to reject any layout or design proposal submitted and to require Concessionaire to resubmit any such layout or design proposal until it meets Sublandlord's approval.

(d) All improvements, furniture, fixtures, equipment and finishes, including the plans and specifications thereof, constructed or installed by Concessionaire, its subtenants, agents or contractors shall conform in all respects to applicable Laws including, but not limited to, the Americans with Disabilities Act of 1990, as amended. Any approvals given by Sublandlord shall not constitute a representation or warranty as to such conformity; responsibility therefore shall at all times remain with Concessionaire.

(e) All designs, colors, materials and construction shall be furnished as set forth in the Plans and Specifications. Concessionaire acknowledges that Sublandlord, or its designee, may from time to time inspect the progress of the work for conformance to the Plans and Specifications. In the event Sublandlord, or its designee, determines, in their sole judgment, there is a material deviation from the Plans and Specifications, Concessionaire agrees, upon notice from Sublandlord, to promptly effect repairs or modifications to the improvements so as to conform to the Plans and Specifications. Concessionaire acknowledges and agrees that the any

improvements to the Concessionaire Premises are subject to the inspection and acceptance of Sublandlord and the Port Authority.

4.3: CHANGES TO THE TERMINAL

Concessionaire acknowledges that it is aware that Sublandlord and the Port Authority each have the right, without compensation, or reimbursement to Concessionaire, or abatement of Rent, to make alterations to the Terminal, including any modifications of the Common Areas and, in connection with such alterations, may erect temporary scaffolds and other temporary aids to construction on the exterior of the Concessionaire Premises, and to install, maintain, use, repair and replace within the Concessionaire Premises pipes, ducts, conduits, wires and all other mechanical equipment serving other parts of the Terminal or Airport. Sublandlord will not unreasonably interfere with Concessionaire's business in the event of any exercise of its rights pursuant to this Section 4.3.

SECTION 5 – CONDUCT OF BUSINESS BY CONCESSIONAIRE

5.1: PERMITTED OPERATIONS

(a) Concessionaire shall use the Concessionaire Premises only for the purpose of conducting the Permitted Operations and for no other use or purpose, without first obtaining the prior written consent of the Sublandlord and the Port Authority, as set forth in the Port Authority Consent. If any governmental license or permit shall be required for the proper and lawful conduct of any business or other activity conducted in the Concessionaire Premises, then Concessionaire shall duly procure and thereafter maintain each such license or permit and submit the same for inspection by Sublandlord or the Port Authority upon request therefore by Sublandlord and Port Authority, as the case may be.

(b) Notwithstanding the foregoing, the Permitted Operations shall exclude any operation that:

(i) Materially interferes with the reasonable use, by third-parties, of the Common Areas;

(ii) Hinders emergency personnel (including, but not limited to police, fire and rescue personnel);

(iii) Constitutes a condition hazardous to the safety or health of the general public;

or

(iv) Is contrary to rules, regulations, policies or directives of the Port Authority.

(c) Other than as specifically provided for herein, In addition to the uses excluded by (b), above, Concessionaire agrees that it may not receive any revenues or profits with respect to any of the following uses, operations or installations which the Port Authority has reserved to itself and its designees exclusively in the Terminal: VIP lounges, airline clubs, monorail facilities, if any, advertising (including, without limitation, static display, broadcast and other), pay telephones, rental of cellular phones intended for use solely within the Airport, facsimile transmission machines and other public communication services, concierge services (i.e., a center or location which offers a variety of services for passengers, including, but not limited to hotel reservations, sale of entertainment events tickets and lottery tickets, luggage storage and delivery, sightseeing tours, business services and provision of touring information), ground transportation, including vehicle rentals, hotel and other lodging reservations, vending machines dispensing anything, including but not limited to catalog and electronic sales (save and except for those owned and operated by Concessionaire within the Concessionaire Premises selling goods and services by Concessionaire delivered at the Concessionaire Premises), other than products specifically permitted to be sold in the Concessionaire Premises pursuant to this Sublease and, if approved by the Port Authority, on-airport baggage carts or other on-airport baggage-moving devices, electronic amusements, and public service airport operation information, messages and announcements.

(d) Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sales a full and complete stock of merchandise consistent with only the Permitted Operations as more fully set forth in the Terminal Rules (Exhibit H). Upon request, Concessionaire must promptly provide Sublandlord, or its designee, with a complete list of all merchandise and prices. Concessionaire understands that its rights hereunder are nonexclusive and agrees that Sublandlord has the right to grant privileges under separate agreements for other concession services that may or may not be similar to the privileges granted herein to Concessionaire. In the event of a dispute between Concessionaire and any other

lessee, licensee or concessionaire as to the respective rights of the respective lessees, licensees or concessionaires, Sublandlord shall determine the rights of each lessee, licensee or concessionaire and Concessionaire agrees to be bound by such decision.

5.2: OPERATION OF BUSINESS

(a) Concessionaire agrees and covenants to be open for business and diligently conduct its business (I) in a commercially reasonable manner, fully staffed with personnel that have been trained and are qualified for the positions held and duties to be discharged; (2) on such days and during such hours as reasonably determined from time to time by the Sublandlord; and (3) in accordance with the rules and regulations promulgated from time to time by the Sublandlord to regulate the use, occupancy and operation of the Concessionaires in the Premises, all of the foregoing being the " Standards of Operation" as more fully set forth in Exhibit H. In the event of any conflict between the provisions of the Standards of Operation, as may from time to time be amended, and this Sublease, the provisions of this Sublease shall prevail.

(b) Concessionaire shall promptly comply with all present and future Laws of all Governmental Authorities and shall neither (i) do or permit anything to be done in or about the Concessionaire Premises which will violate any Laws; nor (ii) cause or knowingly permit anything to occur in the Concessionaire Premises which constitutes a violation or breach of the Master Lease or cause Sublandlord to be in breach or violation of said Master Lease.

(c) Concessionaire shall maintain a street pricing policy to ensure that customers are provided high quality merchandise, products and/or services and that Concessionaire competitively prices all merchandise and products sold and/or services rendered from the Concessionaire Premises such that that customers do not expect to pay more for products and services in the Terminal than they would for average prices in locations outside the Terminal, such that Concessionaire's prices shall be same as the prices charged by Concessionaire at all of Concessionaire's other stores operating under the same Trade Name located in airports in the United States.

(d) Concessionaire covenants and agrees to (I) assist and support all efforts of the Sublandlord and others to provide deliveries from the public access areas of the Terminal to and from the Premises and the Concessionaire Premises to and from the secure areas of the Terminal; and (2) coordinate with Sublandlord and others in matters essential to the efficient operation of the Premises and the Terminal.

(e) Sublandlord's Right to Monitor Performance

(i) Concessionaire shall maintain and operate the concessions granted hereunder in an orderly, proper and first-class manner which, in the sole judgment of Sublandlord, does not annoy, disturb or offend others at the Terminal. Sublandlord shall have the right to raise reasonable objections to the condition of the Concessionaire Premises, the quality and quantity of merchandise, the character of the service, the hours of operation, the appearance and performance of service personnel and to require any such conditions or practices objectionable to Sublandlord to be remedied by Concessionaire. If requested by Concessionaire, Sublandlord shall reduce its objections to writing and provide Concessionaire an opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

(ii) Concessionaire hereby acknowledges and agrees that Sublandlord shall have the right, at its cost, to audit, review, monitor, inspect or test all Concessionaire' s operations at any time through the use of its own direct review, the use of third parties and/or other means that do not unduly interfere with Concessionaire's operations. Concessionaire acknowledges that such audits and reviews will be conducted by Sublandlord, or its designee, and hereby agrees to cooperate with any such performance audit. Said performance audits may include minimum objective standards in the areas of (1) product quality, (2) customer

service and (3) cleanliness and maintenance. If Concessionaire fails to meet minimum standards in any of these areas, Sublandlord may, at its reasonable discretion, assess liquidated damages as set forth herein.

(iii) Repeated violations and deficiencies in performance by Concessionaire, or its permitted sub lessees, may be cause, at Sublandlord 's sole discretion, to terminate this Sublease, subject to Concessionaire's right to cure pursuant to Section 13.1.

(f) *Failure to Comply with Standards of Operation*

(i) Concessionaire acknowledges Sublandlord 's desire to provide the public and air traveler with the level and quality of service as described herein. Accordingly, Sublandlord has established a series of fees, as set forth in Table I of this Section 5.02(f), that it may assess, in its sole discretion, for various violations of this Sublease, as amended, as additional Marketing Fee (as said term is defined herein). Concessionaire and Sublandlord agree that the fees set forth herein are reasonable, and Concessionaire further agrees to pay to Sublandlord such fees in accordance with the rates or in the amounts specified herein upon written demand by Sublandlord. Concessionaire further acknowledges such fees are not exclusive remedies and Sublandlord may pursue other remedies, as allowed for in this Sublease, as amended, at its sole discretion.

(ii) Multiple Violations. Except for violations of requirements regarding operating hours, health code violations, and delivery and vendor access infraction, which shall accrue immediately and without notice upon violation, other fees shall not be assessed unless the violation continues for more than three (3) calendar days after Sublandlord has given to Concessionaire written notice of the violation; provided, however, after Sublandlord has given Concessionaire notice of a violation of the same operating requirement more than twice during any calendar year, the fee shall be immediately assessed with no opportunity to cure. Further, after four (4) violations of the same operating requirement within any calendar year, Sublandlord reserves the right, in its sole discretion, to deem said repeated violations a default hereunder and to seek any other remedies available to it under this Sublease, as amended, including, but not limited to, termination of this Sublease.

Table I - Performance Standard Fines

Infraction	Fee Schedule (per calendar year)
Required merchandise not available	$500 per day
Premises unclean, trash not picked up	$500 per day
Signage policy infraction	$50 per incident
Pricing policy infraction (following one Notices)	$100 per occurrence
Late Market Basket Survey	$100per day
Delivery and vendor access infractions	$100 per occurrence
Operating Hours infraction (any locations)	$100 first occurrence $250 second occurrence $500 third occurrence $1,000 per occurrence thereafter
Inadequate Staffing (per location)	$ 100 first occurrence $250 second occurrence $500 third occurrence $ 1,000 per occurrence thereafter
Health Code Violations (per location) Scores below 90% Scores below 80% Scores below 70%	 $50 per occurrence $ 100 per occurrence $150 per occurrence
Performance Audit Scores (per location) Scores below 90% Scores below 80% Scores below 70%	 $50 per occurrence $ 100 per occurrence $150 per occurrence

(g) Marketing Costs Recovery. Upon request by Sublandlord, but not earlier than the Minimum Annual Guaranteed Rent Commencement Date, Concessionaire shall pay to Sublandlord, on a monthly basis, as Additional Rent during each calendar year, a marketing costs recovery fee ("Marketing Fee") in the annual amount of Ex. 2.a. pro rated for partial years), as reimbursement of Concessionaire's share of the costs of advertising, promotion and employee training programs conducted by Sublandlord, or its designees, relating to the concession program in the Terminal. At the beginning of each calendar year after December 31, 2010, the Marketing Fee shall be increased based on documented increases in costs, but in no event greater than the increase in CPI during the prior calendar year.

(h) In addition to its general obligation to comply with applicable Laws, Concessionaire specifically agrees to comply with all Port Authority, Transportation Security Administration, Federal Aviation Administration and Sublandlord security directives, rules and regulations, in effect as of the Commencement Date or as may be modified or enacted from time to time throughout the Term. Concessionaire understands and agrees that fines and/or penalties may be assessed by the TSA or FAA for Concessionaire's noncompliance with the provisions of 49 CFR Parts 1540 and 1542 entitled "Airport Security" or by other agencies for noncompliance with regulations applicable to Concessionaire's operations. In the event the Port Authority or Sublandlord shall be subject to any fine or penalty by reason of any violation at the Terminal of any such rule, regulation or standard, the Port Authority or Sublandlord may conduct an investigation and make a determination as to the identity of the party responsible for the violation. If it is determined by the Port Authority or Sublandlord that Concessionaire, or any party for which Concessionaire is liable under this Sublease, as amended, is responsible for all or part of the fine or penalty, the Concessionaire shall pay said amount of the fine or penalty.

5.3: HAZARDOUS MATERIALS

(a) For the purposes of this Sublease, the following terms shall have the following

meanings: (i) the term "Hazardous Materials" shall mean: (A) any materials or substances that, whether by its nature or use, are subject to regulation under any Environmental Requirement, or (B) any materials, substances or wastes which are toxic, ignitable, explosive, corrosive or reactive, or (C) asbestos, or (D) petroleum and petroleum-based products, or (E) formaldehyde, or *(F)* polychlorinated biphenyls (PCB's), or *(G)* freon and other chlorofluorocarbons or (H) such other materials as are designated in a notice from Sublandlord to Concessionaire (whether such notice is provided before or after Concessionaire first commences to use any such materials and; (ii) the term "Environmental Requirement" shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U. S..C. §960 I et seq.), the Hazardous Materials Transportation Act (49 U. S..C. § 180 I et seq.), the Resource Conservation and Recovery Act (42 U. S..C.. §6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.), the Clean Air Act (42 U. S.C. §7401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), all as presently in effect and as the same may hereafter be amended, any regulation pursuant thereto, or any other present or future law, ordinance, rule, regulation, order or directive addressing environmental, health or safety issues of or by any Governmental Authority.

(b) Both Concessionaire and Sublandlord acknowledge that one or more Governmental Authorities may require that employees of each and others be made aware of the conditions within which they are being asked to work and, in an effort to disclose such conditions to said employees, Sublandlord hereby (i) represents to Concessionaire that, other than those Hazardous Materials to which Sublandlord has notified Concessionaire in writing, there are no Hazardous Materials in the Terminal; and (ii) agrees that, if any Hazardous Materials are generated, manufactured, sold, transported or located at, on, in, under or about the Terminal, other than as a result of an act or omission of the Concessionaire, then Sublandlord shall at no cost, expense or liability to Concessionaire, to (I) cleanup and take whatever corrective action of any kind required under any Environmental Requirement; and (2) indemnify and hold harmless the Concessionaire from all losses, costs, expenses and liabilities therefrom, provided however the foregoing prohibition concerning Hazardous Materials shall not prevent the use of regular consumer products which contain amounts of such Hazardous Materials that are not prohibited by any law applicable thereto.

(c) Concessionaire covenants and agrees that by, through or under it (i) no Hazardous Materials will be generated, manufactured, sold, transported or located at, on, in, under or about the Concessionaire Premises; (ii) no Hazardous Material will be generated, manufactured, sold, transported or located at, in, on, under or about the Concessionaire Premises in a manner which violates any Environmental Requirement, or which requires cleanup or corrective action of any kind under any Environmental Requirement and (iii) no Hazardous Materials will be transported, released, emitted, sold; discharged, leached, dumped or disposed of from the Concessionaire Premises onto or into the Common Areas.

(d) Concessionaire covenants and agrees that it shall (i) notify the Port Authority and Sublandlord promptly in the event of any spill or other release of any Hazardous Materials at, in, on, under or about the Concessionaire Premises which spill or release is required to be reported to a Governmental Authority under any Environmental Requirement; (ii) promptly forward to the Port Authority and Sublandlord copies of any notices it receives relating to the alleged violations of any Environmental Requirement; (iii) promptly pay when due any fine or assessment as a result of its acts or omissions or those of any party acting under its control or direction; and (iv) defend, indemnify, and hold harmless the Sublandlord and the Port Authority and their respective affiliates, subsidiaries, partners, members, management company, successors and assigns, and the employees, agents, officers, directors and Commissioners of any of them from and against any and all loss, claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise (including, without limitation, counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses) directly or indirectly arising out of, or in any way related to (I) any breach by it or any

party acting under its control or direction of any of the provisions of this Section 5.03; (2) the presence, use, generation, transportation, disposal, spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Materials which are at, in, on, under, about, from or affecting the Concessionaire Premises, including, but without limitation any damage or injury resulting from any such Hazardous Materials to or affecting the Concessionaire Premises or any soil, water, air, vegetation, buildings, personal property, persons or animals; (3) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Materials; or (4) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Materials. The obligations set forth in this Section 5.3 shall survive the expiration or sooner termination of the Sublease.

SECTION 6 – COMMON AREAS

6.1: DEFINITION OF COMMON AREAS

For the purpose of this Sublease, the term "Common Areas" shall mean, all portions of the interior of the Terminal, save and except for those portions included within each of the Concessionaire Premises, intended to be used and used by either (a) the public or (b) the Sublandlord or Concessionaires in the course of receiving and making deliveries to the Premises. The Common Areas shall include but are not limited to: (i) ticketing areas and facilities, gate seating areas, hallways, elevators, escalators, stairs, restrooms and comfort stations, service areas, passageways and other public areas, amenities, facilities and improvements in the Terminal; and (ii) those areas within the Terminal as may be provided by either the Sublandlord or the Port Authority, from time to time for the convenience and use by the public.

6.2: USE OF COMMON AREAS

Upon payment of the Rent and the performance and observance of all terms and conditions in this Sublease to be performed and observed by the Concessionaire, the right to possession of the Concessionaire Premises shall also include the non-exclusive right to the use of the Common Areas with all others for whose convenience and use both the Common Areas have been or may hereafter be provided by the Port Authority or the Sublandlord, or both, subject however, to such rules and regulations for the use thereof as may be prescribed from time to time by either or both of the Sublandlord and the Port Authority.

6.3: OPERATION AND MAINTENANCE; TERMINAL AND COMMON AREAS

Sublandlord agrees, at no cost to Concessionaire, to keep all portions of the Terminal in good order and repair, and in full compliance with all Laws, including but not limited to all HVAC equipment, plumbing (including sewage systems), electrical, fire protection (including any sprinkler systems in the Terminal) and other systems and facilities servicing the Terminal, foundations, and the structural soundness of the floors and exterior walls in good order, repair and condition provided however the provisions of this section shall not apply in the case of damage or destruction by fire or other casualty or a taking under the power of eminent domain, in which events the obligations of the Sublandlord shall be controlled by either Article XI or XII, respectively, of the Master Lease and further provided that Sublandlord shall have the obligation to maintain or cause to be maintained the cleanliness and orderliness of the Food Court Common Areas, but such limited obligations shall not impose any obligation on the part of the Concessionaire to repair, restore, refurbish, correct, install, or in any other manner make any changes, alterations, improvements or the like to any portion of said Food Court Common Areas. The foregoing obligations of the Sublandlord shall include, but are not limited to, the responsibility and liability for the repair, maintenance, replacement and restoration of all systems servicing the Premises or all portions thereof, save and except for, and to the extent of, those systems installed within any of the Concessionaire Premises, by the Concessionaire to the extent that such system services only the Concessionaire Premises.

6.4: OPERATIONS AND MAINTENANCE FEE ("O&M FEE")

(a) Concessionaire shall pay to Sublandlord, an Operations and Maintenance Fee ("O&M Fee") in the amount of Concessionaire's proportionate share of all costs and expenses incurred by Sublandlord for the benefit of Concessionaire in the operation of the Terminal ("O&M Costs"). Concessionaire's proportionate share of the O&M Costs shall be a fraction, the numerator of which shall be the Floor Area of the Concessionaire Premises and the denominator shall be the sum of the floor areas leased and occupied by concessionaires to which O&M Costs are allocated by Sublandlord. The calculation of the amount of costs and expenses incurred by Sublandlord in connection with the operation of the concession space within the Terminal, which shall be an allocation which is derived form the total costs and expenses incurred by Sublandlord

in connection with the Terminal as a whole, shall be determined by the Sublandlord in good faith, in a consistent manner from year-to-year, and, in addition, in a manner capable of substantiation.

(b) The O&M Fee shall be paid in monthly installments on the first day of each calendar month, commencing on the Minimum Annual Guaranteed Rent Commencement Date, in advance in an amount estimated by Sublandlord as and for Additional Rent. After the end of each calendar year, Sublandlord shall furnish Concessionaire with a statement, of the actual O&M Fees paid and O&M Costs incurred by Sublandlord during such period, prepared in accordance with sound accounting practices. If the total amount Concessionaire has paid on account of the O&M Fee for any calendar year (or partial calendar year, as the case may be) is less than the amount due from Concessionaire for such calendar year or partial calendar year as shown on such Statement, Concessionaire shall pay to Sublandlord the difference between the amount due and the amount Concessionaire has paid within five (5) days after Sublandlord delivers such Statement to Concessionaire. If the total amount Concessionaire has paid exceeds the amount due from Concessionaire, such excess shall be credited solely against payments for the O&M Fee next coming due, and if no payments are next coming due, then against that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently until such credit is exhausted. If that portion of the Minimum Annual Guaranteed Rent not to be paid to the Port Authority due subsequently pursuant to this Sublease is insufficient to fully absorb such excess, Sublandlord shall refund to Concessionaire the part of such excess which cannot be used as a credit as aforesaid.

SECTION 7 – MAINTENANCE OF PREMISES

(a) Concessionaire shall keep the Concessionaire Premises free from any and all liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Concessionaire. Any liens will be treated in the same manner as liens pursuant to the Master Lease.

(b) Concessionaire shall cause the Concessionaire Premises to be, at all times, in a first-class condition, relative to the appearance thereof as of the date the Concessionaire initially opened for business in the Concessionaire Premises. Concessionaire covenants and agrees that it shall refurbish and renovate the Concessionaire Premises (in accordance with the terms of this Sublease and the Tenant Alteration Application) on or about October 31, 2012 for which Concessionaire commits to expend not less than Twenty-Five Dollars ($25.00) per square foot in fulfilling its obligations. The scope and extent of necessary refurbishment and renovation for each portion of the Concessionaire Premises shall be jointly determined by Sublandlord and Concessionaire.

SECTION 8 – INSURANCE AND INDEMNITY

8. I: CONCESSIONAIRE'S INSURANCE

Concessionaire shall obtain and keep in full force and effect (i) an "all risk" insurance policy for its property at the Concessionaire Premises in an amount equal to one hundred percent (100%) of the replacement value thereof, and (ii) a policy of commercial general liability (including premises, operations, product liability, host liquor liability and automobile liability, if vehicles will be used on the airs side portions of the Airport) on an occurrence basis, (with a broad form contractual liability endorsement under the general liability policy). Such policies shall provide that Concessionaire is named as the insured and Sublandlord and the Port Authority shall be added as additional insureds, as their respective interests may appear with respect to the insurance required to be carried pursuant to (i) above. Such policy described in (ii) above shall, to the extent consistent with industry practice for substantially similar policies, include a provision under which the insurer agrees to insure Concessionaire with respect to any cost, expense and liability arising out of, or based upon, any and all claims, accidents, injuries and damages for which Concessionaire is required to indemnify Sublandlord or the Port Authority under the provisions of this Sublease. In addition, such policy shall contain a provision that (a) no act or omission of the Port Authority, Sublandlord or Concessionaire shall affect or limit the obligation of the insurer to pay the amount of any loss sustained and (b) the policy shall be no cancelable with respect to either Sublandlord or the Port Authority unless thirty (30) days' prior written notice shall have been given to all of the Sublandlord and the Port Authority in the manner set forth in this Sublease for notices, which notice shall contain the policy number and the names of the insured and additional insureds. In addition, upon receipt by Concessionaire of any notice of cancellation or any other notice from the insurance carrier which may materially adversely affect the terms and substance (but not the amounts) of the coverage of the insureds under such policy of insurance, Concessionaire shall promptly deliver to Sublandlord and the Port Authority a copy of such notice. The minimum amounts of liability under the policy of insurance required to be carried pursuant to (ii) above shall be a combined single limit with respect to each occurrence in an amount of $2,000,000 for injury (or death) to persons and damage to property, which amount shall be increased from time to time after the second (2nd) calendar year (but not more frequently than once per year) to that amount of insurance which is then being customarily carried by tenants of first-class retail developments in the New York New Jersey metropolitan area. All insurance required to be carried by Concessionaire pursuant to the terms of this Sublease shall be effected under valid and enforceable policies issued by reputable and independent insurers permitted to do business in the State of New Jersey and New York and rated in Best's Insurance Guide, or any successor thereto (or if there be none, an organization having a national reputation) as having a general policyholder rating of having a general policyholder rating of "'A-" and a financial rating of at least " XI". In the event of vehicles being used under this Sublease, above-referenced auto liability insurance shall be in limits of no less than $5,000,000 combined single limit per accident for bodily injury and property damage. The policy(ies) of insurance required to be carried pursuant to (ii) above will include the following statement:" Further, unless otherwise agreed by the Port Authority, the liability policy shall be specifically endorsed, to prohibit the insurance carrier from raising any defenses involving in any way the jurisdiction of the tribunal, 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 without obtaining express advance written permission from the General Counsel of the Port Authority."

Concessionaire and all officers and employees of Concessionaire who may handle or are responsible for the handling of receipts and disbursements shall be covered by insurance in an amount not less than Five Hundred Thousand Dollars ($500,000) for employee dishonesty coverage against any and all loss, theft, embezzlement or other fraudulent acts on the part of Concessionaire or Concessionaire's employees, and not less than One Hundred Thousand Dollars ($ 100,000) for money and securities on or off premises, transit and depositors forgery coverage, indemnifying the Sublandlord and Port Authority, as co-obligees, against any and all

loss, theft, embezzlement or other fraudulent acts of the part of Concessionaire or Concessionaire's employees.

8.2: CERTIFICATES

On or prior to the date hereof, Concessionaire shall deliver to the Sublandlord and the Port Authority certificates of insurance, including evidence of waivers of subrogation required pursuant to this Sublease, required to be carried by the Concessionaire. Evidence of each renewal or replacement of a policy shall be similarly delivered not less than ten (10) days prior to the expiration of each such policy.

8.3: COVENANT TO HOLD HARMLESS

Concessionaire and Sublandlord covenant, each to the other, to defend and indemnify the other and their respective directors, officers, partners, shareholders, representatives, management company, agents and employees, and save them harmless (except to the extent of loss or damage resulting from the negligence of party that would otherwise be so indemnified) from and against any and all claims, actions, demands, judgments, awards, fines, mechanics' liens or other liens, losses, damages, liability and expense, including attorneys' fees and court costs, in connection with all losses, including loss of life, personal injury and/or damage to property, arising from or out of any occurrence, upon or at the Premises, as to the Sublandlord, or the Concessionaire Premises as to the Concessionaire, or arising from or out of Concessionaire or Sublandlord's, as the case may be, failure to comply with any provision of this Sublease. In case either Sublandlord or Concessionaire or any other party so indemnified hereunder shall be made a party to any litigation commenced by or against either the Sublandlord or the Concessionaire (and not litigation commenced by or against one against the other), then the Concessionaire or Sublandlord, as the case may be, shall defend, indemnify, protect and save the other harmless and shall pay, as the same becomes due and payable, all costs, expenses and reasonable attorneys' fees and court costs incurred or paid by them in connection with such litigation. The provisions of this section shall survive the expiration, termination or earlier cancellation of this Sublease for any claims, suits, demands, actions, liabilities, loss or damage which occur prior to the expiration, termination or earlier cancellation of this Sublease.

8.4: WAIVER OF RIGHT OF RECOVERY INDEMNIFICATION

(a) Except as otherwise provided in this Sublease, neither Sublandlord nor Concessionaire shall be liable to the other or the other's insurance company (by way of subrogation or otherwise) for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under workers' compensation laws and benefits, even though such loss or damage might have been occasioned by the non-gross negligence of Sublandlord or the Concessionaire or their respective agents or employees.

(b) Concessionaire covenants and agrees to indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives (collectively the "Port Indemnitees") from and against (and shall reimburse the Port Authority for the Port Authority's costs and expenses including legal 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 default of the Concessionaire in performing or observing any term or provision in this Sublease, or out of the use and occupancy of the Concessionaire Premises, and its officers, employees and persons who are doing business with Concessionaire, or out of any of the operations, acts or omissions of the Concessionaire, or out of the acts or omissions of others in the Concessionaire Premises with the Concessionaire consent. The foregoing indemnity shall also include claims and demands of the City of New York from which the Port Authority derives its rights in the Airport for indemnification arising by operation of law or through agreement of the Port Authority with the City of New York. If so directed by the Sublandlord or the Port Authority, the Concessionaire shall,

at its own expense, defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in such handling such party shall not, without obtaining the express written permission from the General Counsel of the Port Authority, raise any defense involving in anyway the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statute respecting suits against the Port Authority.

SECTION 9 - UTILITIES

Sublandlord agrees to initially provide gas, electrical, water, sewer and such other services as Sublandlord shall, in the exercise of its reasonable discretion, determine necessary to each portion of the Concessionaire Premises. With the exception of gas and electricity, as to each of which Sublandlord shall pay all costs for the consumption thereof in all of the Concessionaire Premises, the costs of which shall be included in O&M Costs, the Sublandlord shall have no obligation for the payment of any other utilities used in the Concessionaire Premises. If the Concessionaire Premises shall have installed therein meters for any of the utilities consumed by Concessionaire, the maintenance thereof shall be at the sole cost and expense of the Concessionaire.

SECTION 10 - ASSIGNMENT AND SUBLETTING

10.1: LIMITATIONS; PROHIBITIONS

Concessionaire covenants and agrees that it shall not transfer or assign this Sublease or its interest herein or all or any part of the letting hereunder, or all or any part of the Concessionaire Premises, without obtaining the prior written consent of Sublandlord, which shall not be unreasonably withheld, and the Port Authority. Any attempted transfer, assumption, assignment or sublease shall be void, *ab initio*, and infer no rights upon any third parties. No amendment, transfer, assumption or contract shall relieve the Concessionaire of any of its obligations under this Sublease. Consent to the foregoing by any one or more of the Port Authority and Sublandlord shall not be deemed a waiver on the part of either or both of the Port Authority or Sublandlord to any prohibition against any future transfer, assignment, assumption or sublease. The term "transfer" includes, but is not limited to transactions in which any interest of the Concessionaire in this Sublease or the Concessionaire Premises are mortgaged or otherwise encumbered or in which the Concessionaire sublets, rents or otherwise permits occupancy or use of the Concessionaire Premises or any part thereof. If Concessionaire is a corporation, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the issued or outstanding stock of said corporation shall change, shall be deemed to be a transfer, provided, however if such corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "over-the-counter" market, then such sale, assignment or transfer of stock shall not be deemed a transfer. If Concessionaire is a corporation, or if Concessionaire is a corporation whose stock is owned by a corporation ("Parent"), any transfer of any issued or outstanding stock of the Concessionaire or Parent which is a transfer shall require the prior consent or approval of the Sublandlord and the Port Authority. Notwithstanding the foregoing exclusion, a sale of only those of the assets of any such corporation which are limited to less than all of the assets of the corporation, e.g., the Concessionaire Premises, shall be a "transfer" within the scope of this provision and require the prior written consent of the Port Authority and the Sublandlord. If Concessionaire is a partnership or joint venture, any sale, assignment or transfer, by operation of law or otherwise, of any interest in such partnership or joint venture shall be deemed to be a transfer. If Concessionaire is a limited liability company, any sale, assignment or transfer, by operation of law or otherwise, by which control of the majority of the membership interests in such limited liability company shall change, shall be deemed to be a transfer, provided, however, if the membership interests of such limited liability company are publicly traded on a national securities exchange or on the "over-the-counter" market, then this restriction on sale, assignment or transfer of membership interests shall be inapplicable.

Notwithstanding the foregoing provisions of this Article X containing a definition of the term "transfer" and exclusions or exceptions thereto, which shall not be binding upon or enforceable against the Port Authority, and regardless of whether the Sublandlord has in fact consented to any further subletting of the Concessionaire Premises or a proposed transfer, Sublandlord's consent will be of no force and effect and shall not be binding upon the Port Authority in any manner whatsoever. No such further subletting or a proposed transfer shall be effective and no estate or benefit shall be conferred on anyone until such time as the Port Authority has consented in writing, as determined in the Port Authority's sole and absolute discretion, to any such further subletting or a proposed transfer (including, without limitation, nothing otherwise permitted in this Article X shall become effective until such time as the transferee, any other applicable parties and the Port Authority have entered into an agreement in form and substance required by the Port Authority). In addition, the terms and provisions of the Port Authority Consent, which in any way discusses and/or addresses the subject matter covered in this Article X shall be controlling and shall govern. Further, if this Sublease is assigned by Sublandlord and assumed by the Port Authority for any reason whatsoever, the Port Authority shall have the right to determine, in its sole and absolute discretion, whether any of the provisions of this Article X (which are stated to be between the Concessionaire and the Sublandlord) shall be binding upon and enforceable against the Port Authority and thereafter be considered to be a part thereof.

SECTION 11 - DAMAGE AND DESTRUCTION

11.1: DAMAGE TO THE CONCESSIONAIRE PREMISES

In the event of damage to, or destruction of, any portion of the Premises or Concessionaire Premises, or the fixtures and equipment therein and said portion, fixtures or equipment was originally within the Sublandlord' Work, or any system within the Concessionaire Premises being the obligation of the Sublandlord to maintain, replace, or restore, the Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. Notwithstanding any damage to the Concessionaire Premises, to the extent that the Concessionaire Premises can be reasonably operated without risk of injury or damage to person or property, Concessionaire agrees to open, or reopen, as the case may be, and, in all events, to reopen for business immediately upon the completion of the foregoing repairs, restoration and rebuilding. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Concessionaire Sublease, as to that portion, or those portions of the Concessionaire Premises, so damaged. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises terminated to the floor area of the Concessionaire Premises as of the day of said damage.

11.2: DAMAGE TO TERMINAL

In the event of damage to, or destruction of, any portion of the Terminal, other than as set forth in Section 11.1, above, Sublandlord shall promptly, at its sole cost and expense, repair, restore or rebuild the same to substantially the same condition existing immediately prior to the happening of such fire or other casualty. In the event the work to be done by Sublandlord is not completed within three hundred sixty-five (365) days following the date of said damage, then Sublandlord has the right to terminate the Master Lease, as to that portion, or those portions of the Concessionaire Premises so damaged. If Sublandlord exercises such right, and the portion of the Concessionaire Premises affected thereby includes the Concessionaire Premises, then this Sublease shall end, as of the date of said termination. Upon such termination, the Minimum Annual Guaranteed Rent shall be adjusted in proportion to the floor area of the Concessionaire Premises as to which this Sublease was terminated to the floor area of the Premises as of the day of said damage.

SECTION 12 – EMINENT DOMAIN

12.1: CONDEMNATION

(a) If the whole of the Premises or any portion of the Concessionaire Premises shall be taken by any public authority under the power of eminent domain or sold to a public authority under threat or in lieu of such taking, then the Term shall cease as of the day upon which possession is taken by such public authority, and the Rent shall be paid up to that day.

(b) A voluntary sale or transfer of interest-of all or any part of the Premises or of the Terminal to any public or quasi-public body, agency, person or other entity, corporate or otherwise, having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a taking under the power of eminent domain for the purposes of this Article 12.

12.2: DAMAGES AND AWARDS

All awards and damages for such taking under the power of eminent domain or proceeds from any sale under threat or in lieu of such a taking, shall belong to and be the property of the Sublandlord or the Port Authority, irrespective of whether such damages shall be awarded or proceeds obtained as compensation for diminution in value to the leasehold improvements thereto, and Concessionaire shall have no claim against Sublandlord or the condemning authority with respect thereto; provided, however, neither the Sublandlord nor the Port Authority shall be entitled to any award specifically designated as compensation for, depreciation to, or cost of removal of, the stock and trade fixtures of the Concessionaire.

SECTION 13 – DEFAULT

13 .1: EVENTS OF DEFAULTS BY CONCESSIONAIRE

Events of Default. It shall be an "Event of Default" hereunder if any of the following shall

(a) Failure to Make Payment

(i) Concessionaire fails to make any payment of Rent to the Sublandlord, and such failure continues for a period of five (5) days after written notice thereof to Concessionaire.

(ii) Concessionaire fails to make any payment of Rent to the Port Authority within the cure period permitted by the Port Authority.

(b) Concessionaire defaults or otherwise fails to perform or observe any of the covenants, terms or conditions contained in this Sublease to be performed or otherwise observed by Concessionaire (except for the payment of Rent, as set forth in (a), above) and such default or failure is not cured or performed within fifteen (15) days after written notice to Concessionaire.

(c) Pursuant to an order, judgment or decree entered by any court of competent jurisdiction (i) a receiver, trustee or liquidator of Concessionaire or of all or substantially all of the assets of Concessionaire shall be appointed or (ii) Concessionaire shall be adjudicated a bankrupt or insolvent, or (iii) a petition seeking reorganization of Concessionaire or an arrangement with creditors or a petition to take advantage of any insolvency law shall be approved. and Rent shall not thereafter be paid in accordance with the terms hereof.

(d) An Event of Default occurring under any other Concessionaire Sublease with Sublandlord entered into, on or after the date hereof, for one or more portions of the Terminal.

(e) Failure to timely deliver the Bond, and each replacement thereof.

(f) The act or omission of the Concessionaire which, under the terms of this Sublease or the Master Lease is prohibited and which, if not timely corrected, would result in the Port Authority having the right to terminate either or both of the Master Lease or this Sublease.

13.2: RIGHTS AND REMEDIES; SUBLANDLORD

(a) If there exists an Event of Default by Concessionaire, Sublandlord, after fifteen (15) days notice from Sublandlord that Sublandlord intends to cure such Event of Default, shall have the right, but not the obligation, to cure same and Concessionaire shall pay to Sublandlord, upon demand, as Additional Rent the reasonable cost thereof plus interest at the Default Rate until such Additional Rent has been paid in full.

(b) If there exists an Event of Default, Sublandlord shall have the right, in addition to the rights set forth in Section 13.2(a) above, to seek all remedies as are available at law or in equity.

(c) After a dispossess or removal in accordance with Law, Sublandlord may re-sublet the Concessionaire Premises or any part or parts thereof either in the name of Sublandlord or otherwise, for a term or terms which may, at the option of Sublandlord, be greater or less than the period which would otherwise have constituted the balance of the Term, and Concessionaire shall be obligated to pay Sublandlord any deficiency between the Rent due hereunder and the amount, if any, of the Rent collected on account of the new sublease or subleases of the Concessionaire Premises for each calendar year, or portion thereof, which would otherwise have constituted the balance of the Tenn. In computing such damages there shall be added to said

deficiency the costs for reasonable attorneys' and brokerage fees, which Sublandlord actually expends in connection with re-subletting the Concessionaire Premises. Such damages shall be paid by Concessionaire in installments on the dates specified in this Sublease for payment of Minimum Annual Guaranteed Rent and any suit brought to collect the amount of the deficiency for any period shall not prejudice in any way the rights of Sublandlord to collect the deficiency for any subsequent period by a similar proceeding. Sublandlord shall not be liable for failure to re-sublet the Concessionaire Premises or, in the event that the Concessionaire Premises are re-sublet, for failure to collect the Rent under such re-subletting; provided that Sublandlord makes commercially reasonable efforts to re-sublet the Concessionaire Premises or to collect such Rent.

SECTION 14 – TAXES ON PROPERTY OF CONCESSIONAIRE

Concessionaire, solely, and neither the Sublandlord nor the Port Authority are or shall be responsible or liable for any taxes, assessments, levies, fees and other governmental charges and impositions of any and every kind or nature, regular or special, direct or indirect, foreseen or unforeseen or known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (i) Concessionaire's leasehold interest in the Concessionaire Premises, or (ii) furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Concessionaire Premises by Concessionaire.

SECTION 15 – HOLDING OVER

Any holding over after the expiration of the Term shall be construed to be a tenancy from month-to-month and the Minimum Annual Guaranteed Rent payable, on a monthly basis, shall be at an amount equal to one-twelfth (I-12th) of 2.a. of the Minimum Annual Guaranteed Rent required to be paid by Concessionaire for the last full year of the Term.

SECTION 16 – QUIET ENJOYMENT

Upon payment by Concessionaire of Rent and upon the timely observance and full performance of all the covenants, terms and conditions on Concessionaire's part to be observed and performed under this Sublease and the Port Authority Consent, Concessionaire shall peaceably and quietly hold and enjoy the Concessionaire Premises for the Term free from and without hindrance or interruption by Sublandlord or any other person or persons claiming by, through or under Sublandlord, subject however, to the Master Lease and the Port Authority Consent.

SECTION 17 – MISCELLANEOUS

17.1: ESTOPPEL STATEMENT

At any time and from time to time, both parties agree that, upon request in writing from the Sublandlord or the Port Authority, or their respective designee, to execute, acknowledge and deliver, within ten (10) business days after request therefore, to the requesting party or its designee, a written statement certifying that this Sublease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and stating the modifications) and the dates to which the Rent has been paid, the Minimum Annual Guaranteed Rent Commencement Date, the Expiration Date, and such other pertinent and reasonable information regarding this Sublease and Concessionaire's occupancy of the Concessionaire Premises as may be requested.

17.2: WAIVER; ELECTION OF REMEDIES

One or more waivers of any covenant or condition by Sublandlord or the Port Authority shall not be construed as a waiver of a subsequent breach of the same covenant or condition. And the consent or approval by Sublandlord or the Port Authority to or of any act of Concessionaire requiring consent or approval of either, any or both of the Sublandlord, and the Port Authority shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act. No breach by Concessionaire of a covenant or condition of this Sublease shall be deemed to have been waived by either, any or both of the Sublandlord or the Port Authority unless such waiver is in writing signed by each non-breaching party. Rights and remedies under this Sublease or under any specific section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which each party has or may have elsewhere under this Sublease or at law or in equity, whether or not such section, subsection or clause expressly so states.

17.3: ENTIRE AGREEMENT

The Definitions and Interpretations, this Sublease and all exhibits and/or addendum(s), and/or rider(s), if any, attached to this Sublease are hereby made a part of this Sublease, with full force and effect as if set forth herein. This Sublease supersedes all prior agreements between the parties hereto and sets forth all the covenants, promises, agreements and conditions, and understandings between Sublandlord and Concessionaire concerning the Concessionaire Premises, and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. The parties agree that any deletion of language from this Sublease prior to its mutual execution by Sublandlord and Concessionaire shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, obverse or opposite of the deleted language. No alteration, amendment, change or addition to this Sublease shall be binding upon Sublandlord or Concessionaire unless reduced to writing and signed by each party.

17.4: INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION

Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rent, any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders.

17.5: DELAYS; FORCE MAJEURE

Time is of the essence in the performance under this Sublease. In the event Sublandlord or Concessionaire shall be delayed in the performance of any obligation, covenant, agreement or other undertaking required of it under this Sublease, by reasons of strikes; lockouts; labor disputes; Acts of God; inability to procure labor, materials, or reasonable substitutes therefore; or shall at any time be so delayed by reason of the diminution of power or power failure(s); restrictive governmental laws or controls; judicial orders; enemy or hostile governmental action; civil commotion; fire or other casualty, or reasons of a similar nature not the fault of the party delayed in performing work or doing acts required under the terms of this Sublease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, that the time for performance shall in no event be extended due to financial or economic problems of any party. Notwithstanding anything to the contrary, the occurrence of any of the events of force majeure herein described shall not excuse Concessionaire's obligations to pay Rent on a timely basis.

17.6: NOTICES

Any notice or demand to Concessionaire or from Concessionaire to Sublandlord or the Port Authority shall be in writing and shall be mailed by either (a) certified mail addressed, return receipt requested with proper postage affixed thereto or (b) a Delivery Service, prepaid, if to Concessionaire, at the address of Concessionaire as set forth in the Definitions and Interpretations, or such other address as Concessionaire shall have last designated by notice in writing to Sublandlord and the Port Authority, and, if to Sublandlord or the Port Authority, to the address set forth in the Definitions and Interpretations, or such other address as Sublandlord shall have last designated by notice in writing to Concessionaire. Any notice sent or otherwise delivered in accordance with the foregoing shall be deemed served and effective upon the earlier of (i) the date of receipt or refusal to accept delivery, (ii) the second business day following the date upon which the notice has been delivered to the Delivery Service; or (iii) the third business day following the date upon which the notice has been deposited with the U.S. Postal Service with proper postage thereon.

17 7: CAPTIONS AND SECTION NUMBERS

The captions, section numbers and article numbers and index appearing in this Sublease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Sublease or in any way affect this Sublease.

17.8: BROKERS' COMMISSIONS

Concessionaire and Sublandlord represent and warrant each to the other and the Port Authority that there are and shall be no claims for brokerage commissions or finder 's fees in connection with this Sublease, and each party agrees to indemnify the other, the Sublandlord and the Port Authority and hold each and all of them harmless from all liabilities arising from any claim for brokerage commissions and finder 's fees in connection with this Sublease. Such agreement shall survive the expiration or sooner termination of this Sublease.

17 .9: SUCCESSORS

All rights and liabilities herein given to, or imposed upon, the parties to this Sublease shall inure to and be imposed upon the respective heirs, executors, administrators, permitted successors and assigns of the said parties; and if there shall be more than one Concessionaire, they shall all he bound jointly and severally by the terms, covenants and agreements herein.

17.10: GOVERNING LAW

This Sublease shall be governed by and construed in accordance with laws of the State of New York. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties, to the extent possible; in any event, all other provisions of this Sublease shall be deemed valid and enforceable to the full extent.

17.1 I: SURVIVAL OF OBLIGATIONS

All obligations of both the Concessionaire and Sublandlord which cannot be ascertained to have been fully performed prior to the end of the Term, or any earlier termination hereof shall survive the expiration or termination of this Sublease, whichever occurs earlier.

17. 12: ATTORNEYS' FEES

If at any time after the date that this Sublease has been executed by Sublandlord and Concessionaire, either Sublandlord or Concessionaire institutes any action or proceeding against the other relating to the provisions of this Sublease or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs or disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of the Law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Notwithstanding anything to the contrary contained herein, if either Sublandlord or Concessionaire engages the services of attorneys (either outside counselor in-house counsel) to enforce the provisions of this Sublease, to the extent that either incurs any cost or expense (including such reasonable attorneys' fees for outside counselor payroll and overhead expenses for in-house counsel, as the case may be) in connection with such enforcement, including instituting, prosecuting or defending its rights in any action, proceeding or dispute by reason of any default by Concessionaire or Sublandlord, as the case may be, sums so paid or billed to Sublandlord or Concessionaire, as the case may be, together with all costs and disbursements, shall be paid by the Concessionaire to the Sublandlord, or Sublandlord to Concessionaire, as the case may be, within ten (10) days after demand therefor. If Concessionaire fails to timely pay same, such will be deemed Rent and thereafter be due together with interest at the Default Rate. If Sublandlord fails to timely pay, such amount may be offset from the Minimum Annual Guaranteed Rent thereafter becoming due and payable to Sublandlord, but may not be offset against any rent thereafter becoming due and payable to the Port Authority, together with interest

at the Default Rate. until the full amount has been so offset. Any amounts overpaid to Sublandlord by Concessionaire shall be promptly repaid at the end of the Term.

17.13: EXCULPATION

Concessionaire, for itself and its successors and assigns covenants and agrees that it or they shall enforce any obligation of the Concessionaire contained in this Sublease solely against Sublandlord and not against any of the Protected Parties or in any manner realized upon the personal liability or assets of any of the Protected Parties. This is intended and shall be construed and interpreted as a covenant on behalf of each the Concessionaire and its successors and assigns not to sue or seek enforcement of any judgment against any of the Protected Parties. In the event that suit is brought to enforce any obligation of the Sublandlord, Concessionaire for itself and its successors and assigns, covenant and agree that judgment proceedings shall be enforced only against the interest of the Sublandlord in the Premises and in no event against any other assets of Sublandlord, and that, after application of the proceeds of any seizure and sale of said assets, the obligation of Sublandlord hereunder shall be then and thereafter deemed fully discharged.

17 14: TERMINATION BY PORT AUTHORITY WITHOUT CAUSE; WAIVER AND RELEASE

(a) Concessionaire acknowledges that the Port Authority has reserved and has the right with Sublandlord's concurrence to terminate any of the Concessionaire Subleases and the Term upon thirty (30) days prior written notice to Sublandlord and each of the affected Concessionaire(s) whether or not there then exists an Event of Default, such termination hereinafter referred to as " Discretionary Termination."

(b) Sublandlord covenants and agrees that, if the Port Authority shall exercise its right to terminate this Sublease by a Discretionary Termination, then the Sublandlord shall pay to the Concessionaire an amount equal to the Unamortized Capital Investment, as defined in (c), below, as of the effective date of the Discretionary Termination.

(c) For purposes of subsection (b) above, "Capital Investment" shall be Concessionaire's actual aggregate expenditures for constructing the Initial Improvements at the Concessionaire Premises; and the term "Unamortized Capital Investment" shall mean the amount of the Capital Investment that, but for the Discretionary Termination, would have been amortized for the period from the effective date of such termination to the Expiration Date.

17.15: LETTERS OF CREDIT

Concessionaire covenants and agrees that it shall deliver, or cause to be delivered to each of the Sublandlord and the Port Authority, prior to the date upon which the Concessionaire initially opens for business to the public in the Concessionaire Premises, an unconditional, irrevocable so-called "evergreen" letter of credit, being in an amount of [50%] to the Port Authority and [50%] to the Sublandlord of the Minimum Annual Guaranteed Rent to be paid for the then-current calendar year, but in no event less than $22,500.00 for the Port Authority and $22,500.00for the Sublandlord. The issuer of each said letter of credit is to be approved by (i) as to the Letter of Credit for the Sublandlord, the Sublandlord; and (ii) as to the letter of credit for the Port Authority, by the Port Authority, and each of the two letters of credit are to provide for partial draws upon demand therefor by the respective beneficiary of each such letter credit.

17.16: EMPLOYEE DISCOUNT

Concessionaire agrees to provide a Ex. 2.a. discount off the marked price on non-sale items to badged employees of JFK Terminal 7, which discount shall not be included in the definition of Gross Receipts.

17. 17: AUTHORITY OF EXECUTION

If Concessionaire is a corporation, limited liability company or limited partnership, the person executing this Sublease represents and warrants that Concessionaire is in good standing in the state of its formation and that this Sublease has been approved by all required corporate action. No further proceedings on the part of Concessionaire are necessary to authorize this Sublease.

17. 18: AFFIRMATIVE ACTION AND NON-DISCRIMINATION

(a) Concessionaire assures it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall, on the grounds of race, color, sex, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises, either directly or indirectly, from the Port Authority. Concessionaire assures that it will require that its covered sub organizations will similarly undertake affirmative action programs, and that they will require assurance from their sub organizations to the same effect.

(b) This Sublease is subject to the requirements of the U.S. Department of Transpiration's regulations, 49 CFR Part 23. Concessionaire agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.Concessionaire agrees to include the above statement in any subsequent concession agreement or contract covered by 49 CFR Part 23 that it enters and cause those businesses to similarly include the statements in further agreements.

EXHIBIT "A"
DEPICTION OF CONCESSIONAIRE'S PREMISES

"InMotion LOD_Mar 09.pdf"

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

EXHIBIT "B"
DESCRIPTION OF SUBLANDLORD'S WORK

Sublandlord shall provide each component of the Concessionaire Premises in accordance with the Concession Design and Construction Manual attached hereto and by this reference made a part hereof.

"Concessions Design
& Construction Manu

BRITISH AIRWAYS

JFK INTERNATIONAL AIRPORT

TERMINAL 7

CONCESSIONS DESIGN AND CONSTRUCTION MANUAL

UNISON-MAXIMUS

TRANSYSTEMS

Revised August 25, 2006

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SECTION 1 - GENERAL PROCEEDURES

1.0 INTRODUCTION

British Airways, dedicated to enriching the traveler's experience, is implementing an expansion to their JFK Terminal 7 Plan as it pertains to Concessionaires. This plan is to include new retail spaces, the on-going improvement and modification of existing leaseholds in order to present a unified design. The purpose of this Concessions Design & Construction manual is to identify the responsibilities and obligations of the parties seeking to join British Airways in fulfilling this endeavor.

This manual is separated into section.

Section 1 -	Definitions, codes, safety and security, permits / fees and a number of point's regarding working at airports.
Section 2 -	Outlines the three step design submission process.
Section 3 -	Design guidelines and technical requirements including but not limited to floors, walls, ceilings, signage etc.
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1.00 Organization

The Terminal Concessions projects are coordinated by TranSystems Corporation, the Design & Construction Coordinator, who serves as the liaison between the Concessionaire, the Concessionaire's design and construction personnel, British Airways, Unison / Maximus and the Port Authority. The Port Authority is the governing agency which enforces compliance with code requirements in the design and construction of all facilities at the Terminal. The Concessionaires is the responsible for his own dosing and construction personnel and must ensure that all work is in compliance with the Manual, all ode requirements and the submittal process.

1.1 Terms used in this Manual

"Owner" means British Airways (BA)
"Tenant / Concessionaire" means a permitted concession operator who is designing / constructing or operating a retail store or restaurant in the Terminal Building.
"Design and Construction Coordinator" (D&CC) means TranSystems Corporation
"Port Authority" means The Port Authority of New York and New Jersey (PANYNJ)
"Developer / Landlord" means Unison-Maximus (UM)

1.2 Applicable Codes and Standards

The tenant shall be responsible for reviewing and implementing, as part of their design, all codes and regulations applicable to the work. Review of the Tenant's documents by the Landlord, or the Design and Construction Coordinator, does not relieve the Tenant of responsibility to satisfy all applicable regulations.

Tenant design and construction must comply with applicable Federal, State and local laws, statutes, orders, codes, ordinances and regulations that are legally applicable to the work to be performed. For all construction at the Terminal, the Port Authority enforces Federal and State laws and regulations; New York City Building Codes; and the Port Authority and JFK Design/ Policy Standards. The latest editions of the following New York City codes and regulations should be utilized:

1. New York City Building Code and its Reference Standards
2. New York City Fire Prevention Code and Directives
3. New York City Local Laws
4. Rules of the Board of Standards ~ Appeals (BS&A)
5. New York State Labor Laws
6. New York State Energy Conservation Construction Code

This manual must NOT be referred to in construction documents.

1.3 Safety and Security

A safe, secure and healthy environment is to be maintained within the work place. Special procedures are required for air quality management within the leased premises during construction to ensure the Terminal is not adversely affected.

Security during construction is the Tenant's responsibility and all necessary precautions are to taken to secure the premises. The Landlord shall have no liability for any loss or damage including theft of building materials, equipment or supplies.

The following information is intended to assist the Concessionaire in developing design documents for review and approval. The outlined criteria identify specific requirements and physical limitations that influence the design, but still encourage individuality to achieve an interesting, exciting and unique shopping and dining environment.

1.4 Permits, Fees and Approvals

Tenants are responsible for obtaining all permits, paying all fees and obtaining all required approvals. Tenants upon completion of their work shall secure all applicable certificates of inspection and occupancy prior to occupying their space.

1.5 Statement of Professional Responsibility

All Concessionaire facilities must be designed by a practicing professional architect and/or engineer licensed in the State of New York. The professional must sign and seal the work, which must be confined to the profession in which he/she is licensed.

1.6 Information Releases

Through press releases, and the release of information in general, British Airways and Unison-Maximus keep the public informed and maintain public interest and support for activities in the Terminal. News releases should reflect the overall activities, goals and objectives of the airport, rather than emphasize an isolated event. Thus, all communications to the public media must first be submitted to the Owner's representative for approval and coordination with other releases.

1.7 Accessibility Standards

All facilities shall be designed and constructed in compliance with current Americans with Disabilities Act and Accessibility Guidelines (ADAAG), the New York Department of Building requirements and the Port Authority requirements.

1.8 Base Building Drawings for Tenant Use

The Tenant will be given by D&CC the following electronic drawing files;

1. LOD Key Floor Plan
2. Architectural Floor Plan
3. Architectural Reflected Ceiling Plan – if available.
4. Mechanical, Electrical, Plumbing and Sprinkler Plans of the premises, if available.
5. Sections and elevations and additional details as applicable to the premises.

1.9 Concessionaires / Tenant Design Construction Manual

Tenant's / Concessionaires, Architects, Engineers and contractors must be familiar with this Tenant Design Construction Manual - which is part of the Concessionaire's sublease and is hereby incorporated therein in its entirety - as well as with the Port Authority's Tenant Alteration Application Procedure & Standards Guide and Tenant Construction Review Manual. While the Manual refers to legally binding codes and standards, it is not in itself a code, standard or specification, but rather a guide for the Concessionaire's design consultants. The Manual must NOT be referred to in construction documents.

1.10 Working in the Airport

It is the responsibility of the Tenant and its Contractor to obtain and review guidelines or procedural manuals concerning security and construction at the Terminal and Airport. Points of

1.10 Working in the Airport continued

particular attention are listed below;

1. The Tenants representatives while confined to work in the premises must coordinate the movement of construction materials; noise and engineering service connections and shut downs with the Landlord, BA and the D&CC so as not to disturb the operations of the airport. These operations are to be scheduled by the Tenants Contractor giving five working days notice of the intention of such work and will only be allowed to proceed following written approval. The Landlord reserves the right to stop the Tenant's Work at any time should any such operation be deemed to be disruptive to the operations of the Airport.

2. Security passes will be required of the Tenant's Contractor and their personnel in those areas termed 'Airside' – beyond the secure check in locations. Personnel not badged will need to be escorted per security procedures in affect at the Terminal.

3. Deliveries to and removals from the Terminal will also require security clearances that must be complied with for all the Tenant's Contractor and Sub-Contractors per the existing Airport / Terminal Security Requirements.

4. Welding, cutting, grinding, coring or any such similar undertaking for any work within or outside of the premises will not be permitted without written 'Special Service Notice' from the Landlord. All such request for such work must be submitted at least five full working days in advance of such intention and could require special undertakings such as venting of fumes or stand by fire safety personnel. This applies to roof access as well.

5. The coring of the floor can only be allowed following the x-raying of the area to ensure clearances from structure or other in-slab services. The area beneath must be inspected and at the time of the core(s) being made the Contractor must have a representative below to ensure safety of any falling material or water damage from the equipment.

6. Should any element of the premises subject the existing structure to point loads either on the slab or suspended from the structure above raise concern by BA, Landlord or the D&CC representatives the Landlord reserves the right to have such concern evaluated by the Tenant's Structural Engineer at the Tenants expense. If required a signed and sealed evaluation / drawing could be requested. Questions of this nature raised by the PANYNJ during the submission process will be evaluated prior to the Approval to proceed to construction or become apart of the Rider Comments.

7. The requirement to 'tie into' or to temporarily shut down the existing fire alarm system within the premises requires a 'Special Service Notice.' All such request for such work

1.10 Working in the Airport continued

7. must be submitted at least five full working days in advance of such intention. In the event of shut down any special security and fire watch personnel needed will to be employed at the Tenant's expense.

8. The Tenant's and their Design Professionals will be required to thoroughly investigate the area of the premise to determine where and how all engineering services are to be tied into for the space. While some of the areas are established 'Retail Spaces' others are not. In such conditions it is the responsibility of the Tenant's Design Professionals to determine the point of tie in (connection) and extend the service as necessary to the premise as a part of the building contract. The services in question must also be evaluated for load / capacity and calculations if necessary provided to PANYNJ, BA, Landlord or D&CC. This includes but is not limited to the following; phone data lines, drainage, power, HVAC, sprinklers, fire alarm, natural gas, airport speakers etc.

End of Section

SECTION 2 – TENANT DESIGN SUBMISSIONS

2.0 General

1. Drawings, samples and specifications for the proposed premises are to be submitted to the Landlord, BA and the D&CC for review. D&CC – TranSystems will act as the distributor of information to and from the Tenant's Design Team. The sequence and process are defined in this section. The final submission drawings must be sealed by Architects and Engineers licensed in the State of New York.
2. All Tenant work to be in compliance with codes and particular attention is drawn to the non-combustible classification of the building, related flame spread ratings, smoke development classification of materials and the seismic restraint of construction elements.
3. The general clearances in and around fixed and free standing furniture must comply with ADA guidelines, 36" minimum. An ADA shelf / ledge or surface of appropriate width and height must be near to one of the cash register positions.
4. The Tenant's designers are free to use their conventional layer systems and CAD programs. At the project close-out the 'Record Drawings' are to be submitted in the following formats.
   - A. One CD with all contract drawings updated to show the 'As Built' condition. This represents the 'CD of Record Drawings.'
   - B. One new / clean printed set of Contract Drawings updated per item A above, this will not require the signature and seal of the Architects or Engineers.
   - C. On the CD noted in A above the Tenant's Design Team is to place a simplified drawing named and layered as described below.
5. The Tenant's Design Team are to provide a single, plan drawing in AutoCAD version 2006 or later in 2D without any three dimensional objects or blocks and all line-work flat on the 'Z' plane in the following layer convention which will be inserted into the terminal master plan;
   - A. Airport Column Lines – color 1 – line wt .12
   - B. Airport Construction – color 3 – line wt .12
   - C. Tenant Construction – color 41 – line wt .12
   - D. Tenant Fixed / Free Standing Furniture – color 4 – line wt .12
   - E. Tenant Electrical & Data Floor & Wall outlets – color 5 – line wt .12
   - F. Tenant RCP all ceiling elements – FPE / MEP – color 7 – line wt. .12
   - G Tenant Merchandizing plan, general text mags, etc. – color 8 – ln. wt.12.
   - H This plan constitutes a separate drawing without a border sheet or text, other than that noted for the merchandizing plan, or any other detail notes, section or detail marks and is to be titled 'the premise name, space designation number and date in the following format;; mm/dd/yy..

2.1 FIRST DESIGN SUBMISSION

2.2 The Tenant's designer's attention is directed to the details / drawings appended to the back of this manual and the section heading '3 Design Criteria and Technical Requirements.'

2.3 The first Submission is to be presented on 11" x 17" sheets mounted to ¼" black Foam Core board. The boards are to be read horizontally with a line one inch (1") above the bottom edge allowing for the Tennant's Logo on the left, a title in the middle and Design Team Logo on the right. See Details drawings appended to the back of this manual. Note there is Materials Board described in 2.8 below.

2.4 Colored / rendered Floor plan – Three copies mounted per 2.3 above. Text is to be used to spell out the floor, free standing floor fixtures, wall units, special features and their respective finishes. In confined areas dimensioned clearances are to be shown to comply with clearances noted above.

2.5 Black & White Merchandizing plan – Three copies mounted per 2.3 above. Text is to be used to spell out the general locations of product intended to be displayed / sold. The purpose of this plan is to confirm the intentions of the Lease Documents with the Landlord and avoid design revisions due to misunderstandings. This is not intended to be exhaustive but sufficient so that the Tenant's designers are clear as to the kind or type of fixture is required.

2.6 Black & White Reflected ceiling plan – Three copies mounted per 2.3 above. General arrangements of ceiling features, lighting, intended heights and types of finish spelled out.

2.7 Colored / rendered Storefront Elevation - Three copies mounted per 2.3 above. The elevation may be skewed to represent a perspective if desired and must show the finishes with text to spell out features and materials intended. The Tenant's designers are to review the fascia signage zone details at the back of this manual.

2.8 One 11"x 17" materials board of ¼" black Foam Core board is required showing materials intended for use fixed to the board face. This may be supplemented with graphics if apart of the intended finishes or store lighting systems or a special feature needs to be clarified. An additional board may be added if necessary. The back of the board must explain the materials or graphics shown on the front in simple ghost layout of rectangles or squares with the description contained within the shapes. Following completion of a board the remaining two copies require the board to be color scanned and the print fixed to the front of the Foam Core per 2.3 above. A simple Xerox of the material clarifications on the back must be duplicated per the original.

2.9 The Tenant's proposal will be evaluated and comments returned within one week from the date of receipt.

2.10 SECOND DESIGN SUBMISSION

2.11 Upon receipt of the comments the Tenant's Design Team will have two weeks to prepare and submit the second submission; three weeks will be permitted if requested.

2.12 The format for this submission is the start of the development of the CD set. Drawings in 24" x 36" format are acceptable for PANYNJ retail projects. Should the Client's designers prefer 22" x 34" to ease the half set publication in 11" x 17" this is acceptable as well.

2.13 The intent of the first CD set is to provide clarification to the comments raised while allowing the Contract Documents to progress as quickly as possible. The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. Title page with usual airport key plan, terminal location plan and site location plan with north and working north arrows shown. A code evaluation must be shown and escape distances indicated. The usual listing of Client / Owner / Landlord / Space No. and store title together with a list of the drawings.
B. The general conditions may be either book form or part of the drawing set.
C. The specifications may be either book form or part of the drawing set.
D. Architectural plans at ¼" scale for setting out, finishes, fixture types etc.
E. Architectural ceiling plans at ¼" scale for lighting, coordination with MEP.
F. Architectural elevations at ½" scale both storefront and internal as required.
G. Architectural construction details as required.
H. Both wall fixed and free standing fixture details
I. Signage proposals and details at scales that clearly show materials and sizes.
J. Fixture cut sheets in book format.

2.14 This CD submission forms the first chance to evaluate the MEP requirements and is of particular importance to the evaluation team.

2.15 The Tenant's design team is again reminded of the importance to perform a thorough site investigation in order to find those services required. Should the investigation show that the necessary services needed and the routings proposed require disruption to other retail establishments, concourse or holding areas or any other space then careful consideration will be need to evaluate the proposal. Any such findings will need to be noted and added to the drawings to allow bidding contractors to provide accurate estimates for the work to be done.

2.16 The Tenant's design team is reminded that the site investigations necessary to locate a service must also include an evaluation of the capacity of that service to suit their means. Some detail measurements may be necessary to evaluate flow rates, power etc.

2.17 The Tenant's design team will be allowed to submit their CD set in their conventional manner but the drawings must include the following;

A. All the Engineering Specifications may be placed on the drawing sheets or in a book together with the others if that is the preferred method.
B. Fire Prevention drawing for the plan information at the scales noted above for Architectural and detail sheets as required.
C. HVAC drawing for the ceiling plan information at the scales noted above for Architectural and detail sheets as required.
D. Electrical / Power drawing for the plan and ceiling information at the scales noted above for Architectural and detail sheets as required.

2.18 Should the services of a Structural Engineer be required, then there specifications may be added to the drawings or included in the book format and would follow those scales noted above with appropriate details sheets as required.

2.19 The evaluation of this submission by BA, Landlord and D&CC will be one week and the drawings do not need to be signed and sealed.

2.20 **THIRD DESIGN SUBMISSION**

2.21 The Tenant's design team will evaluate comments and revise and issue the final CDs / Design within a one week period, two weeks will be granted upon request. Changes to the CDs need only be noted in an accompanying letter signed by the Architect / Engineer referring on a point by point basis to the comments listed by the Landlord / BA / D&CC. This issue of the CDs must be singed and sealed by the design professionals. The documents must include the standard PANYNJ – TAA (Tenant Construction of Alteration Application) form signed and sealed by the design professional. This form must be correctly filled out with the exact information required by the PORT.

2.22 At this point the Port Authority Approval Process phase begins.

2.23 The D&CC will review the signed and sealed CD documents for compliance with the comments list and then submit all documents to the PANYNJ on behalf of the Tenant within two working days of receipt. Number of copies of each document / CD set to be confirmed by D&CC.

2.24 The review process by the PORT will take an estimated three to five weeks. The PANYNJ comments referred to as, 'The Rider,' will be transmitted directly from the D&CC to the Tenant's design team upon receipt. During this period if not earlier the Tenant's design team is advised to seek bids.

2.25 The Rider will clarify conditions under which the Pre Construction Meeting may be allowed to proceed. Should the Rider require resubmission of any part of the CD documentation prior to approval or the Pre-Con meeting being scheduled the Tenant's design team must comply specifically with each point noted in the Rider. Such points are signified in the Rider with an 'asterisk.' Alterations so required must be bubbled and so noted on the documentation and returned promptly to the D&CC for resubmission to the PORT.

2.26 Should the Rider grant approval to proceed to the Pre-Construction Meeting upon condition that specific items are clarified or confirmed then upon such undertaking being given by the Tenant's design team in writing the D&CC will arrange a date at its sole and absolute discretion. The Tenant's Architect-of-Record is solely responsible for securing acceptance of all Rider Comment responses prior to project close-out.

2.27 The Tenant and their Professional Team will attend the Port Authority Pre-Construction Meeting in order to obtain the Alteration Permit. At this point, the construction phase will begin.

2.27 The Tenants design team will provide construction administration services in conformance with the agreed standards. At least 10 working days prior to substantial completion the Project Close-out phase can begin. The Tenant's Architect will submit controlled inspection and close-out documents to the D&CC for submittal to and approval by the PANYNJ.

2.28 Within 5 working days after approval from the Port Authority, the D&C C will endeavor to schedule the date for final inspection by the Port Authority. The Tenant's Architect will attend the final inspection to obtain the Final Permit to Occupy (FPO) from the Port Authority. Fixturing and merchandising may occur at any time. However, the store may not open until Port Authority approval is secured.

End of Section

SECTION 3 - DESIGN CRITERIA AND TECHNICAL REQUIREMENTS

3.0 GENERAL – DESIGN CONDITIONS

The Overall floor plan, A-01, illustrates the locations of the various food and retail concessions leaseholds. Concessions leaseholds assigned to food are designated with the letters 'F' or 'D' and leaseholds for retail are labeled with the letter 'R.' new leaseholds are further defined according to Design Conditions A through D as follows:

3.1 Design Condition A

This applies to new retails spaces which are enclosed with full height walls and have storefronts defined by closures, walls or glass. For example Space F14, refer to applicable LOD plans and elevations.

3.2 Design Condition B

This applies to new open 'arcade' or 'kiosk' retail spaces which have an open grille or grid type ceiling and their perimeter is principally defined by side folding or overhead roll down grilles. For examples Spaces R11, R12 and R13, refer to applicable LOD plans and elevations.

3.3 Design Condition C

This applies to new, enclosed food service retail space D03 for which the storefront is enclosed by means of solid walls, glass partitions and glass doors, refer to LOD plans and elevations.

3.4 Design Condition D

This applies to open café' or restaurant seating areas defined by low walls or by other flexible or moveable barriers. For example see café seating area D18C or seating area adjacent to restaurant Space F2. Refer to applicable LOD plans and elevations.

3.5 GENERAL REQUIREMENTS

3.5.1 Floors

The level of the finished floor within the concession spaces shall align with that of the adjacent public area finished floor.

The Concessionaire is required to patch adjacent concourse terrazzo or carpet if it is damaged during construction. Floors in kitchen, food preparation and storage areas, including under counter and beverage service areas must have a quarry tile or welded sheet vinyl non-slip surface. Where a quarry tile finish is proposed a fully waterproofed membrane must be applied under the quarry tile to prevent leakage to areas below. A 6-inch high cove base in quarry tile or welded vinyl is required. Floor drains, grease traps are to be installed per code.

3.5.1 Floors Continued

If the space requires floor penetrations, the Tenant's contractor is required to follow procedures noted in Section 1.0 above. This applies to conditions should the penetrations be required outside the Tenant's space for example in the routing of services to the space in need.

The Tenant is not permitted to construct mezzanines or raised platforms in the leased premises.

3.5.2 Ceilings

The overall ceiling height within the lease space is to be a minimum of 8 feet. Open ceilings or exposed structure treatments are not acceptable except as specifically shown in the Design Guidelines, Design Condition B for example. Ceilings are required to be installed in all areas to maintain return-air plenums. All ceiling materials must be noncombustible, equal to Class A installation. Ceiling finishes shall have a flame spread rating not exceeding 200. The plenum must be accessible when base building or Concessionaire piping and/or equipment are located above.

Ceiling furrdowns or bulkheads are permitted. However, furrdowns or soffits must not restrict access to plumbing or HVAC equipment. Access doors are not permitted in gypsum board furrdowns or soffits. All damage to existing ceilings will be repaired at the Tenants expense. Ceilings in food and beverage spaces are to comply with all City of New York Health Department requirements.

3.5.3 Roofs

All required penetrations of the existing terminal roof for exhaust hoods, vent stacks, supplemental HVAC equipment or any other equipment are to be performed by the Tenant's Contractor, at the Tenant's expense. The Tenant must consider the following in dealing with roof-top equipment

1. Roof access
2. Existing roof warranties and specific Owner requirements to maintain such coverage.
3. Security clearances are required to inspect and undertake work on the roof, see Section 1 above.
4. Equipment shut-offs
5. Walkway access
6. Concealed piping
7. Existing equipment and penthouse clearances
8. Roof protection during construction
9. Temporary weatherproof protection of openings during construction
10. Lifting and hoisting of equipment
11. Structural calculations of penetrations and reinforcing of openings if required
12. Effects on roof drainage
13. Storage of equipment and materials on the roof during construction
14. Protection of roofing material from oil and grease emitted by kitchen exhaust equipment

All modifications or installations of additional equipment require review and consultation by the Owner's consultant team including the D&CC, structural engineer and MEP/FP engineer. The installation of such equipment will be at the Tenant's expense.

3.5.4 Walls

All interior demising walls between Concessionaires shall be gypsum board on metal stud framing. Partitions between multiple Concessionaires and any common, public or service corridor will extend to the structure above. The partitions between Concessionaires must have a one hour fire rating and must go to the underside of structure above. All demising partitions will be constructed by the Concessionaires at the Concessionaire's expense. All interior partitions are to extend 8 inches above the finished ceiling. All interior walls are to be constructed by the Concessionaire at the Concessionaire's expense. Permanent attachment to concrete columns with mechanical fasteners or adhesives is not permitted. The Concessionaire is permitted to furr columns with systems that are self-supporting or free standing within the leasehold. If heavy shelving, or attachments, is to be installed, the demising or Concessionaire's wall must be reinforced.

If fire-rated walls or other existing construction must be opened or cut through to extend services into a leasehold, the Concessionaire must preserve the original rating and construction.

3.6 Security

The Concessionaire is required to provide a means of securing the leasehold during non-operational hours.

3.7 IMAGERY – FOOD CONCESSIONAIRE

3.7.1 Food Concessionaire - Display

Creative display of food and beverages is required. The presentation must be clean, well-organized and devoid of clutter. Sneeze guards must be set back a minimum of 6 inches from the edge of counter and be a maximum height of 4'-6" above the finished floor. All horizontal joints are to be butt-glazed for maximum visibility. Glazing must be either tempered or safety glass. No acrylic glazing is permitted.

3.7.2 Food Concessionaire - Equipment

Concessionaire equipment on counters is to be set back a minimum of 6 inches from the front counter edge and recessed into the counter top so that no portion exceeds 42 inches in height. Beverage machines and other miscellaneous equipment on the counter are subject to design review. No simulated wood finishes will be permitted on equipment within public view.

Napkins, condiments, utensils, straws and trays must be set back from the front of the counter and must be dispensed from permanent holders recessed into the front counter top.

All paper goods and supplies are to be stored in areas not visible to the public. All equipment is to be furnished, installed and maintained by the Concessionaire at the Concessionaire's expense.

3.7.3 Food Concessionaire - Lighting

Lighting within the Concessionaire's leasehold and outside the leasehold area – as shown on the Design Guideline Drawings - is to be provided by the Concessionaire.

3.7.4 Food Concessionaire - General Signage

In addition to the basic signage, additional signage is normally required of the food Concessionaire. Menu boards and other signs must convey information in an organized, simple, straightforward manner.

The design and graphics of the signage are an integral part of the store concept. All supplemental menu graphics must be professionally produced and attractively displayed. Temporary displays are not allowed. See Section 2.5 for additional signage information.

3.7.5 Food Concessionaire - Menu Boards

The Concessionaire is to provide one or more menu boards designed as an integral part of the design concept. Menu boards must have changeable price and menu graphics. Graphics depicting food items or a supporting overall image are encouraged.

Internally illuminated menu boards are acceptable. Also acceptable are illuminated menu boards using a supplemental light source. The use of photographs for food displays is encouraged. Photographs must be produced by a professional.

"Daily Special" signs or signs for seasonal or temporary promotions must be integrated into the overall design of the menu board and of the back wall.

3.7.6 Food Concessionaire - Pick Up/Order Signage

The food Concessionaire has the option to have "Order Here" and "Pick Up Here" signs. The design and materials must be consistent with the overall design and colors used in the space. All "Order Here" signs must be supported from the counter top and may not be suspended from the ceiling.

3.7.7 Food Concessionaire - Storage

The Concessionaire's supplies must be stored on appropriate racks or in cabinets within the Concessionaire's leasehold. Such storage must be concealed from public view with doors or sliding panels.

3.8 IMAGERY - RETAIL CONCESSIONAIRE

3.8.1 Retail Concessionaire - Display

The zone behind the storefront where merchandise is displayed is where the customer receives their first full impression of the store. It is critical that special attention be paid to the area through the use of fixturing, props, furniture, and/or mannequins. These elements are to be consistent with the space in both design and materials.

3.8.2 Retail Concessionaire - Signage

All signage on and within the Concessionaire's space is subject to design review and approval, including all signs for sale promotions, seasonal promotions, product displays and brand displays. See Section 3.14 below for Storefront Signage and Appendices for detail signage information.

3.8.2 Retail Concessionaire – Signage Continued

Signage must be professionally designed, attractively displayed and produced in colors and materials consistent with the overall store image.

3.8.3 Retail Concessionaire - FF&E

All fixtures, furnishings and equipment shall be provided by the Concessionaire, at the Concessionaire's expense. Fixtures and furnishings play an important role in establishing the character of the store. They should be made of high quality, durable materials similar or complementary to those in the space. Simulated wood grain or other simulated materials on fixture or furniture is not acceptable.

The fixture layout should accommodate passengers with hand-held luggage, bag carts and baby strollers, as well as persons in wheelchairs who require maneuvering clearances.

Any equipment used in the store that is visible to the public is to be compatible with the store design.

All interior finishes are required to meet ASTM E-84, Type 1, Class A fire retardant requirements. All floor finishes shall also meet DOC FF1 (methanine pill test) and ASTM E648 (critical radiant flux test) with a minimum critical radiant flux of 0.5 watts per square centimeter.

3.9 STOREFRONT / PRIMARY SIGNAGE

Signage is an integral part of the overall design of the Terminal experience. Accordingly, the signage of the Concessionaire's space must be designed to maintain that consistency. The Concessionaire is permitted to use the corporate logo, sign type and lettering styles, when compatible with design criteria. The Concessionaire is required to coordinate primary and secondary signage into a complementary design. The Concessionaire must avoid obstructing Terminal way-finding and information signage. See Section 2.4 for specific signage guidelines for food and retail concession leaseholds.

3.9.1 General Signage Standards

The Concessionaire is fully responsible for the design, workmanship, installation and grammatical correctness of the signs and for coordinating the work of the sign contractor.

The Owner reserves the right to reject any signage that it deems inappropriate for the Terminal.

No exterior signage will be permitted on any part of the Terminal nor shall any signage be positioned so as to be visible from outside any window.

3.9.2 Primary Sign Element

Each Concessionaire is required to design, fabricate, install and maintain one primary sign above the entrance to the space – where a soffit/fascia condition exists - or incorporated into the storefront - if a soffit condition does not exist. The sign shall be limited to the Concessionaire's trading name only.

Any Concessionaire having storefronts on more than one side may use one sign on each storefront. The Concessionaire must comply with the following criteria:

- Etched, beveled, or sandblasted glass, dimensional metal and other materials with permanent appearance are encouraged. Three-dimensional illuminated halo or back-lit individually mounted letters are not acceptable. Letters may be milled metal / Lexan or acrylic and spray painted but can not be thicker than 1-1/2" when pinned to the fascia. The storefront signage will be front lit by the Tenant per details shown in the Appendices.

- For signs occurring on soffits or fascias, the maximum field height for signage (i.e. individual letters, double line of letters and/or sign backgrounds) is 12" overall. See applicable details.

3.9.3 Supplemental Signage

The Concessionaire is encouraged to integrate supplemental signage into the storefront design to support the overall store image and to provide greater visibility. End walls and columns may not be used for secondary signage.

No displays or signs are permitted outside the lease line, except where specifically shown in the Guideline Drawings.

All signs are subject to the approval of British Airways. Note the following:

1. Letters or logos applied or painted directly on the inside face of glass storefronts are not permitted.
2. Supergraphic treatment of large amounts storefronts is not permitted.
3. Hand-lettered non-professional signs and newspaper advertisements are not permitted.
4. Advertising for brand names (soft drinks, for example) is not permitted.
5. Animated, flashing or sound-producing elements are not permitted.
6. All graphics must have a non-glare, matte finish. The type must be large enough and its style simple enough to make the text clearly legible.

3.10 INTERIOR FINISHES

The selection and application of finishes will define the Concessionaire's image. Establishing a standard for quality, durability and aesthetic value is essential and the finishes will be evaluated and considered on that basis. The Concessionaire's image does not end at the storefront or at the front of counter, but continues to all areas exposed to the public. It is important to develop a color and finish palette that is both inviting and complementary to the overall image. Quality craftsmanship is a critical component of good finish applications.

3.10.1 Flooring

High quality, durable materials must be selected to withstand heavy traffic. Stone, ceramic tile, marble, wood or durable carpet are acceptable options. The Concessionaire must provide a continuous base around the perimeter of the lease space with material that is similar to the flooring as well as compatible with the storefront. Rubber or vinyl base is discouraged.

3.10.2 Ceilings / Walls / Doors

The Concessionaire is to use high quality, durable products for ceiling, walls and doors. Specific requirements include the following

1. Ceilings must be accessible for maintenance whenever piping or equipment, by base building or Concessionaire, occurs.

2. The following materials are not permitted:

   a. rough-sawn cedar or other unfinished woods
   b. imitation of natural materials, such a simulated wood, brick or laminates
   c. pegboard walls or fixturing systems
   d. painted drywall surfaces below 9 feet
   e. window coverings.
   f. slat wall material

3. Concessionaire's interior doors must be solid core or hollow metal with a finish quality similar to the quality of the walls.

3.11 LIGHTING

The Concessionaire is encouraged to be creative in lighting design to maximize the quality and uniqueness of the environment. Energy efficient lighting is required. All lighting locations, specifications and product data sheets, including light source, must be submitted for review.

3.12 ACOUSTICS

The Concessionaire is encouraged to use materials and designs that minimize the transmission of sound to the concourse and adjacent spaces.

Food and beverage Concessionaires must isolate noises from food preparation, dishwashing and cleaning areas, using demising walls if necessary.

Music systems are permitted within leaseholds, but sound levels must be controlled to limit the sound to the leasehold boundaries.

3.13 CONSTRUCTION PROCEDURES

These construction procedures are intended to allow flexibility and accessibility to the Concessionaire's contractor for the timely execution of his work without compromising airline operations, passenger flow or airport security. Airport and airline operations and security must not be affected during any sequence of Concessionaire's construction. Therefore, some

3.13 Construction Procedures Continued

construction may be required during restricted working hours and during evening hours.

3.13.1 Concessionaire Examination of Site

By executing lease documents, the Concessionaires represent that they have:

1. Visited the site.
2. Made due allowances for difficulties and contingencies to be encountered.
3. Compared contract documents with work in place.
4. Informed themselves of existing conditions and work being performed by others.
5. Notified the D&CC of any inconsistency, or error discovered within the lease or between Lease Exhibit and existing conditions.
6. Agreed to inspection terms during construction
7. Agreed to provide verified as-built drawings to the D&CC.

3.13.2 Temporary Partitions

In most cases, construction by Concessionaire will occur behind temporary partitions which are to be constructed by the respective Concessionaire according to approved plans. In some cases, where such temporary partitions are not practical, the Concessionaire is to provide and maintain temporary dust partitions to seal-openings to all adjacent areas, provide temporary security and protection to the public during construction. The following points also apply:

1. Temporary construction partitions must be located a maximum of 2 feet beyond the lease line.

2. Partitions must extend full height to the existing structure or ceiling to positively seal off the construction area. Partitions in view of the public are to be vinyl-covered gypsum board on metal studs.

3. All finishes are to be returned to their original condition when temporary partitions are removed.

3.13.2 Temporary Partitions - continued

4. Construction signage – approved by British Airways - is required on temporary partitions.

5. Access doors into construction areas must be solid core or hollow metal doors with commercial grade hardware and must be mounted in hollow metal frames.

3.13.3 Security

The Concessionaire is entirely responsible for the security of the leased premises during construction and must take all necessary steps to maintain airport security. The Owner shall have no liability for loss or theft of any property.

The Concessionaire's contractor shall enter the building at landside entrances approved by the Owner.

Access by air-side or AOA ramp is strictly prohibited. Access to construction areas within the building must be through passageways and corridors as approved by the Owner or the designated D&CC. The access route must be shown on construction documents.

3.13.4 Construction Coordination

The following rules and regulations apply to the Concessionaire's contractors performing work at the Terminal.

In general, the Concessionaire's contractor is to confine his operations to the construction area defined by his Contract Limit Lines (CLL). Where operations require work or staging beyond those limits, such work is to be coordinated with the Owner or their designated D&CC using the following guidelines:

1. All work to be installed beyond the CLL, such as bracing, support steel, installation of conduits or lines etc., is to be coordinated with the Owner, their designated D&CC or with other contractors of the Concessionaire, where applicable.

   The Concessionaire's contractor shall attend the Terminal's mechanical coordination meetings. The contractor must sign off the coordination with other mechanical trades, if work is occurring beyond the CLL's.

3.13.4 Construction Coordination - continued

2. Where the Concessionaire's contractor's work precedes any Terminal mechanical work, the Concessionaire's contractor will furnish accurate as-builts, tying back dimensionally to building steel to locate their work. As-built documents of this work will be forwarded to British Airways or their designated D&CC within five (5) working days of work being performed in the field, for use by others in coordination of subsequent work.

3. Where the Concessionaire's contractor's work occurs after the Terminal's coordination of mechanical work in adjacent spaces, the Concessionaire's contractor will obtain copies of the "Coordination Drawing(s)" for the area and shall indicate his work on the plan. This drawing will be forwarded ten (10) working days prior to any work proceeding in the field outside their CLL and will be submitted to the Owner's D&CC for review.

4. No core drilling will occur in the Terminal outside the CLL. Any damage which occurs due to such activity will be the responsibility of the Concessionaire's contractor. Any necessary repairs not completed by the Concessionaire's contractor will be performed by a contractor selected by the Owner and applicable costs will be back-charged to the Concessionaire's contractor.

5. All shutdowns or tie-ins to existing services are to be made with a minimum of 48 hours written notice to the Owner. The Concessionaire's contractor is responsible to drain down and refill any systems affected and to furnish valves and dampers to isolate their work from the Terminal's systems, whether or not specifically indicated.

6. The Concessionaire's contractor will coordinate all deliveries with British Airways through their designated D&CC. Indicate the date, time and duration of deliveries and coordinate the location of all drop-offs. Minimum 48 hour notices will be given for all standard deliveries, and five (5) days written notice for all deliveries requiring cranes, boom equipment or requiring coordination to or blocking of roadway access.

7. The Concessionaire's contractor is required to provide competent job site supervision, full time while any of their work-force is present at the job site.XXXXXXXXXXXXXX capable and authorized to make binding decisions on behalf of the Concessionaire's contractor. , and who will be present

8. The Concessionaire's contractor will provide British Airways or their designated D&CC with emergency contact numbers for this individual and also for all major mechanical subcontractors working for them at the site.

3.13.4 Construction Coordination – continued

9. The Concessionaire's contractor is required to make available a competent representative of his firm to attend a weekly coordination meeting with British Airways to coordinate all operations and schedules and to give notice of upcoming work or deliveries.

10. All builders' materials, gang boxes, rubbish containers, etc. are to be kept within the confines of the CLL or at pre-approved locations outside the CLL.

11. The Concessionaire's contractor will coordinate all rubbish removal, storage of mini containers, placement of roll-off pickups and drop-off times with British Airways.

12. The Concessionaire's contractor is responsible for lockup and protection of all his builders' materials, tools and equipment during the course of construction.

13. The Concessionaire's contractors are responsible for procurement of their own security badges from the Port Authority and shall coordinate procurement with British Airways.

14. The Concessionaire's contractor is aware that all work will be performed by union personnel of trades claiming jurisdiction. The Concessionaire's contractor is advised that all additional labor which results from their construction activities such as costs for stand-by trades, master machinists, laborers, teamsters, either for work completed during or beyond normal working hours, will be their responsibility and should be arranged for and paid directly by the Concessionaire's contractor.

15. The Concessionaire's contractor shall establish and obtain approval of any required axis lines and benchmarks for performance of their work. The contractor shall coordinate back to these benchmarks, axis lines and starting points as applicable.

16. The Concessionaire's contractor will be responsible for the damage caused by its own personnel or by any of the subcontractors, including suppliers and vendors of the Concessionaire's contractor, to existing construction equipment, fixtures, finished surfaces, adjacent area of construction, existing buildings, properties or utilities. The Concessionaire's contractor is responsible for protection of the preceding work in the vicinity of its work. Any disturbance or impairment resulting directly or indirectly from the work of the Concessionaire's contractor will be immediately restored, repaired, or replaced to the satisfaction of British Airways and without additional cost to British Airways. Refusal by the Concessionaire's contractor to correct the damaged work after notice from the Owner's contractor will necessitate correction by others with all related costs charged to the Concessionaire's contractor.

3.13.4 Construction Coordination – continued

17. The Concessionaire's contractor shall make all efforts to coordinate his work with Terminal Base Building construction at the interface of the CCL (Contract Limit Line).

18. The Concessionaire's contractor must be aware of the structural capacities of areas to be used for the Concessionaire's contractor's equipment and material storage and shall not exceed rated capacities without taking appropriate steps to compensate for the imposing of loads which may exceed the design limits. All storage of materials outside the CLL must be coordinated with British Airways. Any modifications to the structure must be analyzed and detailed by the Concessionaire's contractor's engineer, a professional engineer licensed in New York State, and must be submitted for review by a structural engineer selected by British Airways. All related costs including costs of the engineering review shall be included in the Concessionaire's contract price for such work.

19. The Concessionaire's contractor shall include all costs related to any and all required laboratory testing including controlled inspections required by the Port Authority.

20. The Concessionaire's contractor should note that no elevators or personnel/material hoists are available for their use on the Terminal jobsite. Use of any of the Terminal's service elevators – when permissible - shall be coordinated in advance through British Airways.

21. The Concessionaire's contractor will provide any signs, warning devices, barricades, fences and guardrails which are required for the safe performance of its work, and to control vehicular and pedestrian traffic required by its operation in accordance with applicable codes. Any fines levied against the Owner's contractor by OSHA due to failure of the Concessionaire's contractor to comply with OSHA requirements shall be paid by the Concessionaire's contractor.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS

The Terminal has in place an MEP infrastructure adequate to accommodate the needs of the concessions program. Based on the extent and nature of the work proposed by the respective Concessionaires in this phase of the work, the utility capacities shall be verified by the Concessionaire's engineering consultants. Supplemental requirements or unusual circumstances caused by the Concessionaire's development may require that supplemental equipment be installed by an approved contractor at the Concessionaire's expense. Modifications, tie-ins to existing services and supplemental equipment construction must be engineered by a professional engineer registered in New York State. See Appendix 1 - Design Condition Drawings, for graphic layout of services available to the leaseholds.

3.14 MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL REQUIREMENTS - continued

Plans must show all routings and connections of new services to existing lines, ductwork, piping, telephones, switchboards or motor control centers. The Concessionaire must provide complete heat loss/gain and electrical power calculation forms. See Appendix 2-Schedules for calculation forms.

3.14.1 HVAC

The Terminal is served with chilled and heated water from the Port Authority's central utility plant. Air handling units are currently in place to provide a standard design capacity. The base building supply air provided by British Airways is 1.0 cfm/ft^2 at 57°F. The Concessionaire must verify the existing air supply to the leasehold and determine how much more, if any, is needed.

The existing primary air ductwork may be used to cool the leasehold, provided engineering calculations show that it is adequate to meet new leasehold design loads.

The Concessionaire's HVAC design for each leasehold must meet the following criteria:

1. Heating - Winter inside comfort design temperature: 75°F db -
2. Cooling - Summer inside comfort design temperature: 78°F db
3. Outside design temperatures - as indicated in the current edition of the ASHRAE Handbook of Fundamentals, 2 1/2 percent conditions
4. The existing maximum supply air to conditioned building areas is calculated at 1.0 cfm/ft^2. The Concessionaire is responsible for supplying supplemental HVAC if additional air-conditioned air or make-up air is required because of increased loads in the leasehold.

The Concessionaire must provide the design, engineering and installation of the HVAC system including the following:

1. All medium pressure ductwork from the main trunk ducts to the VAV boxes including duct taps and control dampers
2. All low-pressure ductwork, including that necessary for supply, return air, exhaust, and make-up air
3. All grilles and diffusers for supply, return air, exhaust and make-up air

3.14.1 HVAC - continued

4. Controls: All Concessionaire's equipment must have direct digital controls (DDC); the Concessionaire's control equipment must be compatible with those installed in the Terminal (manufactured by Trend). The Concessionaire is responsible for providing all DDC control panels required for their installation and for connecting to the existing Terminal BMS system and should contact:

   Trend Controls Group
   200-214 West 4th Street
   Plainefield, NJ 07061
   (908.755.9500)

5. A heating system using fan powered VAV boxes or induction boxes with hot-water coils and the required hot-water piping
6. A kitchen hood exhaust and tempered make-up air systems package that includes both exhaust fans and make-up air fans which must be installed by an approved Contractor. The submitted design must include sizing of roof penetrations
   a. Roof exhaust fans must be of the belt drive, up-blast, vertical discharge type and must bear the AMCA certified ratings seals for air and sound performance. There must be a built-in grease drain.
   b. The filtered make-up air unit should have belt-driven double width/double inlet, forward curved centrifugal supply fans.
   c. The pre-wired control center must include, but not be limited to, an integral master disconnect switch with fuse blocks for main power connection, magnetic motor starters with thermal overloads and manual reset, a fused 115 volt control transformer and a distribution terminal control strip for connecting the control wiring. Wiring must be complete, requiring only one-point field connection for power service and one-point field connection for low voltage.

7. All supplemental cooling and heating service must be designed by the Concessionaire's engineer and installed by an approved contractor. Supplemental chilled and heating water air-handling units may be installed within the Concessionaire's lease space or, with written approval, may be installed on the roof.

8. Supplemental DX units are not desirable and will be subject to Owner approval. All other resources must be considered first and approval will be granted only if documented evidence shows that the units are necessary and unavoidable. Location and size of rooftop equipment penetrations will be subject to Owner review and approval.

3.14.2 Electrical

Base building power provided by British Airways includes one separate disconnect switch per leasehold. The feeder (all 3ph, 4 wire, 60Hz) and switch are sized at 10 VA/per ft^2 for retail Concessionaire leaseholds and 24 VA/per ft^2 for food Concessionaire leaseholds. Food Concessionaires will be required to reimburse the Owner for electrical service based on a flat rate fee per square foot or based on meter readings, as determined by British Airways.

The Concessionaire is responsible for the design, engineering and installation of electrical service within the lease space and for all connections and coordination with base building electrical systems. This includes panels, transformers, wire and conduit, light fixtures, switches, outlets and any other items required to complete a functional system.

3.14.3 Plumbing

The Concessionaire must provide the design, engineering and installation of any required plumbing at the concessionaire's expense including the following:

1. All domestic cold water piping
2. All domestic hot water piping including hot water heaters
3. All sanitary sewer (waste) piping, including floor drains and grease interceptors to be connected to the base building waste connection
4. All sanitary sewer vent piping
5. Water heaters when required - they must be accessible and include T&P relief-valve piping to the nearest floor or hub drain in the lease space; all water heaters shall be gas-fired
6. Domestic hot water heaters for hand sinks, if required, can be electric or gas, fully insulated and designed for a service water temperature not to exceed 140°F

All sanitary, vent and cold-water piping must connect to existing lines in the immediate Concessionaire area and be furnished and installed by the Concessionaire.

For food service areas, all Concessionaire drainage piping must be connected to a grease waste line extending to a grease interceptor. Locations should be coordinated with existing conditions, as described above, and with Concessionaire operations.

The Concessionaire must test all existing waste lines for capacity and is responsible for any necessary cleaning or repairs to existing plumbing before connections are made.

3.15 Lighting

All temporary lighting at 10 foot candles and any final required additional lighting shall be provided by the Concessionaire at the Concessionaire's expense in accordance with the Manual. Reference Section 2.0, General Design Criteria.

3.16 Fire Protection

All Concessionaire's leaseholds must be equipped with a sprinkler system except for kiosks or open-ceiling retail spaces which are positioned below ceilings which are presently equipped with sprinklers. The Concessionaire must provide the engineering design modification and installation of the fire sprinkler system for the leasehold, which includes:

1. The design, modification and installation of wet-pipe fire sprinkler systems
2. The design, modification and installation of new and/or existing fire sprinkler heads for lease space layout
3. The design and installation of adequate fire protection systems for such equipment as kitchen grease hoods, as required.

The Concessionaire is responsible for the design, engineering and installation of the sprinkler system within their leasehold and for connecting the sprinkler system to the existing Terminal fire protection system. Contact the following contractor:

Sirina Fire Protection Corporation
151 Herrick Road
Garden City Park, NY 11040
(516.942.0400)

The kitchen hood fire protection system should be connected, by the Concessionaire, at the Concessionaire's expense, to the base building fire alarm system.

If the Concessionaire adds new ductwork for supply, return or exhaust or if the Concessionaire adds supplemental air handling units to the lease space, the Concessionaire's contractor shall install duct-mounted smoke detectors that are connected to the base building's fire alarm system. The Concessionaire's contractor shall install new devices, wiring, etc., and the final connections to the base building's fire alarm system shall be made by the Owner's fire alarm system vendor, at the Concessionaire's expense.

The base building fire alarm system, provided by the Owner, at the Owner's expense, includes one fire alarm horn/strobe per open space (minimum) plus one additional horn/strobe per 400 square feet in accordance with NFPA 72. Fire alarm devices are not generally required in leaseholds, except for in large leases where audio-visual devices must be installed. The designation of the fire alarm devices will be handled on a case-by-case basis in coordination with the Concessionaire's leasehold. It will be the responsibility of the Concessionaire, at the Concessionaire's expense, to provide any required fire alarm devices required for adequate visibility based on the design of the leasehold.

Lease spaces are not independent fire protection zones. Fire protection zones are based on column locations, and several leaseholds may be in the same fire protection zone.

3.17 Telephone

The Concessionaire will be responsible for ordering voice and data circuits from the various Telecommunications Service Providers (e.g. Bell Atlantic, AT&T, Sprint). For routing the Telecommunications circuits to the leasehold, the Concessionaire must use the building cable plant, provided by the British Airways. Originating from the nearest Communications Support Room (SCR), a fifty pair category five (CAT5) cable shall be installed by the Concessionaire terminated within the leasehold.

3.18 Natural Gas

For any natural gas supply lines required for cooking or for hot water heating appliances, the concessionaire is responsible for the design, engineering and installation within their leasehold and for connecting the gas line to the existing natural gas supply in the terminal. Any venting required shall also be provided by the concessionaire as will any required metering.

3.19 Structural

The Base Building structure will accommodate floor loading of 100 psf live load, which cannot be exceeded by the Concessionaire.

END OF SECTION

THE PORT AUTHORITY OF NY & NJ

September 18, 2009

Mr. Vincent Melito
Director
British Airways
75-20 Astoria Boulevard
Jackson Heights, NY 11370

RE: **JFK Alteration Application Y-8209**
Terminal 7 - British Airways
Renovate Altitunes' & in Motion Entertainment Space - R7

Dear Mr. Melito:

Port Authority staff has reviewed the drawings and other materials submitted under cover of letter from dated August 25, 2009. Approval has been granted subject to the resubmission and subsequent Port Authority review of materials revised in accordance with the requirements set forth in the attached Rider (B). I have attached a signed copy of the approved Alteration Application form.

Please submit two (2) full sets of drawings and six (6) sets of revised drawings, specifications, structural calculations, etc., (each set to be individually wrapped or folded) and formal written responses with references to how each of the requirements in Rider (B) has been resolved by October 09, 2009. Failure to respond by this date may result in revocation of approval to proceed with construction.

Please be reminded that no pre-construction meeting may be scheduled, nor any construction activity related to this alteration application be permitted to begin until your Contractor's Insurance Certificate, in the amounts designated in the attached sheet including the Workman's Compensation number is submitted to and approved by the Port Authority's Resident Engineer. Once approval has been granted, please contact Mr. Tom Amoia at (718) 244-4194 at least forty-eight hours prior to the start of work to arrange for a pre-construction meeting. At the pre-construction meeting, you must present the following document:

A letter identifying the Professional Engineer or Registered Architect licensed to practice in the State of New York, who will be inspecting the work, and who will, when the work is ready for use, submit a certification that the work has been constructed in conformance with the plans and all laws and ordinances.

Upon acceptance of these documents and review of the operational restrictions and limits of work applicable to the project, a construction permit will be issued to your contractor. The permit shall be kept at the construction site and shall be available for Port Authority inspection. No work will be permitted until the pre-construction meeting has taken place and the aforementioned requirements have been satisfied.

JFK Int'l Airport Bldg 14 - Tenant Facilities Office
Jamaica, NY 11430
T: 718 244 3542

THE PORT AUTHORITY OF NY & NJ

The approval of the Alteration Application and of the plans and specifications does not constitute a determination or indication by the Port Authority that British Airways has complied with the applicable governmental laws, ordinances, enactments, resolutions, regulations, rules, and orders, including, but not limited to, those of the City of New York and which may pertain thereto.

If you have any questions regarding the aforementioned or you would like to meet with Port Authority staff to discuss the requirements included in the attached rider, please feel free to contact Vik Sareen at 718-244-3542.

Very truly yours,

James Steven, P.E.
Program Director
JFK Redevelopment

NC
Attachment

oc: Cortland Morgan , Architect

RIDER B

ALTERATION APPLICATION Y-8209

STRUCTURAL

1. Drawing A6: The response to comment 4 of the previous Rider is noted. Provide the following:

   a) Show the specific connections of the posts and the existing construction above considering that the load from the existing beam above shall not be transferred to the new post. The direct welding of the post to this beam will provide the opposite effect. Also consider that the tack weld is not a structural type of weld, and shall not be used for the permanent member connections.

   b) As per original comment, indicate if the gate housing is self supported between the posts, or needs to be connected to additional horizontal framing into the posts.

1. Insurance Requirements

a) For any TAA (including minor work and maintenance work) with a cost less than $ 1 million, (no work near aircraft, runways, taxiways, ramps and apron areas) the Tenant or his/her contractor shall comply with the following insurance requirements:

1. Workers' compensation and employer's liability insurance.
2. Commercial General Liability Insurance, including contractual, premises-operations and completed operations, on an occurrence basis, with the following limits: $ 1,000,000 for each occurrence (including $ 1,000,000 each for the General Aggregate and products completed operations).
3. Automobile Liability Insurance (if autos are used) for any (owned, hired, non-owned) autos with the following limits: $ 1,000,000 combined single limit each accident.

b) For any TAA with a cost greater than $ 1,000,000 but less than $ 10,000,000, (no work near aircraft, runways, taxiways, ramps and apron areas), the same insurance in B.1.a above applies, except the limits of liability in (2) and (3) above are increased to $ 3,000,000.

c) For any TAA in a) or b) above (work near aircraft, runways, taxiways, ramps and apron areas), the same insurance in B.1.a applies, except the limits in(2) and (3) above are increased to $ 25,000,000.

c) Any TAA with a cost of $ 5,000,000 or greater shall also include the insurance requirement for all-risk builders risk insurance on an occurrence basis, including replacement cost.

d) Any TAA application with a cost of $ 10,000,000 or greater will be reviewed by the Port Authority of New York and New Jersey, Risk Financing/Treasury for appropriate insurance requirements.

All liability insurance requirements, including the certificates of insurance, above shall include the Port Authority of New York and New Jersey as an additional insured; shall also include cross liability coverage and shall include the following Port Authority of New York and New Jersey immunity clause:

Unless otherwise agreed by the Port Authority of New York and New Jersey, the liability policy shall be specifically endorsed to prohibit the Insurance carrier from any defense involving in any way jurisdiction of the Tribunal, immunity of the Port Authority of New York and New Jersey, government

nature of the Port Authority of New York and New Jersey or provisions of any statutes respecting suits against the Port Authority of New York and New Jersey without obtaining written express advance permission from the General Council of the Port Authority of New York and New Jersey.

If the TAA permits the Tenant to have its contractor obtain the required insurance required in B.1 above, in lieu of the Tenant obtaining the insurance coverage, and the Tenant directs the contractor to obtain such coverage, then the contractor shall have the contractual coverage of the contractor's Commercial General Liability Insurance include the indemnification of the Tenant (include the indemnification clause of the Tenant on the certificate of insurance) and the Tenant and the Port Authority of New York and New Jersey (with indemnification clause) shall be included as an additional insured on such Commercial General Liability Insurance of the contractor.

The above policies shall include at least 10 (ten) day cancellation notice and include the Port Authority of New York and New Jersey as certificate holder, attention: REO (for TAAs), TLO (for maintenance work), at the JFK International Airport, Building No. 14, Jamaica, NY 11430. The Certificate of Insurance must include the TAA ("Y") or maintenance ("M") number.

The Port Authority of New York and New Jersey reserves the right to change or modify the insurance requirements at any time before the TAA has been accepted by the Port Authority of New York and New Jersey.

2. *Certificates of Insurance*

All certificates of insurance shall be submitted to the REO (for TAAs), TLO (for maintenance), for review and approval prior to the start of work. Certificates of insurance for TAAs and maintenance work less then $ 10,000,000, as stated in B.1.a,b,c,d above are reviewed and approved by the REO (for TAAs), TLO (for maintenance); certificates of insurance for B.1.e (cost $ 10,000,000 and or greater) above will be submitted to Risk Financing/Treasury for review and approval prior to start of work. The REO, for TAAs, and the TLO, for maintenance work, will monitor to assure that expiring certificates of insurance have been replaced with appropriately approved renewal certificates of insurance before any work is allowed to continue.

PA 531/11-01

THE PORT AUTHORITY OF NY & NJ
225 Park Avenue South
New York, New York 10003

For Port Authority Use Only	
Facility T #7	APP. No. Y-8209
Date 6/16/09	Applicant's Name BRITISH AIR

TENANT CONSTRUCTION OR ALTERATION APPLICATION

APPLICANT MUST READ THE TERMS AND CONDITIONS INCLUDED WITH THIS FORM

The Applicant shall not commence performance of any of the said work prior to the receipt by Applicant of a copy of this application duly signed in Part Two hereof on behalf of the Port Authority of New York and New Jersey. Upon receipt thereof, the Applicant agrees to perform said work in accordance with the following "Information to be Furnished by Applicant" and to comply with and be bound by all requirements and conditions set forth below under the remarks, if any, in Part Two hereof and the terms and conditions set forth in this form.

Minimum Insurance Limits Unless Specified to be Greater – Bodily Injury $500,000 each person; $500,000 each occurrence; Property Damage $500,000 each accident; $500,000 aggregate.

PART ONE: Information to be furnished by Applicant (Refer to your lease or permit for required information)
Permission is hereby requested to perform the following described work on the space occupied by the Applicant.

At (Facility)	Pursuant to (Lease, Space, Permit) No.	Location (Building No. or Area) of Space to be Altered
Terminal 7 British Airway		Building # 59

Description of Work and Reason
Renovation of existing 'Altitunes' and rebranding to 'In Motion Entertainment'

Estimated Cost of Work	Estimated Time to Complete (Days)	Starting Date	Completion Date
$ 180,000.00	56	07/2009	09/2009

Plans: Prints of each drawing must be submitted with copies of application. Include floor plan and show area affected by proposed Work (size 8 ½" x 11" or larger).

TITLE OF DRAWING	DRAWING NO.	DATED
TITLE SHEET, DEMOLITION, FLOOR, FIXTURE AND CEILING PLANS, STOREFRONT AND INTERIOR ELEVATIONS, STOREFRONT DETAILS, SPECS, ELECTRICAL TITLE SHEET, PLANS/NOTES, AND SPECS, MECH. PLANS AND SPEC	T1, D1, A1-5, F1-4, SP, E1-3, M1-2	04-08-09

Name & Address of Contractor (If Not Known, Submit Later)	Name & Address of Engineer or Architect	Telephone No. / License No.
TO BE DETERMINED	CORTLAND MORGAN, ARCHITECT CORTLAND MORGAN 711 NORTH FIELDER ROAD ARLINGTON TX 76012	817-635-5696 License No. 24762

Send Correspondence To:
(Name & Address of Employee in Charge of Work)
Vincent Melito
British Airways
75-20 Astoria Blvd
Jackson Heights, NY 11370
Telephone No. 347 418 4336

Applicant's Name (As it Appears on Lease or Permit)
British Airways

By (Signature of Authorized Rep.) Vincent Melito | Title VP Fac's | Date 05/11/09

ENGINEER OR ARCHITECT CERTIFICATION
I have supervised the preparation of plans and specification f or the entire work represented herein and hereby certify that they conform to the requirements of the respective enactments, ordinances, resolutions and regulations of the City, town or municipality in regard to construction and maintenance of buildings and structures and in regard to health and fire protection which should be applicable if the Port Authority were a private corporation.

Signature of Licensed Prof. Engineer or Architect | Date 05/11/09

REGISTERED ARCHITECT CORTLAND MORGAN 024762 STATE OF NEW YORK

PART TWO: Prepared by Port Authority and returned to applicant.
The above Application is ☒ Approved ☐ Disapproved. Subject to the following conditions:

☒ Continued on Rider "A" attached

Please advise the undersigned in writing, when this work has been completed.
As per James Steven letter dated 9/18/09

The Port Authority of New York and New Jersey

By:

Inspected By	Date

Title Program Director JFK Redevelopment Date 9/18/09

EXHIBIT "C"
DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS

- Intentionally left blank -

EXHIBIT "D"
PERCENTAGE RENT RATES

From Effective Date through Expiration Date:

Amount of Annual Gross Receipts	Percentage Rent Rates

Ex. 2.a.

MINIMUM ANNUAL GUARANTEED RENT

From Effective Date through Expiration Date:

Ex. 2.a. subject to the adjustment, as set forth in Section 2. *I (a)*

EXHIBIT "E"
FORM OF PORT AUTHORITY TENANT ALTERATION

EXHIBIT "F"
GUARANTY

- Intentionally left blank -

EXHIBIT "G"
AFFIRMATIVE ACTION POLICY

"AFFIRMATIVE ACTION POLICY.doc"

EXHIBIT "H"
TERMINAL RULES

"TERMINAL RULES.doc"

AFFIRMATIVE ACTION-EOUAL OPPORTIJNTIY MINORITY BUSINESS ENTERPRISES WOMEN-OWNED BUSINESS ENTERPRISES REQUIREMENTS

Part 1. Affirmative Action Guidelines - Equal Employment Opportunity

(1) 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 _____ of Port Authority Agreement No. _____ (herein called the "Lease") with (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 bereby 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.

(2) 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 f=a1e 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 Contractors 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 sale 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 SID, 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 (aJl persons of Mexican, Puerto Rican Dominican, Cuban, Central or South American culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons havin 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 at 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 $I0,000 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 him 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 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 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 each minority and female off-the-street applicant 3lld 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, referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, 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 bas 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 doe~ 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 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.

(II) 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 circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling anyone or more of its obligations under Paragraph (b) hereof provided that: tile Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take

affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific minority group a f women is underutilized)

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by the Lessee. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at lease as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, the Lessee shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, r:1ce, sex, status (e.g. mechanical apprentice, trainee, helper, or Labor), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 official or other area. residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Port Authority.

PART II. MINORITY BUSINESS ENTERPRISESIWOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Port Authority requires the Lessee and the Lessee shall itself and shall require the general contractor or other construction supervisor and each of the Lessee's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work pursuant to the provisions of this Schedule E. For purposes hereof, "Minority Business Enterprise" "(MBE)" shall mean any business enterprise, which is at least fifty-one

percentrum owned by, or in the case of a publicly owned business, at least fifty-one percentrum of the stock of which is owned by Citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" "(WBE)" shall mean any business enterprise which is at least fifty-one percentum owned by, or in the case of a publicly owned business, at least fifty-one percentum of the stock of which is owned by women and such ownership is real, substantial and continuing. A minority shall "be :IS defined in paragraph TI(c) of Part I of this Schedule E. "Meaningful participation" shall mean that at least seventeen percent (17%) of the total "dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible"

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names· and addresses of all MBEs and WBEs contacted and, if any such MBE or WEE is not selected as a joint venture or subcontractor, the reason for such decision.
(c) Making plans and specifications for prospective construction work available to MBEs and WBE in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBE maintained by the Port Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that the Lessee and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBE on a timely basis

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBE5, where appropriate.

Certification of MBEs and WBE hereunder shall be made by the Office of Business and 10h Opportunity a f the Port Authority. If the Contractor wishes to utilize a firm not already certifiod by the Port Authority, it shall submit to the Port Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Port Authority. All such requests shall be in writing addressed to the Office of Business and Job Opportunity, the Port Authority of New York and New Jersey, One World Trade Center, 63 East, New York, New York 10048 or such other address as the Port Authority may specify by notice to the Lessee. Certification shall be effective only if made in writing the Director in charge of the Office of Business and Job Opportunity of the Port Authority. The determination of the Port Authority shall I1 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 WEE 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 WEE goals.

Please note that only sixty percent (60%) of expenditures to MBE or WBE suppliers will count towards meeting the MBE and WEE 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.

Initialled:

_____
For the Port Authority

_____
For the Lessee

TERMINAL RULES

Concessionaire covenants and agrees that it shall conform with each of the following rules and regulations and each modification, revision, deletion, or addition thereto made by the Sublandlord, in the exercise of the reasonable judgment of the Sublandlord, and shall cause similar conformance by its employees, agents, contractors, and all others over whom Concessionaire has any right to control or direct while in the Airport. Notwithstanding the foregoing, in the event there is an inconsistency or conflict between anyone or more of the Terminal Rules and Laws, then the Laws shall control and prevail. Sublandlord shall not be responsible to Concessionaire for the noncompliance by any other concessionaire with the Terminal Rules.

1. Concessionaire shall not place, construct, or maintain on the store front of the Concessionaire Premises, the doors, the exterior walls, the Common Areas or any portion thereof any signs, advertisements, names, insignias, trademarks, descriptive materials, or similar items without Sublandlord's prior written consent. All signs, promotional material and displays within the Concessionaire Premises must, at all times, be attractively displayed and professionally produced. Sub landlord, at Concessionaire's expense, as Additional Rent, may remove any sign placed, constructed or maintained that does not comply with the provisions hereof. Further, Concessionaire shall not, without Sublandlord's prior written consent, place, construct or maintain in or for the Concessionaire Premises any search lights, flashing lights, loud speakers, phonographs, or other similar visual or audio media which may be heard or otherwise experienced outside the Concessionaire Premises.

2. Concessionaire shall not, by itself, or through any officer, salesperson, employee, agent or otherwise solicit business in the vestibules, entrances, elevator lobbies, corridors, hallways or elevators of the Terminal.

3. Quality and Character of Merchandise

   a. Merchandising. Concessionaire shall be specifically required and obligated to have continuously in-stock, on display and available for sale a full and complete stock of merchandise consistent with only the Permitted Operations. Concessionaire shall ensure that all such merchandise is at all times attractively and logically arranged and that all merchandise displays are fully stocked with product.

   b. Product Selection. Concessionaire may from time to time, with written approval of the Sublandlord, or its designee, add or delete items from its merchandise offerings provided that such additions or deletions shall be consistent with those authorized in this Sublease, as amended, and do not conflict with the rights of other concessionaires at the Terminal as may be determined by Sublandlord, in its sole discretion.

   c. Quality of Merchandise. Concessionaire shall offer for sale only high quality products and those which are safe, sanitary, properly labeled and as advertised. Upon written notice to Concessionaire by Sublandlord of any violation of this provision, Concessionaire shall forthwith correct the condition objected to within four (4) hours af1er receipt of such notice.

   d. Sublandlord 's Right to Object. Concessionaire shall upon written demand from Sublandlord cease selling any item that Sublandlord shall determine is objectionable for sale or display at the Terminal and immediately remove such item from its inventory and not thereafter offer such item for sale at the Terminal.

e. Replacement and Refunds. Concessionaire shall , at all times during the term of this Sublease, as amended, and without any additional charge to customers, replace any merchandise determined by customers to be unsatisfactory, flawed or defective or shall provide customers a full re fund therefore provided said customers have complied with any applicable warranty and use provisions applicable to the merchandise.

4. Concessionaire shall accept as payment for goods and services all nationally recognized credit or charge cards including, at least, American Express, Master Card, VISA and Discover. Concessionaire shall provide, without charge, change making services at each cashier's location in the Concessionaire Premises. Such service shall be equally provided to all persons, regardless if any purchase has been made or not.

5. Concessionaire shall not use or permit the use in the Concessionaire Premises of anything that may be dangerous to life or limb. Concessionaire shall not in any manner deface or injure the Terminal or any part thereof, or overload the floors of the Concessionaire Premises. Concessionaire shall not do any1hing or permit any1hing to be done in the Concessionaire Premises in any way tending to create a nuisance, or tending to disturb any other concessionaire in the Terminal..

6. Adherence to Standards..

f. Concessionaire shall ensure that all requirements of the Port Authority and County and/or State Boards of Health, and health and sanitary regulations adopted by the Authority, County, State or any governmental legal authority, are fully complied with in all Facilities. Concessionaire shall give access for inspection purposes to any duly authorized representatives of such governing bodies and to Sublandlord. Concessionaire shall provide Sublandlord with copies of all inspection reports within forty-eight (48) hours of receipt. This paragraph does not require Concessionaire to waive any applicable attorney-client or attorney work product privileges.

g. Additional Compliance. Concessionaire shall comply with all applicable governmental laws, ordinances and regulations in the conduct of its operations under this Sublease, as amended.

h. Concessionaire's Standards. Concessionaire shall submit to Sublandlord a copy of any of its own customer service. operations, etc. standards, plans and/or manuals, and shall ensure continuous adherence to Concessionaire's own standards In addition to Sublandlord's standards as set forth herein.

7. Concessionaire, at its so le cost and expense, shall provide exterminating service for the Concessionaire Premises, which services shall be performed as needed, and in all events, upon demand by the Sublandlord or Port Authority.

8. Trash and Refuse.

i. Concessionaire shall provide a complete and proper arrangement for the adequate sanitary handling of all trash, grease and other refuse caused as a result of the operation of the Concessionaire Premises and shall provide for its timely removal. Piling of boxes, cartons, barrels or other similar items in view of a public area is prohibited. Concessionaire shall keep any areas used for trash and garbage storage prior to removal from Terminal in a clean and orderly condition so as not to attract rodents, pests and birds or create an offensive odor.

j. In transporting trash, grease and other refuse from the Concessionaire Premises, Concessionaire shall use only carts, vehicles or conveyances that are covered, leak proof and equipped with wheels suitable for operating without damage to the Terminal. Such disposal shall take place during hours as may be directed by Sublandlord.

k. The plumbing facilities, within the Concessionaire Premises and elsewhere in the Terminal, shall not be used for any purpose other than that for which they are constructed, and no foreign substance of any kind shall be thrown therein. If installed in connection with the Concessionaire Premises, Concessionaire shall , at its own expense, check and clean at least monthly all grease traps and grease receptors. The expense of any breakage, stoppage, or damage resulting from a violation of this provision, wherever such occurs, shall be borne by Concessionaire who may, or whose employees, agents, or invitees may, have caused it.

l. If at any time during the Term, the Port Authority establishes a Terminal-wide recycling program, Concessionaire agrees to participate in any such program at its own cost.

9. The portion of the Common Areas, if any, immediately adjoining the Concessionaire Premises shall be kept clean and free from Concessionaire's dirt and rubbish by Concessionaire to the reasonable satisfaction of Sublandlord. Concessionaire shall not encumber or obstruct the corridors or stairways of the Terminal with furniture, equipment, boxes, crates, floor mats, merchandise, goods or otherwise. In the event of a violation, Sublandlord may move such objects into the Concessionaire Premises or to any other suitable location.

10. Personnel

m. The management, maintenance and operation of the Concessionaire Premises and the concession conducted thereon shall be at all times during the Term under the supervision and direction of an active, qualified, competent and experienced manager, who shall at all times be authorized to represent and act for Concessionaire. Said manager shall have full authority to make day-to-day business decisions on behalf of Concessionaire, with respect to the concession operations contemplated by this Agreement, and shall represent the Concessionaire in dealings with Sublandlord, and coordinate all concession activities with Sublandlord. Concessionaire shall cause such manager to be assigned a duty station or office in the Concessionaire Premises at which he or she shall be available during normal business hours. During the absence of such manager, Concessionaire will, at all times during Store Hours, assign or cause to be assigned, a qualified subordinate to assume and be directly responsible for the carrying out of his or her duties.

n. Concessionaire shall recruit, train, supervise, direct and deploy the number of representatives, agents and employees, collectively referred to as "personnel" necessary to promptly provide services to all customers and to meet all of the requirements of this Sublease, as amended. Concessionaire shall be continuously responsible for actively managing personnel levels to ensure that changes in passenger activity, due to schedule changes, load factor changes or flight delays are adequately accommodated through increased levels of personnel. Any actual or perceived degradation in (i) the customer service requirements set forth in this Sublease or other duties, rights or responsibilities set forth in this Sublease provided by Concessionaire in the course of conducting Concessionaire's permitted uses; or (ii) the training and competence of Concessionaire's personnel shall be conveyed to the Concessionaire and Concessionaire hereby agrees that it shall promptly institute training programs and or add additional adequately trained and capable staff to the satisfaction of Sublandlord.

o. In addition to the staffing level requirements set forth herein, Concessionaire shall ensure that all personnel utilized in the Concessionaire Premises shall conform to the following:

I. All personnel employed by the Concessionaire shall be neat, clean and courteous at all times.

II . No loud, boisterous or otherwise improper actions or language shall be permitted while on or about the Terminal.

III . Concessionaire shall, at its sole cost and expense, provide each member of the sales staff with a uniform of a design to be approved by Sublandlord, in its discretion, which shall be worn whenever said staff are in the Concessionaire Premises.

IV. Personnel shall prominently display nametags, Airport Identification badges and any other specified airport badges and or pins while on duty in the Terminal.

v. All personnel shall be actively working while on the sales floor in view of the public. No personnel shall be engaged in personal conversation (via telephone, etc.) or activities such as reading, writing, eating, etc.

VI. All personnel shall be attentive to customer needs, display a positive attitude and refrain from discussing personal issues/problems within the sales areas of the Concessionaire Premises.

VII. All personnel shall know and utilize practices of good customer service such as (I) assisting customers with purchase decisions; (2) identify product alternatives; (3) posses and display good product knowledge; and (4) utilize appropriate suggestive selling.

VIII. All personnel shall provide warm, friendly, smiling, prompt and courteous service.

IX. All personnel shall be proficient with and trained in the required operations of all equipment and devices used in the Concessionaire Premises to facilitate sales (i .e. point of sale devices, credit card transaction equipment, etc.).

x. All personnel shall be familiar with all applicable policies of this Sublease, the Terminal and Concessionaire.

XI. All personnel engaged in sales activities shall speak and comprehend English, at a level appropriate to their duties.

p. Sublandlord shall have the right to object to the demeanor, conduct, and appearance of any employee of Concessionaire or any of its invitees or those doing business with it, whereupon Concessionaire shall take all steps necessary to remedy the cause of the objection. If requested by Concessionaire, Sub landlord shall present its objections in writing and provide the opportunity to reply to the objections, such reply to be given consideration by Sublandlord.

11. The delivery or shipping of merchandise, supplies, and fixtures to and from the concessionaire Premises shall be subject to such rules and regulations as in the reasonable judgment of Sublandlord are necessary for the proper operation of the Terminal.

12. Concessionaire acknowledges that all locks and similar devices on and to the Concessionaire Premises are to be keyed or otherwise within the control from or by a master key or other device within the possession and control of the Subland lord. At no time during the Term, shall the Concessionaire have the right to place any locks or similar devices on or to any portion of the interior or exterior of the Concessionaire Premises without each being capable of being opened by the master key or other controlling device of the Sublandlord. To the extent that the Concessionaire shall desire to install, within the Concessionaire Premises any combination or other form of locks, no such equipment may be installed without first obtaining the prior written consent and approval of the Sublandlord; and providing to Sublandlord the key, combination, or other means of opening same at any time.

13. Concessionaire's Maintenance Obligations.

q. Concessionaire will maintain the Concessionaire Premises and every part thereof in good appearance, repair and safe condition. Concessionaire shall maintain and repair all leasehold improvements on the Concessionaire Premises and all furnishing, fixtures and equipment therein, whether installed by Concessionaire or by others, including repainting or redecorating as necessary and replacing or repairing worn carpet, tile, fixtures or furnishings. All such maintenance and repairs shall be of quality equal to or better than the original in materials and workmanship and all work, including paint colors, shall be subject to the prior written approval of both Sublandlord and the Port Authority.

r. Concessionaire shall, without cost to Sublandlord, provide all janitorial services for the Concessionaire Premises. Concessionaire shall ensure that the Concessionaire Premises, and the public areas adjacent to the Concessionaire Premises, are kept free from all rubbish, filth and refuse.

s. On or about each anniversary of the Commencement Date, representatives of Sub landlord and Concessionaire shall tour the Concessionaire Premises and jointly agree upon what, if any, routine refurbishment is required to maintain the Concessionaire Premise in first-class condition, and Concessionaire shall promptly undertake such refurbishment at its sole cost and expense. For purposes of these Terminal Rules, refurbishment shall mean the routine repainting or redecoration of public areas within the Concessionaire Premises, including the replacement or repair of worn carpet, tile, furniture, furnishings, fixtures or finishes.

t. Concessionaire agrees to employ sufficient personnel, and provide necessary equipment to keep the Concessionaire Premises and all furniture, furnishings, fixtures and equipment clean, neat, safe, sanitary and in good working order and condition at all times pursuant to the maintenance requirements of these Terminal Rules.

u. Sublandlord shall be the sole judge of the quality of maintenance. The Port Authority, Sublandlord, or their designees, may at any time, without notice, enter upon the Leased Premises to determine if satisfactory maintenance is being performed. If it is determined that said maintenance is not satisfactory, the Port Authority and/or Sublandlord shall so notify Concessionaire in writing. If said maintenance is not performed by Concessionaire within fifteen (15) days after receipt of written notice, British Airways or its designee thereafter shall have the right to enter upon the Leased Premises and perform the maintenance therefore, and Concessionaire agrees to promptly reimburse British Airways for the cost thereof, plus fifteen percent (15%) for administrative overhead.

v. The Sublandlord and the Port Authority and their respective agents shall have the right to enter the Concessionaire Premises for the purpose of making repairs, alterations, or additions which Sub landlord shall deem necessary and take all materials into and upon said Concessionaire Premises that may be required to make such repairs, improvements

additions or alterations, without in any way being deemed or held guilty of an eviction of Concessionaire and the Rent reserved herein shall in no wise abate while said repairs, alterations or additions are being made. Concessionaire shall not be entitled to maintain a setoff or counterclaim for damages by reason of loss or interruption to the business of Concessionaire because of the prosecution of any such work.

14. Hours of Operation.

w. Concessionaire shall ensure that all portions of the Concessionaire Premises are continuously and uninterruptedly open for business and provide all services and sales activities as required by this Agreement at such hours as may be established from time to time by Sublandlord, in its sole and absolute discretion (hereinafter referred to as "Store Hours"). Concessionaire hereby understands and agrees that the Store Hours may be seven (7) days per week, including local, state and federal holidays, twenty-four (24) hours per day.

x. In the event of delayed flights within those portions of the Terminal in which any portion of the Concessionaire Premises are located, Concessionaire shall remain continuously open and provide all services and sales activities as required by the Agreement in any such Facility until said flights depart the gate or Sublandlord otherwise instructs, even if such period is beyond the current Store Hours for said portion of the Concessionaire Premises.

y. If Sublandlord deems it necessary, on an emergency basis, to serve the public during other than Store Hours, Concessionaire shall remain continuously open and provide all services and sales activities in such portion of the Concessionaire Premises as required by Sublandlord during the emergency period.

z. Concessionaire shall prominently post in each of the Facilities, in an area visible to customers, the current listing of the Facility's hours of operation. 15. Concessionaire shall be required to respond to any complaints in writing within 10 days of receipt, with a good faith effort to explain, resolve or rectify the corresponding problem. Concessionaire shall provide Sublandlord, or its designee, with a copy of any complaint received the same day it is received by the Concessionaire and shall provide Sublandlord with a copy of the written response the same day it is sent. Complaints received by Sublandlord shall be forwarded to the Concessionaire, who shall respond utilizing the above procedure. Concessionaire shall be required to implement and utilize a customer comment system (cards, telephone, web, etc.). All such completed comments and Concessionaire' s summary reports shall be provided to the Sublandlord within 10 days of receipt and/or completion. 16. Sub landlord reserves the right, to make such other and further reasonable rules and regulations as in its judgment may, from time to time, be needful for the safety, care and cleanliness of the Premises, and for the preservation of good order therein, and any such other further rules and regulations shall be binding upon the parties with the same force and effect as if they had been inserted herein at the time of the execution hereof.

EXHIBIT "I"
Permitted Operations and Branded Concepts

Concessionaire has the right to offer for rental and/or sale, audio, video, gaming, and entertainment/electronics hardware, media and accessories. As it relates to the video component, this shall include, but not be limited to, DVD/DVR players, DVD movies, and other DVD based software, digital video/audio players, hard drive based players, downloadable video media, and other related products and accessories. As it relates to the audio component, this shall include, but not be limited to, CD music, CD players, MP3 players, satellite radio, downloadable media, and other related products and accessories. As it relates to the gaming component, this shall include, but not be limited to, any gaming hardware, software, media and accessories. As it relates to the entertainment/electronics component, this shall include, but not be limited to, digital cameras, digital video recorders, camcorders, digital video projection systems, GPS navigation systems, and other multi-functional devices related to the concept. Accessories shall include, but not be limited to, headphones, batteries, cases, power devices, cellular phone and PDA accessories, computer accessories, media content storage, film, digital audio/video downloads, digital photo prints, and other accessories for related technology. In addition, pursuant to section 1.3, the Concessionaire's System shall offer for sale or rental digital downloads of music, movies and games consistent with the mix of media offered at its store location at R 7. Due to the dynamic nature of the entire category, the Concessionaire shall also have the right to sell and/or rent products that are a technological evolution of the aforementioned. Notwithstanding the foregoing, the offering and sale of such services, products, downloads and other media are subject to the review by and consent of Sublandlord for content, suitability or and may not be substituted or moved between locations without Sublandlord's express written consent. Concessionaire agrees that it has or will obtain all necessary rights, titles and licenses to permit such designated services, products, downloads and other media, to be installed and sold at the locations herein and provide Sublandlord with proof of such license.

Form - All-Purpose Ack. N.Y. (rev 1/4/2000)

For the Port Authority of NY & NJ

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 7TH day of MARCH in the year 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared RONALD DEROSE, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Gail E. Mitchell
(notarial seal and stamp)

GAIL E. MITCHELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MI6026210
Qualified in Queens County
My Commission Expires June 14, 20 11

For British Airways Plc

STATE OF NEW YORK)
) ss.
COUNTY OF QUEENS)

On the 21st day of January in the year 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Neil Evans, personally known to me or proved to me on the basis of satisfactory evidence to be the SVP Finance 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

JAMES B. BLANEY
Notary Public, State of New York
No.02BL4919572
Qualified in Queens County
Commission Expires 09/14/2014

For PROJECT HORIZON, INC.

STATE OF FLORIDA)
) ss.
COUNTY OF DUVAL)

On the 15th day of July in the year 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared P Jeremy Smith, JR , 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Elizabeth L. Walton
(notarial seal and stamp)

ELIZABETH L. WALTON
Notary Public, State of Florida
My comm. exp. Oct. 14, 2010
Comm. No. DD 597626

THIS AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. AYD-626
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of February 14, 2007 ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), **OAKLEY SALES CORP.** ("Sublessee"), a corporation organized and existing under the laws of the State of Washington with an office and place of business at One Icon, Foothill Ranch, California 92610, whose representative is Ms. Sophie Bundalo, Retail Manager, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate each consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to Paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; (e) or such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not

limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments

and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. (a) The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days' notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be

deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

(b) In the event the Port Authority exercises it right to revoke this Consent if the Sublessee shall fail to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Consent, the Sublessee shall be obligated to reimburse the Port Authority for any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. (a) If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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. Nothing in this paragraph 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 Consent, including, without limitation, the Port Authority's rights to revoke this Consent or (ii) any obligations of the Sublessee under this Consent.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of Paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and

replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the

obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the

Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease,

the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this Paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. Basic Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Permit for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(iii) With respect to this Consent, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent, which shall provide the Port Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline or the Permittee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

IN WITNESS WHEREOF, the Port Authority, the Permittee and the Sublessee have executed these presents.

ATTEST:

Asst. Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By

(Title) Asst. Director, CCCAS

(Seal)

~~ATTEST~~ WITNESS:

~~Secretary~~

WESTFIELD CONCESSION MANAGEMENT, LLC

By Arnold L. Mayersohn, Jr.

(Title) Assistant Vice President

(Corporate Seal)

~~ATTEST~~ Witness:

Theresa Watson

~~Secretary~~

OAKLEY SALES CORP.

By Sophie Burdalo

(Title) VP of Retail

(Corporate Seal)

ACCEPTED AND CONSENTED TO AS OF THE EFFECTIVE DATE OF THIS CONSENT AGREEMENT

AMERICAN AIRLINES, INC.

By

LAURA A. EINSPANIER

(Name): Vice President

Corporate Real Estate

(Title) President

(Corporate Seal)

APPROVED:

FORM	TERMS
MG	SB

gve

SUBLEASE

BETWEEN

WESTFIELD CONCESSION MANAGEMENT, LLC

LANDLORD

AND

OAKLEY SALES CORP.
TENANT

OAKLEY
TRADE NAME

SPACE NUMBER M5

MAIN TERMINAL BUILDING

TERMINAL 8
JOHN F. KENNEDY INTERNATIONAL AIRPORT
JAMAICA, NEW YORK

TERMINAL 8 SUBLEASE
JOHN F. KENNEDY INTERNATIONAL AIRPORT
MAIN TERMINAL BUILDING

THIS SUBLEASE ("**Sublease**") is made as of this 14th day of FEBRUARY, 2007, by and between **WESTFIELD CONCESSION MANAGEMENT, LLC**, a Delaware limited liability company, whose address is 11601 Wilshire Boulevard, 11th Floor, Los Angeles, California 90025 ("**Landlord**"), and **OAKLEY SALES CORP.**, a Washington corporation, whose principal place of business is located at One Icon, Foothill Ranch, California 92610 ("**Tenant**").

Subject to the terms and conditions contained herein, Landlord hereby leases to Tenant, and Tenant hereby accepts from Landlord, the premises identified on **Exhibit A-2** ("**Premises**"), which is in and part of Terminal 8 ("**Terminal**") at John F. Kennedy International Airport, Jamaica, New York ("**Airport**"). **Exhibit A-1** is a general site plan of the Airport including the location of the Terminal. **Exhibit A-3** is a site plan of the portion of the Terminal leased to Landlord as shown hatched on such **Exhibit A-3** ("**Concession Area**"). The Terminal consists of approximately 1,414,500 square feet leased by The Port Authority of New York and New Jersey ("**Authority**") to American Air Lines, Inc. ("**American**") and is anticipated to contain approximately 36 gates. The Premises is known as Space No. M5 containing approximately 1,591 square feet of Floor Area as shown on **Exhibit A-2**. Not included in the Premises is the roof, concrete slab floor, and all perimeter walls (except the inner surfaces thereof) and the perimeter doors and windows. The actual number of square feet of Floor Area may, at Landlord's option, be subject to adjustment based on field measurements as reasonably determined by Landlord; and all charges hereunder based on a per square foot amount shall be adjusted accordingly. The type of concession is:

☒Specialty Retail ☒In-Line

Landlord has the right to enter into and perform this Sublease pursuant to the Master Retail Development, Management and Leasing Agreement between American and Landlord dated as of September 2, 2004 ("**Concession Area Lease**"). The Concession Area Lease is subject and subordinate to the Amended and Restated Lease No. AYB-085R between the Authority and American dated December 22, 2000 ("**Authority Lease**"). Tenant hereby acknowledges that a redacted copy of the Concession Area Lease (excluding only certain provisions considered to be confidential by Landlord and American) has been provided to Tenant. This Sublease is subject and subordinate to the Concession Area Lease and the Authority Lease, including all amendments and supplements thereto, whether entered into prior to or after the date hereof; and Tenant shall strictly comply with all applicable provisions of the Concession Area Lease, the Authority Lease, the Consent Agreement, the Authority's TAA Process and any and all other permits, documents and requirements required by the Authority (collectively, "**Authority Requirements**"). Tenant's compliance with the terms of this Sublease shall constitute its compliance with the applicable terms of the Concession Area Lease. In the event of any inconsistency between the terms of this Sublease and the Concession Area Lease or the Authority Lease, then in each and every such instance, the Authority Lease or the Concession Area Lease, as the case may be, shall supersede and control. The terms, conditions and effectiveness of this Sublease are expressly conditioned upon the due execution and delivery by the Authority, American, Landlord and Tenant of an agreement in the form of **Exhibit B** hereto ("**Consent Agreement**") or as such Consent Agreement is otherwise required by the Authority. For definitional purposes, "**Tenant**" shall include Tenant, its agents, contractors, subcontractors, employees, franchisees, invitees, licensees, assignees, subtenants, concessionaires and others performing work and/or who are conducting operations in the Premises. Any capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Concession Area Lease. American and the Authority are express and intended third party beneficiaries of this Sublease.

DATA SHEET

The following references furnish data which is hereby incorporated into the specified sections hereof:

(1) **Section 1.02: Term: (a)** Latest Rental Commencement Date: May 9, 2007; provided, however, if new Concourse B has not opened to the public for **"Enplaned Passengers"** (as defined below) operations on or before May 9, 2007, then the Latest Rental Commencement Date shall be the date on which new Concourse B is first opened for such **"Enplaned Passengers"** operations. Notwithstanding the foregoing, if possession of the Premises is not delivered to Tenant on or before February 15, 2007, then the Latest Rental Commencement Date shall be extended on a day-for-day basis equal to the exact number of days past February 15, 2007, that delivery of possession of the Premises to Tenant was so delayed, and such delay was not caused by Tenant. **(b)** Expiration Date: April 30, 2014, or the seventh (7th) anniversary of the Latest Rental Commencement Date, whichever is the later to occur, as confirmed in a letter from Landlord to Tenant.

(2) **Section 2.01: Minimum Annual Guaranteed Rent:** per Lease Year, payable in equal consecutive monthly installments of Ex. 2.a. subject to annual adjustments based upon the **"Percentage Change in Enplaned Passengers"**.

(3) **Section 2.02: Percentage Rent:** Ex. 2.a. of all Gross Receipts in excess of ("**Monthly Breakpoint**"). The initial annual total of the Monthly Breakpoint is Ex. 2.a. '**Annual Breakpoint**"). The Monthly Breakpoint and Annual Breakpoint are subject to adjustments in connection with the annual adjustments to the Minimum Annual Guaranteed Rent based upon the **"Percentage Change in Enplaned Passengers"**.

(4) **Section 2.06: Additional Rent:** Additional Rent shall include but not be limited to the following items: **(a) Section 2.03: Storage Premises Rent:** If, applicable, Tenant shall pay Storage Premises Rent as referenced in Section 2.03; **(b) Section 2.04: Taxes:** Tenant shall pay its proportionate share of Taxes as provided in Section 2.04; **(c) Section 2.05: Miscellaneous Charges:** Tenant shall pay miscellaneous charges for employee parking, security checks and identification badges and screening of goods, products, equipment and supplies as charged by Landlord, American, the Authority or applicable regulatory agencies from time to time, subject to adjustment; **(d) Section 8.04: Logistical Support and Public Area Maintenance Fee:** Tenant shall pay its proportionate share of the Logistical Support and Public Area Maintenance Fee; **(e) Section 12.01: Utilities:** If the Permitted Use provides for the offer and sale of food and beverage items, Tenant shall pay electricity consumed in the Premises; and **(f) Section 16.03: Joint Marketing Fund:** Tenant shall contribute to the Joint Marketing Fund, calculated on the basis of Ex. 2.a. of Gross Receipts per month, payable monthly, subject to adjustment as provided in Section 16.03. The initial joint marketing fund assessment of Ex. 2.a. shall be paid by Tenant to Landlord in one lump sum within sixty (60) days prior to the Rental Commencement Date.

(5) **Section 7.01: Permitted Use:** For the operation of a retail concession providing for the sale at retail of eyewear and related accessories, men's and women's apparel, footwear, and other merchandise typically sold in substantially all of Tenant's other stores operating under the same Trade Name which are located in the United States, and for no other use or purpose.

(6) **Section 7.02: Hours of Operation:** Tenant shall be open for business seven (7) days a week, three hundred sixty-five (365) days a year, including all holidays. Tenant's minimum daily hours of operation shall be as follows: 6:00 A.M. to 10:00 P.M., local time, subject to other hours and adjustments as provided

in Section 7.02. The hours of operation required of Tenant hereunder shall not be materially different than operating hours required of other specialty retail concessions in the Terminal.

(7) **Section 16.01: Trade Name:** "Oakley", "Oakley O Store" or such other Trade Name as is used by Tenant in a majority of its similar stores operating in the United States.

(8) **Section 26.01: Performance Guaranty-Letter of Credit:** At Landlord's option: (i) twenty-five percent (25%) of the initial annual Guaranteed Rent in immediately available funds, payable to Landlord upon execution of this Sublease and in no event later than delivery of the Premises to Tenant; or (ii) an unconditional, irrevocable standby letter of credit in an amount not less than twenty-five percent (25%) of the initial annual Guaranteed Rent in funds available immediately or same day funds in the City of New York, as security for the faithful observance, payment and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed, paid and performed ("**Performance Guaranty**"). Such letter of credit must be in form and content as set forth in **Exhibit H** for a term of not less than one (1) year with automatic extensions and issued by a commercial banking institution reasonably acceptable to Landlord and authorized to conduct business in the State of New York ("**Bank**"). The Performance Guaranty shall be delivered by Tenant and held by Landlord in accordance with the provisions of Article XXVI of this Sublease. No surety bonds shall be permitted.

(9) **Section 27.05: Notice Addresses:**

Landlord:

Westfield Concession Management, LLC
11601 Wilshire Blvd., 11th Floor
Los Angeles, California 90025
Attention: Office of Legal Counsel

With copies to:

Westfield Concession Management, LLC
Airport Division Management Office
2730 University Boulevard, Suite LL6
Wheaton, Maryland 20902

Westfield Concession Management, LLC
John F. Kennedy International Airport – Terminal 8
Jamaica, New York 11430
Attention: General Manager

Tenant:

Oakley Sales Corp.
One Icon
Foothill Ranch, California 92610
Attention: Real Estate Department

Tenant's Billing Address:

Oakley Sales Corp.
One Icon
Foothill Ranch, California 92610
Attention: Accounts Payable Department

Address for Rental Payments to Landlord: All Rentals payable to Landlord hereunder shall be made payable to "**Westfield Concession Management, LLC, Trustee for American Airlines, Inc. and the Port Authority of New York and New Jersey**" and remitted to: Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Los Angeles, California 90074-0429 (Via U.S. Mail) or Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Remittance Banking, Unit 5195, 1000 West Temple Street, Ground Floor, Los Angeles, CA 90012 (Via Overnight Delivery Service).

(10) **Minority-Owned Business Enterprises, Women-Owned Business Enterprises and/or Disadvantaged Business Enterprises ("M/W/DBE") Requirements:** Not applicable.

ARTICLE I. GRANT AND TERM

Section 1.01 **CONDITIONS OF GRANT OF PREMISES.** American and the Authority each have the right to make any alterations, replacements or modifications to the Terminal (including, but not limited to, the Concession Area) and/or the Airport, including actions which may change the shape, size, location, number and extent of the improvements generally shown on **Exhibits A-1, A-2 and A-3** and eliminate or add any improvements to any portion of the Terminal and/or the Airport at any time without Landlord's or Tenant's consent. Such rights shall include the right to place, install, maintain, use, repair and replace, in any manner, pipes, lines, conduits, ducts, flues, drains, sprinkler mains and valves, wires and wiring (and like improvements) and structural elements leading through the Premises or serving the Premises or any other parts of the Terminal. Tenant acknowledges that pursuant to the Concession Area Lease, American has agreed to use reasonable efforts to place any such items (other than existing items and/or necessary or desirable structural elements) in locations that do not materially interfere with Tenant's use of the Premises unless required to comply with American's obligations under the Authority Lease. Tenant may, upon approval by Landlord and subject to the Authority's TAA Process (as defined in Section 5.01), have the right to install utility lines and facilities which exclusively serve the Premises in the area between Tenant's finished ceiling and the roof above, but such installation shall be at Tenant's sole cost and expense. Wherever the term Airport or Terminal is used, it shall be deemed to include the areas shown as such on **Exhibit A-1**. If American or the Authority elects to enlarge or alter the Airport, the Terminal or the Concession Area, Landlord, at its sole and absolute discretion, may include any additional area in the respective definitions of Airport, Terminal and/or Concession Area for purposes of this Sublease.

Section 1.02 **COMMENCEMENT AND ENDING DATE OF TERM.** The term of this Sublease ("**Term**") shall commence as of the date reflected on the first page hereof ("**Commencement Date**"). Tenant's obligation to pay Guaranteed Rent, Percentage Rent and Additional Rent (collectively, "**Rentals**") shall commence upon the date ("**Rental Commencement Date**") which is the earlier to occur of (a) the date on which Tenant initially opens for business to the public, or (b) the Latest Rental Commencement Date specified in the Data Sheet. Any occupancy of the Premises by Tenant following the Commencement Date and prior to the Rental Commencement Date shall be subject to all terms and conditions hereof other than the payment of Rentals. The Term hereof shall end on the Expiration Date set forth in the Data Sheet, unless sooner terminated in accordance with this Sublease or if the Consent Agreement is terminated or otherwise revoked as provided therein. Tenant 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 rightfully evicted or dispossessed for any lawful cause, or in the event either Landlord or American obtains possession of the Premises in any lawful manner. Such termination of the Sublease, as provided herein, and the removal, restoration and surrender obligations of Tenant, shall in no event give rise to any claims for incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises. The first "**Lease Year**" shall be the period commencing on the Rental Commencement Date and ending on the next December 31, and thereafter each "**Lease Year**" shall mean a fiscal year of twelve (12) consecutive calendar months ending on December 31.

Section 1.03 **LATE OPENING.** Landlord and Tenant agree that Tenant's failure to open the Premises on the Latest Rental Commencement Date will result in damages which are difficult to ascertain in light of operational, scheduling and public service factors. Therefore, subject to Force Majeure, if Tenant fails to open for business in the Premises by the Latest Rental Commencement Date and such failure shall be due to any fault of Tenant and not due to delays as specified in Section 5.01(c), Landlord may assess and Tenant shall pay as liquidated damages and not as a penalty, Two Hundred Fifty Dollars ($250.00) per day for each day Tenant is not open for business after and including the Latest Rental Commencement Date. If such failure shall continue for in excess of sixty (60) days, the amount of such liquidated damages may be increased up to a maximum of Five Hundred Dollars ($500.00) per day. This remedy shall be in addition to

any and all other remedies provided in this Sublease or by law to Landlord in the event of default by Tenant. Such liquidated damages shall be deemed to be in lieu of Percentage Rent only that might have been paid or earned during the period of Tenant's failure to open.

Section 1.04 **CONSENT.** Tenant acknowledges that under the Concession Area Lease and the Authority Lease, American and the Authority may have the right to consent to or approve matters which are described herein as being subject to the consent or approval of Landlord.. Tenant agrees that Landlord, its agents and employees, shall be deemed to have acted reasonably if they act, fail to act, withhold or delay any consent or approval hereunder and such consent or approval is being withheld or delayed by or at the direction of either American or the Authority, whether or not American or the Authority is acting reasonably in making or refusing to make such determination. Landlord, its agents and employees, shall not have any liability to Tenant for any reason whatsoever in failing to obtain any such consent or approval.

Section 1.05 **DISCLAIMER. TENANT ACKNOWLEDGES THAT NEITHER LANDLORD, AMERICAN, THE AUTHORITY NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, REPRESENTATIVES OR BROKERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION OR WARRANTY OF ANY KIND RESPECTING USE, OCCUPANCY OR OPERATION WITHIN THE TERMINAL AND/OR THE AIRPORT BY ANY AIRLINES, PERSONS OR ENTITIES INCLUDING, WITHOUT LIMITATION, ANY FORECASTED, ANTICIPATED OR ESTIMATED PASSENGER VOLUME (WHETHER ENPLANEMENTS OR DEPLANEMENTS) IN THE TERMINAL AND/OR THE AIRPORT OR SALES EXPECTED TO BE GENERATED AT OR FROM THE PREMISES. TENANT IRREVOCABLY WAIVES ANY CLAIM BASED UPON OR RELATED TO ANY SUCH CLAIMED REPRESENTATION BY LANDLORD, AMERICAN OR THE AUTHORITY. NO REPRESENTATIONS OR WARRANTIES AS TO THE ECONOMIC VIABILITY OF THE PREMISES OR THE AMOUNT OF PASSENGERS TO BE ENPLANED IN THE TERMINAL HAVE BEEN MADE. NO PROMISES TO ALTER, REMODEL OR IMPROVE, THE PREMISES, CONCESSION AREA OR THE TERMINAL HAVE BEEN MADE BY LANDLORD OR AMERICAN EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE CONCESSION AREA LEASE. PASSENGER COUNTS, PASSENGER FLOWS AND OTHER CUSTOMER TRAFFIC ARE IN THE MOST PART PRODUCTS OF AIRLINE SCHEDULES AND GATE UTILIZATION AND GOVERNMENTAL RULES AND REGULATIONS GOVERNING SECURITY AND EMERGENCY SITUATIONS AND MAY RESTRICT ACCESS TO THE TERMINAL. TENANT MAY NOT RELY ON ANY IMPLIED REPRESENTATIONS OR WARRANTIES (THE EXISTENCE OF WHICH ARE HEREBY DISCLAIMED), OR THE ACCURACY OF PROJECTIONS OR PROSPECTIVE INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE. TENANT REPRESENTS THAT TENANT HAS CONDUCTED AN INDEPENDENT AND EXPERT INVESTIGATION AND EVALUATION OF THE TERMINAL, THE PREMISES AND ALL INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE.**

ARTICLE II. RENTALS

Section 2.01 **MINIMUM ANNUAL GUARANTEED RENT.** Tenant shall pay to Landlord the Minimum Annual Guaranteed Rent ("**Guaranteed Rent**") set forth in the Data Sheet in equal consecutive monthly installments in advance on or before the first day of each month, without prior demand or notice. Guaranteed Rent, Percentage Rent and Additional Rent shall be paid to Landlord in U.S. currency at the address set forth in the Data Sheet, or such other place as Landlord may designate in writing, without any deductions or offsets whatsoever, except as may otherwise be specifically permitted under this Sublease. Should the Rental Commencement Date occur on a day other than the first day of a calendar month or this

Sublease expire or terminate on a day other than the last day of a calendar month, then Guaranteed Rent shall be prorated on the basis of a thirty (30) day month. Should any Lease Year contain less than twelve (12) calendar months, said Guaranteed Rent shall be prorated on the basis of a three hundred sixty-five (365) day year. Effective each January 1 (commencing January 1, 2008) following the Rental Commencement Date, Guaranteed Rent shall adjust (but in no event shall the Guaranteed Rent decrease below the amount set forth in the Data Sheet) by an amount equal to the then current Lease Year's Guaranteed Rent times the "**Percentage Change in Enplaned Passengers**". The "**Percentage Change in Enplaned Passengers**" shall mean an amount equal to the percentage change, whether an increase or a decrease, between the Terminal's reported "**Enplaned Passengers**" between two (2) consecutive calendar years for each Lease Year of the Term. For example, the initial calendar year for such measurement shall be the "**Enplaned Passengers**" in the Terminal during the 2006 calendar year and shall be compared to the "**Enplaned Passengers**" in the Terminal during the 2007 calendar year. Thereafter, calendar year periods used for the measurement comparison shall each roll forward by one (1) calendar year for subsequent determinations of the Percentage Change in Enplaned Passengers (e.g., the second comparison shall be the 2007 calendar year compared to the 2008 calendar year). For all purposes of this Sublease, the term "**Enplaned Passengers**" means any passenger determined by American to have boarded an aircraft at the Terminal, including passengers who may disembark and re-board the same aircraft as part of the same flight itinerary, but excluding passengers, such as international in-transit passengers, from international flights who are restricted from access to the Concession Area. Notwithstanding anything to the contrary set forth in this Sublease, in no event shall any such increase in Tenant's Guaranteed Rent exceed the amount of three percent (3%) as compared to the immediately preceding Lease Year, regardless of whether any increased based on the Percentage Change In Enplaned Passengers exceeds such three percent (3%) amount.

Section 2.02 PERCENTAGE RENT. (a) Tenant shall also pay for each month of the Term ("**Lease Month**"), Percentage Rent equal to the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts during such Lease Month exceeds the Monthly Breakpoint. Tenant shall pay Percentage Rent to Landlord monthly without prior notice or demand within fifteen (15) days after the expiration of each Lease Month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Lease Month which exceed the Monthly Breakpoint. Should the Rental Commencement Date occur on a day other than the first day of a Lease Month or this Sublease expire or terminate on a day other than the last day of a Lease Month, then Percentage Rent due for such partial Lease Month shall equal the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts exceed the product obtained by multiplying the Monthly Breakpoint by a fraction, the numerator of which is the number of days in any partial Lease Month and the denominator of which is thirty (30). Should any Lease Year be less than twelve (12) full calendar months then the annual Percentage Rent due for such partial Lease Year shall equal the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts exceed the product obtained by multiplying the Annual Breakpoint by a fraction, the numerator of which is the number of days in any partial Lease Year in which Tenant was open and operating and the denominator of which is three hundred sixty-five (365). Further, the Monthly Breakpoint and the Annual Breakpoint shall be adjusted accordingly effective each January 1 by an appropriate amount to maintain the same "natural" or "un-natural" breakpoint in comparison with Guaranteed Rent, such adjustment to be made proportionately in connection with the annual adjustments to Guaranteed Rent pursuant to Section 2.01.

(b) If, at the end of any Lease Year, the monthly installments of Percentage Rent are less than the annual Percentage Rent required to be paid, Tenant shall pay the amount of such deficiency on or before the time Tenant provides its Annual Statement together with "**Late Interest**" (as defined in Section 27.13) from the date any such amounts were originally due. If, at the end of any Lease Year, the monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid, Tenant shall receive a credit

equivalent to such excess, which shall be credited by Landlord to the next monthly payment(s) of Rentals due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid for such final Lease Year, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises at the conclusion of this Sublease, so long as the Premises are in the condition required by this Sublease, all of Tenant's obligations and liabilities have been performed to the reasonable satisfaction of Landlord and any other sums due Landlord from Tenant under this Sublease have been paid in full or Landlord shall be entitled to deduct such remaining sums due from any such excess. Percentage Rent is agreed to be a portion of the consideration for Landlord to enter into this Sublease and Landlord expects to supplement Guaranteed Rent and Additional Rent to provide a fair rental return. Except as otherwise specifically permitted by this Sublease or by reason of Force Majeure, if Tenant fails to continuously operate its business or keep the required hours of operation or vacates the Premises prior to the expiration of the Term hereof, Landlord, American and the Authority will suffer damages not readily ascertainable. Landlord shall have the right to treat any of such events as a non-curable, material default and breach by Tenant and Landlord shall be entitled to all remedies provided hereunder or at law.

(c) The term "**Gross Receipts**" means and includes all monies paid or payable to Tenant, whether for cash, credit or otherwise, for sales made or services rendered at or from the Terminal or the Airport regardless of when or where the order therefor is received and outside the Terminal or Airport if the order is received at the Terminal or the Airport, retail display allowances and other promotional incentives (the gross amounts thereof, not net of expenses) received from vendors, suppliers or manufacturers and other revenues of any type arising out of or in connection with Tenant's operations at the Terminal or the Airport, including, without limitation, proceeds from: the sale of gift and merchandise certificates (but only when such certificates are treated as a sale from the Premises pursuant to Tenant's record keeping system); mail, catalogue (as further explained below), closed circuit television, computer, other electronic or telephone orders received or filled; deposits not refunded to purchasers; orders taken at the Premises (although such orders may be filled elsewhere); sales through vending machines or other devices; the spread earned on any exchange or foreign currency transactions whether as a currency exchange service or in connection with the sale of merchandise or services; and all insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage. Catalogue sales generated from catalogues distributed from the Premises will be included in the calculation of Gross Receipts. For this purpose, catalogues displayed in the Premises must include a tracking number unique to the Premises that allows for an auditable method for tracking such sales. A "sale" shall be treated as consummated for the purposes of this definition, and the entire amount of the sales price shall be included in Gross Receipts, and deemed received at the time of determination of the amount due for each transaction, whether for cash, credit or otherwise, and not at the time of billing or payment. No deduction shall be allowed for uncollected or uncollectible credit accounts or "bad" checks. Gross Receipts shall <u>not</u> include: (1) any sums collected for any federal, state, county and municipal sales taxes, so-called luxury taxes, use taxes, consumer excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed by law upon the sale of merchandise or services but only if separately stated from the sales price and only to the extent actually paid by Tenant to any duly constituted governmental/taxing authority; (2) the exchange of merchandise between the stores or warehouses owned by or affiliated with Tenant, if any, where such exchanges of goods or merchandise are made solely for the convenient operation of the business of Tenant and not for the purpose of consummating a sale which has theretofore been made at, in, from or upon the Premises or for the purpose of depriving Landlord, American or the Authority of the benefit of the sale which otherwise would be made at, in, from or upon the Premises; (3) the amount of any cash or credit refund made upon any sale where the merchandise sold, or some part thereof, is thereafter returned by a purchaser and accepted by Tenant; (4) the proceeds of sale of fixtures, equipment or other items of property which are not stock in trade and not in the ordinary course of Tenant's business; (5) any receipts of Tenant which arise from its operations at the Airport under any other

agreement with Landlord, American or the Authority and are subject to a percentage fee or percentage rent under that agreement; (6) shipping, delivery and gift wrapping charges provided at Tenant's actual cost by Tenant and documented separately by Tenant and such charges are merely an accommodation to customers; (7) receipts in the form of refunds from, or the value of merchandise, services, supplies or equipment returned to, vendors, shippers, suppliers or manufacturers, including volume discounts received from Tenant's vendors, suppliers or manufacturers; (8) income actually received by Tenant from manufacturers of goods (e.g., cosmetics, perfume) displayed for sale at the Premises if the conditions set forth below are fully and strictly satisfied with respect to such income; (9) customary discounts given by Tenant on sales of merchandise or services to its own employees, if separately stated, and limited in amount to not more than two percent (2%) of Gross Receipts per Lease Month; (10) mandatory discounts of not less than ten percent (10%) of Gross Receipts, if separately stated, which must be given by Tenant on sales of merchandise or services to all individuals employed at the Airport and to all Terminal airline employees; (11) gratuities for services performed by employees of Tenant which are paid by Tenant or its customers to such employees, except to the extent Tenant may be entitled to receive a portion of such gratuities; (12) the sale or transfer in bulk of the inventory of Tenant to a purchaser of all or substantially all of the assets of Tenant in a transaction not in the ordinary course of Tenant's business; and/or (13) except with respect to insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage as provided above and/or insurance proceeds that may be payable to Landlord, American or the Authority under such coverage, receipts from all other insurance proceeds received as a result of a loss or casualty. The conditions with respect to Section 2.02(c)(8) above are as follows: (i) the manufacturer specifically identifies the time period to which the income relates, (ii) reimbursement from the manufacturer to Tenant occurs in connection with employees (1) who are on Tenant's payroll for the operations permitted under the Consent Agreement and (2) who are on such payroll during the time period to which the reimbursement relates, (iii) the manufacturer and Tenant have previously entered into a written agreement that sets forth the material terms of their arrangement with regard to the reimbursement that is the subject of 2.02(c)(8), and (iv) Tenant provides to Landlord written documents and records substantiating the matters listed in sub-clauses (i) through (iii). Without limiting the generality of the foregoing, any and all income that would otherwise qualify as being excludable from Gross Receipts for purposes of this Sublease shall be includable in Gross Receipts if and to the extent that the income from the manufacturer which is associated with an identified employee during a calendar year exceeds such identified employee's base salary for the same calendar year. Such determination shall be made separately with respect to each employee of Tenant and with respect to each calendar year.

Section 2.03 **STORAGE PREMISES AND RENT.** If and to the extent that Storage Premises exist and/or are available, commencing on the date of actual delivery of Storage Premises to Tenant, all of the terms, provisions and conditions of Tenant's use and occupancy of the Premises set forth herein shall apply fully to Tenant's use and occupancy of the Storage Premises and for all purposes of this Sublease, the Premises shall be deemed to include the Storage Premises. Tenant shall build out such Storage Premises at its sole cost and expense, or, if Landlord may build out such Storage Premises to Landlord's specifications in which case, Tenant shall reimburse Landlord for the reasonable and actual costs incurred to build-out the Storage Premises. Landlord has the right at any time, in its reasonable discretion, to designate comparable alternative Storage Premises. In the event of the relocation of Storage Premises, Tenant shall be solely responsible for all moving and other related costs thereto. Tenant shall pay to Landlord as rent for the Storage Premises ("**Storage Premises Rent**") in accordance with the terms of the separate Storage Premises Sublease. Storage Premises Rent shall be payable in equal consecutive monthly installments in advance on or before the first (1st) day each month, without prior demand or notice. If delivery of the Storage Premises occurs on a date other than the first (1st) day of a month, the Storage Premises Rent shall be prorated on a daily basis for any such partial month.

Section 2.04 **TAXES.** (a) From and after the Rental Commencement Date, Tenant shall pay to

Landlord, as Additional Rent, its proportionate share of the Taxes payable by Landlord under the Concession Area Lease. "**Taxes**" means, collectively, any tax, fee, excise, levy, lien, duty, impost or similar charge assessed or imposed, including, without limitation, payments under any taxing agreement between the Authority and/or American, and the City of New York, providing for taxes to be paid to the City of New York, and any interest, penalties and additions to a tax, by a governmental authority on, against or in connection with the lease, use, possession, equipping, operation or maintenance of the Concession Area, and any amounts paid or deemed paid in connection with the purchase, lease or use of goods and/or services at or for the Concession Area, including amounts paid or attributable to utilities generated, provided or consumed by or through Tenant, other tenants of the Concession Area, Landlord, American or the Authority for the benefit of the Concession Area. Taxes exclude payments in lieu of taxes and federal or state taxes based on or determined by net income, net worth or Landlord's or American's ongoing qualification to do business in general as a corporation (e.g., state franchise taxes). Should the State of New York or City of New York or any political subdivision thereof or any governmental, taxing or assessing authority, impose a tax of any kind or nature, regular or special, direct or indirect, upon, against or with respect to the Rentals or other amounts payable to Landlord by Tenant, or a franchise tax assessment, levy or charge measured by or based, in whole or in part, upon such Rentals or any other amounts payable hereunder, then all such taxes, assessments, levies or charges, or the part thereof so measured or based, shall be paid by Tenant and shall be deemed to be included within the term Taxes. The Taxes in respect of the year in which the Rental Commencement Date occurs and for the year in which the Term hereof ends shall be prorated on a daily basis.

(b) Tenant's proportionate share of Taxes shall be determined as follows: (1) if the Premises is the subject of a separate tax lot or lots created by the City of New York, Tenant shall pay Taxes that may become due and payable with respect to the Premises as so reflected on the tax statement during the Term directly to the City of New York, or Landlord, as directed by Landlord, and shall deliver to Landlord, not later than ten (10) days before the date any such Taxes become delinquent, official receipts of the appropriate taxing authority or other evidence satisfactory to Landlord evidencing payment thereof; or (2) if the Premises is not a separate tax lot or lots, the amount of Tenant's proportionate share thereof shall be reasonably calculated by Landlord based upon the type of Tax charged and how it is allocated to all or a portion of the Concession Area. Tenant's proportionate share thereof shall be determined by a formula, the numerator of which is the Floor Area of the Premises and the denominator of which is the total Floor Area of all leased and occupied concession facilities located in the Concession Area. Such proportionate share shall be paid to Landlord in advance, in monthly installments on or before the first (1st) day of each calendar month, either: (i) in an amount estimated by Landlord and billed to Tenant, but Landlord shall have the right to initially determine monthly estimates and to revise estimates from time to time, or (ii) within twenty (20) days of Tenant's receipt of a bill from Landlord for the payment of such Taxes, if any of such Taxes are not so estimated in advance. Tenant agrees to make payment within twenty (20) days after receipt of a bill from Landlord even if a statement showing the Taxes payable by Landlord is not provided by Landlord at the time of billing. Upon receipt of the abovementioned statement pertaining to Taxes payable by Landlord under the Concession Area Lease, Landlord shall furnish Tenant with a written statement of the actual amount of Tenant's proportionate share of Taxes for such tax fiscal year together with a copy of such statement. If the total amount paid by Tenant for any such period following the Rental Commencement Date shall be less than the actual amount due from Tenant for such period, as shown on the statement, Tenant shall pay to Landlord the difference between the amount previously paid by Tenant and the actual amount due together with Late Interest from when originally due within ten (10) days after Tenant's receipt of such statement. If the total amount paid by Tenant hereunder for any such period shall exceed the actual amount due from Tenant for such period, such excess shall be credited against the next payment for Taxes due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total amount paid by Tenant for such final Lease Year shall exceed the actual amount due from Tenant for such period, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises in good

condition at the conclusion of this Sublease and all Rentals due Landlord from Tenant under this Sublease have been paid in full or Landlord may deduct such excess, if any, from any outstanding and unpaid Rentals remaining to be paid by Tenant to Landlord.

(c) Landlord reserves the right to contest Taxes; and Tenant shall pay to Landlord that portion of all reasonable external costs and expenses incurred by Landlord in connection with such contests (including attorneys' fees, accountants, consultants and appraiser expenses, and reasonable administrative expenses) based on a formula, the numerator of which is the square footage of Floor Area in the Premises, and the denominator of which is the total square footage of Floor Area in the Concession Area. Notwithstanding any such contest, related negotiation or appeal, Tenant shall timely pay its proportionate share of Taxes. If Taxes shall be increased, Tenant's proportionate share of Taxes shall be computed on the amount of Taxes finally determined to be payable by Landlord including any of the reasonable external costs incurred therein. If Landlord's obligation to pay Taxes shall be decreased, Landlord's statement following such decrease shall include an appropriate adjustment for any prior fiscal tax years affected by such decrease reflecting the amount of such decrease; and Tenant's proportionate share of any such adjustment, less Tenant's proportionate share of the reasonable external costs incurred shall be treated as a credit against future Taxes payable by Tenant following the decrease or, if during the final Lease Year of the Term, refunded to Tenant as provided in Section 2.04 (b) above. If Taxes are separately-assessed against Tenant, Tenant may contest, in good faith for its own account and at Tenant's sole cost and expense, the validity or amount of any such separately assessed Tax, provided **Tenant shall indemnify Landlord against any resulting loss, cost or expense, and shall provide security reasonably satisfactory to Landlord with respect to Tenant's performance of such indemnification.** Under no circumstances shall Tenant permit any type of lien or encumbrance on the Premises or on the Terminal by reason of the failure to pay any Taxes or Tenant Taxes (as defined in Section 22.01).

(d) If Tenant should fail to pay any Taxes required to be paid by Tenant hereunder, in addition to any other remedies provided herein, Landlord may, if it so elects, pay such Taxes either with its own funds or by a draw-down of such amounts upon the Performance Guaranty. Any sums so paid by Landlord shall be due and payable by Tenant on demand, together with Late Interest thereon from the date paid by Landlord to the date of repayment by Tenant. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Taxes and proceedings described in this Section 2.04.** Tenant shall be liable for all Taxes levied or assessed directly against Tenant, including Taxes assessed on or in respect of "**Fixed Improvements**" and any "**Refurbishments**" (as both terms are defined in Section 5.01), or other fixtures, inventory or personal property of Tenant in the Concession Area. If any such Taxes are levied or assessed against Landlord, American or their property and Landlord pays the same or the assessed value of Landlord's or American's property is increased by inclusion of such personal property and fixtures, then, at Landlord's discretion, Tenant shall advance the corresponding Taxes to Landlord, or reimburse them upon demand if paid by Landlord.

Section 2.05 MISCELLANEOUS CHARGES. (a) Employee Parking. The Authority retains the right to institute a charge to Tenant and all other concession operators at the Terminal for the privilege of using such employee designated parking facilities for Tenant's employees. Such charges shall be paid directly to the Authority and shall be promptly paid at such intervals as shall be demanded in accordance with parking rates established by the Authority as adjusted from time to time. (b) Identification Security Badges. All persons employed at the Terminal are required to obtain background checks, security clearances and identification security badges from American or the Authority; and American or the Authority has the right to institute a reasonable charge for processing, issuance, reviews and renewals. Such charges shall be paid directly to the issuing party and shall be promptly paid at such intervals as shall be demanded. All security

badges must be properly accounted for by Tenant and promptly returned in accordance with American's, the Authority's and all other applicable rules, policies and regulations. (c) Screening. As may be required by local, state or federal law, including, but not limited to, the Federal Aviation Administration's ("**FAA**"), the Transportation Security Administration's ("**TSA**"), American's, the Authority's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, products, equipment and supplies shall be paid by Tenant directly to Landlord or, if not billed directly, included within the Logistical Support and Public Area Maintenance Fee. (d) Subsequent Regulations. If in the future, American, the Authority or any agency with jurisdiction over the Airport requires Landlord to implement additional procedures related to airport facilities and/or the screening or badging of Tenant's employees, contractors, goods, products, equipment or supplies, Tenant agrees to pay the actual costs incurred by Landlord in the manner provided above. Each of the foregoing shall be collectively referred to as "**Miscellaneous Charges**".

Section 2.06 **ADDITIONAL RENT.** In addition to Guaranteed Rent and Percentage Rent hereunder, Tenant shall pay, as "**Additional Rent**", in a manner and at the place provided herein, all sums of money required to be paid by Tenant hereunder, including but not limited to: Miscellaneous Charges, Storage Premises Rent, if any, Taxes, if any, the Logistical Support and Public Area Maintenance Fees, and contributions to the Joint Marketing Fund not to exceed one-half percent (.50%) of Tenant's monthly Gross Receipts. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next installment of Guaranteed Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All Rentals payable in a given month shall be deemed to comprise a single rental obligation of Tenant.

Section 2.07 **LATE PAYMENT CHARGE.** If any Rentals required to be paid to Landlord hereunder are not made when such Rentals are due, including as a result of any audit findings, Tenant shall pay interest on any such overdue amounts, compounded monthly at the rate specified in Section 27.13 commencing on the due date; provided, however, any such late charges shall be waived in the event any such late payments are in fact received by Landlord within seven (7) days following the due date. If Landlord accepts such late payment charge or Tenant pays the late payment charge but fails to pay contemporaneously therewith all unpaid amounts of Rentals due, Landlord's acceptance of this late payment charge shall not constitute a waiver of Tenant's default nor prevent Landlord from exercising all other rights and remedies available to Landlord hereunder or at law. If Tenant is late more than twice during any consecutive twelve (12) month period, Landlord will no longer waive any such applicable late charges for the remainder of the Term.

Section 2.08 **APPLICATION OF PAYMENTS; ACCORD AND SATISFACTION.** Landlord may, at its sole discretion, apply any payments received from Tenant to any Rentals that are then due and payable. If Landlord shall not make any specific application of a payment received from Tenant, then any such payment received shall be applied first to the Rentals which have been overdue for the longest period of time. No designation of any payment by Tenant for application to a specific portion of Tenant's financial obligations hereunder shall be binding unless otherwise required under the laws of the State of New York nor shall it be deemed an accord and satisfaction of any debt or obligation of Tenant hereunder. Tenant covenants to pay all Rentals independent of any obligation of Landlord. No breach of this Sublease by Landlord shall relieve Tenant of its obligation and duty to pay all Rentals when due under the terms hereof. All Rentals shall be paid by Tenant to Landlord without set-off, deduction, demand or abatement. Tenant's obligations to pay Rentals shall be absolute and unconditional and shall not be subject to any right of recoupment or set-off and Tenant shall make all payments in full without deduction, setoff or counter-claims of any form or nature. Landlord reserves the right to accept any check or payment without prejudicing in any way Landlord's right to recover the balance of any and all Rentals due from Tenant after receipt of any such check or payment or to pursue any other remedy provided herein or by law. At any time

that Tenant shall have delivered checks to Landlord for payments pursuant hereto which shall have on at least three (3) occasions during any Lease Year been returned by Landlord's bank for any reason, Landlord shall not be obligated to accept any payment from Tenant unless such payment is made by cashier's check or in bank certified funds.

ARTICLE III. RECORDS AND REPORTS

Section 3.01 TENANT'S RECORDS. Tenant shall maintain in English and in accordance with accepted accounting practices consistently applied ("**AAP**"), full and complete records and books of account recording all transactions at, through or in any way connected with Tenant's operations at the Premises or elsewhere at the Terminal or the Airport and outside of the Airport if the order therefor is received at the Premises, and shall require and cause all of Tenant's Affiliates (as defined below) performing similar services within the Port of New York District (as defined in the Authority Lease) and its subtenants, concessionaires, licensees and/or assignees to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Tenant (collectively, "**Records**"). For all purposes of this Sublease, "**Affiliate**" or "**Affiliates**" means, with respect to any Person, any other Person, directly or indirectly, through one (1) or more intermediaries, who or which Controls, is Controlled By or is Under Common Control With such Person; "**Person**" means and includes an individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department, authority or agency thereof; and "**Control**" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise (including any entity in which a Person (including any general or limited partner, managing and non-managing member or shareholder of such Person) has an ownership interest); and the terms "**Controls**", "**Controlled By**" and "**Under Common Control With**" shall have the meanings correlative to the foregoing. The Records shall include, without limitation, true copies of all federal, state and local sales and use tax returns and reports, daily bank deposits and daily receipts from all sales (including those from catalogue, mail or telephone orders), duplicate bank deposit slips, invoices, journals, ledgers and other pertinent original sales records, and records of any other transactions conducted in or from the Premises by Tenant. The Records shall also include, without limitation, all corporate records and books of account which the Landlord, in its sole discretion, believes may be relevant for identification, determination or calculation of all fees, rentals and other amounts paid or payable to American and the Authority, all agreements, and all source documents. The Records shall be preserved and retained by Tenant within the Port of New York District and if not kept by Tenant within the Port of New York District, the Records shall be preserved and retained at Tenant's principal business office located in the United States during the Term and for one (1) year after the expiration or earlier termination hereof, and for any further period extending until receipt of written permission from the Authority to do otherwise; provided, however, those Records pertaining to Gross Receipts shall be maintained for a period of five (5) years from the date of each sale, or, in the event of a claim by Landlord, American or the Authority, until such claim for payments hereunder shall have been resolved, fixed and paid. If such records are not kept by Tenant within the Port of New York District, Tenant shall make all of such records available within the Port of New York District within fifteen (15) days of a request therefor. All Records shall at all reasonable times, during Tenant's normal business hours after fifteen (15) days prior written notice, be open to the inspection of, and may be copied or extracted from, in whole or in part, by Landlord, American, the Authority or their respective representatives for the period hereinabove required. If the Records are not audited within such retention period, the Records shall be deemed adequate and closed; provided, however, in the case of fraud and/or willful errors, such retention period limitation shall not apply; and, provided, further, records relating to any litigation or settlement of claims arising under or relating to this Sublease shall be made available for during retention period after such litigation or claims have been completed and all time limits for appeals have expired.

Section 3.02 **POINT OF SALE TERMINALS.** Tenant shall install in the Premises, at its sole cost and expense, non-resettable cash register(s) and other point of sale terminals (each, a "**Point-of-Sale Terminal**") for recording orders taken, or services rendered, as may be appropriate to Tenant's business and necessary or desirable to keep accurate records of Gross Receipts and to register therein every transaction made in, on, about or from the Premises, including every type of Gross Receipts. Each such Point-of-Sale Terminal shall provide an historical record of all transactions which occur at the Premises for accounting, terminal-wide merchandising and auditing purposes. Landlord, American and the Authority shall have the right to inspect any Point-of-Sale Terminal or audit Tenant at any time during normal business hours. In order to provide an accurate record and to provide a high level of service to customers, all Point-of-Sale Terminals or cash registers used shall have, as a minimum, the following features: (a) not less than sixty (60) segregated category addresses (if applicable for the types of products or services that maybe offered by Tenant); (b) the input devices may either be a key, scanner or both; (c) the patron fee display shall be of sufficient size and legibility to be readily observed by the patron during the processing of a transaction; and (d) the register of each Point-of-Sale Terminal shall: (1) record transactions by sequential control number to the audit tape or computer files; (2) be capable of printing a transaction history to tape or file by hour (time of day), day, month and year; (3) print a customer receipt showing the amount due, amount tendered, and the amount due to the customer together with the time and date of the transaction; and (4) the register or data collection device shall have a secure transaction audit tape or an ASCII transaction file on an IBM compatible data disk. The tape of each Point-of-Sale Terminal shall be accessible to, and subject to inspection by, Landlord, American and the Authority. Each Point-of-Sale Terminal shall accept at least two (2) major credit cards. Upon request, Tenant shall make available to Landlord weekly sales data ("**Point of Sale Data**"), reflecting the amount of each sales transaction, the number of transactions, items sold per transaction, time and date of each transaction, and specifying the sales category applicable to each item sold.

Section 3.03 **REPORTS BY TENANT.** Tenant shall furnish to Landlord as soon as practicable after the end of each Lease Month, but in no event later than fifteen (15) days after the expiration of each Lease Month, a complete statement (substantially in the form of **Exhibit C**), certified by a authorized officer or equivalent representative of Tenant, of the amount of Gross Receipts during such period and the amount of Percentage Rent paid ("**Monthly Statement**"). Tenant shall furnish to Landlord, within sixty (60) days after the expiration of each Lease Year, a complete statement (substantially in the form of **Exhibit C**), prepared and certified by an authorized officer of Tenant and certified by an independent certified public accountant (who shall be subject to Landlord's reasonable approval), showing in reasonable detail for the preceding Lease Year the amount of Gross Receipts and the payments of Guaranteed Rent, Percentage Rent and Additional Rent ("**Annual Statement**"). Tenant shall certify in its Monthly Statements and Annual Statements that (1) such statements have been prepared in accordance with the terms of this Sublease, (2) that all revenues which are required to be included in Gross Receipts under the terms of this Sublease and in accordance with AAP have been so included, (3) that all payments of Guaranteed Rent, Percentage Rent and Additional Rent have been made in accordance with the terms of this Sublease, and (4) all of the foregoing statements are true, accurate and complete in all material aspects. The certification and opinion of the independent certified public accountant shall state that total Gross Receipts, Guaranteed Rent, Percentage Rent and Additional Rent were calculated and reflected by Tenant in its Annual Statement in accordance with the terms of this Sublease and that the Annual Statement was prepared in accordance with AAP. Landlord may make reasonable changes to the form of the Monthly Statement or Annual Statement from time to time upon thirty (30) days prior notice to Tenant. Monthly Statements and Annual Statements shall be accompanied with supporting documentation as may be required by Landlord. If Tenant fails to furnish to Landlord any Monthly Statement or Annual Statement within the time required by this Section 3.03, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of Fifty Dollars ($50.00) per statement per day until such statement is properly delivered to Landlord for the first (1st) such failure to furnish a statement, One

Hundred Twenty-Five Dollars ($125.00) per statement per day until such statement is delivered to Landlord for the second (2nd) such failure to furnish a statement, and Two Hundred Fifty Dollars ($250.00) per statement per day until such statement is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a statement. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

Section 3.04 **BUSINESS STATISTICS REPORTS.** Tenant shall furnish to Landlord, within fifteen (15) days after the close of each calendar quarter during the Term, the following report ("**Business Statistics Report**") containing trends for the operation of the Premises, as follows: (a) average weekly sales by category, if applicable; (b) rolling twelve (12) month sales by category, if applicable; (c) sales per Enplaned Passenger, by category, if applicable, on a monthly, quarterly and rolling twelve (12) month basis; (d) average sales per transaction on an annual basis; (e) sales per square foot of Floor Area in the Premises and by category, if applicable, on a rolling twelve (12) month basis; (f) occupancy report, listing Rentals as a percentage of Gross Receipts; and (g) where applicable, comparisons to historical data for the same time frames. If Tenant fails to furnish to Landlord any Business Statistics Report within the time required by this Section 3.04, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of Fifty Dollars ($50.00) per report per day until such report is properly delivered to Landlord for the first (1st) such failure to furnish a statement, One Hundred Twenty-Five Dollars ($125.00) per report per day until such report is delivered to Landlord for the second (2nd) such failure to furnish a report, and Two Hundred Fifty Dollars ($250.00) per report per day until such report is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a report. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

ARTICLE IV. EXAMINATION AND AUDIT

Section 4.01 **RIGHT TO EXAMINE BOOKS.** Landlord, American and the Authority each shall have the right to examine all Records. Tenant shall make available to the requesting party within fifteen (15) days following such written request for the same at a designated location within the Port of New York District for the purpose of examination, extracting and/or copying all books, source documents, accounts, records and sales tax reports filed with applicable government agencies of Tenant and any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, in order to verify the amount of Gross Receipts and the amount of all Rentals. Should such records not be made available at the designated location within the Port of New York District within such fifteen (15) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

Section 4.02 **AUDIT.** During the Term hereof and for one (1) year thereafter, Landlord, American and the Authority may, each at any time upon fifteen (15) days prior written notice to Tenant, cause a complete audit to be made by an auditor or accountant of their selection (who may be a certified public accountant), of the records and operations of Tenant and/or any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, relating to the Premises, for the period covered by any statement issued or required to be issued by Tenant, its Affiliates subtenants, licensees, concessionaires, and/or assignees. Tenant shall make available to the auditor or accountant, at a location within the Port of New York District within fifteen (15) days following written notice requiring such audit, all of the Records that such auditor or accountant deems necessary or desirable for the purpose of making such audit. If such audit discloses that Gross Receipts as previously reported for the period audited were understated, Tenant shall immediately pay to Landlord the additional Percentage Rent due for the period audited together with Late Interest from the date such amounts were originally due. Further, if such understatement was in excess of two percent (2%) of actual Gross Receipts as disclosed by such audit, Tenant shall immediately pay to

Landlord the reasonable and actual cost of such audit upon Tenant's receipt of an invoice therefor, plus Late Interest; and, if such understatement was in excess of ten percent (10%) of Gross Receipts as disclosed by such audit due to Tenant's intentional, willful or fraudulent act or omission, Landlord may declare this Sublease terminated and the Term ended, in which event this Sublease shall cease and terminate on the date specified in such notice with the same force and effect as though the date set forth in such notice were the date set forth in this Sublease for expiration of the Term, and Tenant shall vacate and surrender the Premises on or before such date in the condition required by this Sublease for surrender upon the expiration of the Term. If upon examination or audit the auditor or accountant reasonably determines that sufficient documentation is not maintained, retained, recorded, or available in accordance with AAP to verify Gross Receipts, Tenant shall pay for the reasonable and actual cost of such audit; and, in addition, should the party who requested the audit deem it necessary, Tenant shall reconstruct, at its sole cost and expense, all records for the determination of Gross Receipts for any period being audited. Should such records not be made available at the designated location within the Port of New York District within such ten (10) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

ARTICLE V. CONSTRUCTION OF PREMISES

Section 5.01 **CONSTRUCTION OF PREMISES.** (a) All improvements to the Premises shall be made as set forth in **Exhibit D**, the Tenant Construction Review Manual (as defined herein), the Design Guidelines (as defined herein) and otherwise in compliance with the Tenant Construction and Alteration Application Authority Form 531, as the same may be amended or modified, from time to time ("**Alteration Application**"), the Authority Requirements and any other reasonable requirements of Landlord and American. Tenant shall install the Fixed Improvements (as herein defined) and Operating Equipment (as herein defined) on or before the Latest Rental Commencement Date so that the Premises will provide attractive, well-designed facilities that promote the display and sale of merchandise, products and/or services and present a positive image to the public. Each of the parties hereto shall perform the obligations imposed upon such party in **Exhibit D** at the times and in the manner provided. It is understood and agreed by Tenant that any non-material changes from any plans and specifications covering American's Work (if any), as described in **Exhibit D**, shall not affect or invalidate this Sublease. The term "**Fixed Improvements**" shall mean the permanent improvements, structures and fixtures (other than the work ("**Base Building Work**") American is obligated to perform under the Authority Lease and the Concession Area Lease to deliver the Premises in "shell" condition as set forth in **Exhibit D**) initially installed by Tenant in the Premises to prepare the Premises for issuance of an occupancy permit and otherwise to complete it for the operations of Tenant and any Refurbishments which may be made subsequently to the Premises in accordance with this Sublease. "**Refurbishments**" shall mean the repair, replacement or upgrade of Fixed Improvements as required and approved under Section 5.03(b). Fixed Improvements may include, but are not limited to, finish-out work on floors, ceilings, demising walls and store facades, storefront signage, the panel box for and hook-ups to utility wires and conduits infrastructure, decorations, shelves, counters, lighting and interior design and construction work necessary in general to accommodate the operation of a Tenant. The Fixed Improvements shall be satisfactory to Landlord and American in all respects and shall be installed in a timely manner in accordance with this Article V. The term **"Operating Equipment"** means any trade furniture, trade furnishings, trade equipment, signs, trade appliances and trade fixtures that are fabricated, furnished, installed and used by Tenant in the Premises. The term **"Tenant Construction Review Manual"** means the Tenant Construction Review Manual, Port Authority Design Guidelines and other construction manuals promulgated by the Authority, as may be amended or modified from time to time. The term "**Design Guidelines**" means Landlord's Tenant Design Handbook and American's Design Guidelines as may be amended or modified from time to time.

(b) Tenant shall furnish conceptual drawings and plans ("**Conceptual Plans**") and final drawings and specifications ("**Final Drawings**") for the Premises as follows: Tenant shall submit Conceptual Plans to Landlord and American for approval no later than thirty (30) days after execution of this Sublease. Landlord shall promptly review the Conceptual Plans, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Conceptual Plans. Following Tenant's receipt thereof, Tenant shall submit Final Drawings strictly conformed to the approvals or comments received within twenty (20) days (or such shorter period of time in order for Tenant to complete installation of the Fixed Improvements and Operating Equipment, stock the Premises and open for business to the public by the Latest Rental Commencement Date) to Landlord and American for prior written approval. Landlord shall promptly review such Final Drawings, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Final Drawings. In the event of disapproval, Tenant shall immediately revise the Final Drawings and promptly resubmit them for approval until such approval is obtained. Following approval of the Final Drawings, Tenant shall immediately prepare so that American can immediately file the Tenant Alteration Application as soon as possible thereafter (and in no event more than ten (10) days thereafter) with the Authority pursuant to the Authority's Tenant Alteration Application Process ("**TAA Process**"). It is anticipated that the Authority will provide its comments, approval and/or disapproval no later than thirty (30) days after submission of the Alteration Application and to issue all required construction permits within such time period. Obtaining all approvals required by the Authority's Requirements is the sole responsibility of Tenant. The failure of Landlord to provide comments and/or approvals within the time periods set forth herein for Conceptual Plans and Final Drawings shall extend the Latest Rental Commencement Date on a day-for-day basis for each day so delayed; provided, however, no such extension shall be granted to Tenant unless the Conceptual Plans and Final Drawings are submitted strictly in accordance with all of the requirements of the Tenant Construction Review Manual, the Design Guidelines, **Exhibit D** and the Alteration Application. Tenant's failure to furnish or revise the Conceptual Plans and Final Drawings within the time frames and in the form required herein, or failure to perform any other obligation under this Section, shall constitute a material default by Tenant hereunder, which shall entitle Landlord to all remedies set forth in Article XIX. If Landlord or Tenant reasonably determine that the parties are unable to agree upon the Conceptual Plans and/or the Final Drawings, Landlord or Tenant may terminate this Sublease upon twenty-four (24) hours written notice to the other party, in which event this Sublease shall terminate on the date specified in such notice and thereafter neither party shall have any further obligations to the other party. Furthermore, if Tenant fails to timely provide the Conceptual Plans and Final Drawings, including any revisions required thereto within ten (10) days from the dates required, Landlord may terminate this Sublease upon twenty-four (24) hours written notice to Tenant, in which event this Sublease shall terminate on the date specified in such notice and thereafter neither party shall have any further obligations to the other party. No deviation from the Final Drawings, once approved pursuant to the TAA Process (and once so approved they are incorporated by reference herein), shall be made by Tenant without Landlord's, American's and the Authority's prior written consent. Approval of Conceptual Plans and Final Drawings by Landlord, American or the Authority shall not constitute any representation or warranty or the assumption of any responsibility or any liability by Landlord, American or the Authority for their accuracy, efficacy or sufficiency and Tenant shall be solely responsible for such items. Storefront barricades, reasonably acceptable to Landlord, attractively screening the Premises from view during construction shall be erected and maintained by Tenant at all times prior to Tenant's opening for business and shall be removed and properly disposed of by Tenant prior to such opening, all at Tenant's sole cost and expense. If Landlord originally erects such storefront barricades or if Tenant fails to construct, erect, maintain, remove and dispose any such storefront barricades, Tenant shall reimburse Landlord for all reasonable and actual costs incurred by Landlord in performing any of the same.

(c) Tenant expressly acknowledges that it is familiar with the TAA Process and its design and construction guidelines. Delays in obtaining Authority approvals in regard to these processes shall not be

considered an excusable delay or Force Majeure (as defined in Section 27.04) except, and only to the extent, that the Authority fails to respond at all to a conforming Alteration Application for more than thirty (30) days after delivery of such application. In the latter case, the Latest Rental Commencement Date will be extended one (1) day for each day beyond the 30th day that the Authority has failed to respond to an Alteration Application. No work may commence until an Alteration Application has been approved by the Authority, pre-construction meetings, as scheduled and directed by the Authority, are concluded and the Authority has issued a construction permit, permitting the work to be performed, if applicable. Within one hundred twenty (120) days of the completion of construction, Tenant shall submit "as-built" drawings and specifications of the construction work and installation of equipment and trade fixtures; and Tenant shall keep such drawings current showing therein any changes or modifications made during the Term. **Tenant shall also factor in any length of time required to obtain all security clearances, identification badges, pre-construction coordination meetings, permitted times in which construction activities shall be allowed in the Terminal and all other Authority Requirements in order to ensure that Tenant shall be open for business no later than the Latest Rental Commencement Date.**

(d) Tenant shall spend and invest, in a manner previously approved by Landlord and American, an amount not less than Ex. 2.a. per square foot of the Floor Area in the Premises (as the minimum capital expenditure and investment) for the construction and installation of Fixed Improvements ("**Construction Cost**"), which sum shall be comprised of the types of any investments that qualify as Eligible Costs (as defined below).

(e) Within ninety (90) days of completion of the Fixed Improvements or any Refurbishments, Tenant's construction manager and/or architect shall duly execute and deliver to Landlord, as evidence of the completion of such work, a certificate to the effect that: (1) the design, construction, and equipping of the Fixed Improvements have been substantially completed in strict accordance with the Final Drawings and the time schedule to complete if not fully complete (which in no event shall exceed thirty (30) days); (2) all costs and expenses for labor, services, materials, and supplies used in designing, constructing, and equipping the Fixed Improvements for which payment is due have been paid in full (specifying, in reasonable detail, the Construction Cost expended in the completion of the Fixed Improvements which are to be applied toward the minimum investment requirement established in Section 5.01(d)) together with executed copies of all mechanics' lien waivers and/or releases or other lien waivers and/or releases on account of Tenant's Work, notarized and unconditional, in such reasonable form as Landlord shall have reasonably approved; (3) a certificate of occupancy, a consent to occupy or a permit to use or occupy, as applicable, and all other necessary licenses, permits and other required documents for operation of Premises affected by the Fixed Improvements have been issued by the appropriate governmental agency; and (4) final and complete set of "as-built" Final Drawings on the most recent version of AutoCad (which version shall not predate Version 12.0), duly certified by a registered architect or registered engineer licensed in the State of New York. Tenant shall not begin sales to the public until all the requirements regarding inspection and certification by Landlord, American and/or the Authority have been fulfilled pursuant to the TAA Process. If Tenant shall fail to provide any of the foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Two Hundred Fifty Dollars ($250.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

(f) Within ninety (90) days of completion of the Fixed Improvements or any Refurbishments, Tenant shall duly execute and deliver to Landlord and American, as evidence of the cost of such work, a

certificate issued by the chief executive officer, chief financial officer or equivalent representative of Tenant, detailing the Eligible Costs actually incurred in connection with the installation of the Fixed Improvements together with a Depreciation Schedule (as hereinafter defined) for each Fixed Improvement. Tenant shall provide to Landlord copies of invoices and canceled checks or other reasonable evidence of expenditures for labor and materials covering all Eligible Costs; and Landlord and American shall have the right to audit such records. If there is a discrepancy of five percent (5%) or more, Tenant shall pay, as Additional Rent, the cost of the audit. If Tenant shall fail to provide any of the foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Two Hundred Fifty Dollars ($250.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

"**Eligible Costs**" means, with respect to any investment in Fixed Improvements or Refurbishments, the following: (1) directly contracted construction costs, (2) architectural and engineering fees, construction management fees and the cost to obtain the applicable permits, which amounts under this clause (2) shall not exceed fifteen percent (15%) of the contracted construction costs, unless otherwise approved by Landlord in writing, and (3) permanent fixtures, including any furniture and equipment and custom-built "trade fixtures" which constitute fixtures under applicable law, installed for direct use in the Premises. Notwithstanding the foregoing, Eligible Costs shall not include: (1) costs for Base Building Work incurred by Landlord or American, (2) costs in excess of one hundred thirty-five percent (135%) of the estimated costs for Fixed Improvements provided by Tenant in the letter of intent or proposal term sheet for this Sublease unless otherwise specifically approved by Landlord in writing, (3) any overhead, financing costs (e.g., loan origination fees or interest, legal fees or any non-construction-related costs), or (4) amounts paid to any Affiliate of Tenant. In addition, to qualify as Eligible Costs, disbursements must be supported by the certificate referenced in Section 5.01(e) and the documentary evidence of payment as described in this Section 5.01(f).

"**Depreciation Schedule**" means a schedule reflecting the monthly amortization of the Eligible Costs for Fixed Improvements, which schedule must be approved by Landlord and American and shall reflect amortization on a straight-line basis during the lesser period of either: (1) the useful life of such Fixed Improvement, calculated in accordance with "GAAP"; or (2) the length of time remaining in this Sublease from the date such Fixed Improvement is completed and begins to be depreciated. "**GAAP**" means generally accepted accounting principles in the United States of America, as set forth in the opinions and pronouncements of the American Institute of Certified Public Accountants' Accounting Principles Board and Financial Accounting Standards Board or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, to the extent such principles are applicable to the facts and circumstances on the date of determination. Any schedule submitted by Tenant for this purpose shall not be deemed a Depreciation Schedule until such schedule is approved by Landlord and American in writing, which approval shall not be unreasonably withheld, delayed or conditioned. If Landlord does not respond at all within ninety (90) days of the submission of a Depreciation Schedule, the schedule shall be deemed accepted and approved by Landlord.

Tenants who fail to properly and timely submit the certificates and documentary evidence of Eligible Costs and the Depreciation Schedule to Landlord and American for approval within one hundred eighty (180) days after the completion of the Fixed Improvements or Refurbishments shall forever waive and release Landlord and American for reimbursement of any portion of Tenant's Eligible Costs in the event of a relocation and/or early termination of this Sublease.

(g) Subject in all events to the Authority Lease and the Authority's lease with the City of New York, all alterations, additions, improvements and fixtures (including, without limitation, all floor, wall and/or ceiling coverings and any Tenant-installed heating and air conditioning equipment, but excluding Tenant's readily movable decorations, trade fixtures, furniture and office equipment) that are installed by any party in the Premises shall remain upon and be surrendered with the Premises and become the property of American, if permitted under the Authority Lease, or the City of New York, as the same or any part thereof is erected, constructed or installed.

(h) All contracts for the construction or installation of Fixed Improvements shall require: (1) that all contractors and subcontractors provide labor that can work in cooperation with other elements of labor employed or to be employed at the Airport; (2) insurance coverage and suretyship reasonably satisfactory to Landlord, the Authority and American for the protection of their employees, laborers, suppliers, contractors, subcontractors, agents, invitees and the public; (3) that all contractors and subcontractors comply with all provisions of this Sublease applicable to them; and (4) performance bonds and payment bonds from Tenant or Tenant's general contractor, in form and substance satisfactory to Landlord, each of which shall name Landlord, the Authority and American, as additional obligees and/or loss payees and which shall be in a sum equal to the amount of the applicable construction contracts. Tenant shall designate a full-time qualified construction project manager with experience in projects of similar size and scope (**"Tenant's Project Manager"**) reasonably acceptable to Landlord to coordinate construction of the Fixed Improvements with Landlord pursuant to the Authority's TAA Process. Landlord reserves the right to require Tenant to provide its list of selected architects, interior designers and construction managers for prior written approval, which approval shall not be unreasonably withheld by Landlord.

(i) During the performance of Tenant's Work, the Premises shall, at Tenant's sole cost and expense, be kept free and clear of all trash and debris and shall be broom swept daily. No work which Tenant is permitted to do or which Tenant is obligated to perform pursuant to this Sublease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord, American or the Authority. Tenant has no authority, express or implied, to, and shall not, create, place or permit the placement of any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord, American or the Authority in the Concession Area, the Terminal or the Airport, or to assign or encumber either the Rentals or any other payment obligations for any claim in favor of any Person including, without limitation, those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will promptly pay or promptly cause to be paid all sums legally due and payable by Tenant on account of any labor performed or materials furnished in connection with any work performed in, under, on and upon the Premises, by or on behalf of Tenant. **Tenant will indemnify and hold Landlord, American, the Authority, the City of New York and the commissioners, employees, officers, agents and representatives of Landlord, American, the Authority and the City of New York harmless from any and all losses, costs and expenses of any asserted claims or liens against the respective rights, title and interests of Landlord, American, the Authority and the City of New York in the Airport, and any part thereof, or under the terms of this Sublease based on or arising out a breach of the covenants of this Section 5.01.** Tenant agrees to give Landlord immediate written notice of the placing of any lien or encumbrance against the Concession Area or the Terminal.

(j) Tenant's failure to complete the Fixed Improvements and install its Operating Equipment in a timely manner will result in damages that are difficult to ascertain in light of operations, scheduling and public service factors at the Terminal. **Therefore, if the Fixed Improvements are not completed and the Operating Equipment not installed by the Latest Rental Commencement Date, Tenant shall pay to Landlord as liquidated damages the sum of Two Hundred Fifty Dollars ($250.00) for each day that the Fixed Improvements are not completed and the Operating Equipment not installed beyond such**

Latest Rental Commencement Date.

Section 5.02 CONDITION OF PREMISES. Except as otherwise specifically provided herein, Tenant hereby agrees that upon delivery of possession of the Premises to Tenant, Tenant shall accept such delivery of possession of the Premises in its then existing **"AS IS" "shell condition"** (as described in **Exhibit D** but with the Premises substantially complete and in the condition required under Part III. of **Exhibit D**) and Tenant acknowledges: (a) that Tenant shall have inspected the Premises and shall be fully aware of the condition of the Premises as of delivery of possession and the suitability thereof for Tenant's permitted use or the conduct of Tenant's business; (b) that Landlord shall have no obligation to improve or alter the Premises for the benefit of Tenant; (c) that, Tenant shall assume all risks in connection therewith without representation or warranty by Landlord, American or the Authority, express or implied, in fact or by law, on the part of Landlord, American and the Authority and without recourse to Landlord, American and the Authority. Tenant irrevocably waives any claim based upon or related to any such claimed representation by Landlord or any claimed representation by Landlord as to public traffic to be expected at the Premises or sales to be expected at the Premises. Tenant's taking possession of the Premises shall constitute Tenant's formal acceptance of the same and acknowledgment that the Premises are in the condition required hereunder. Tenant waives any right to rescind or terminate this Sublease, whether under Section 223-a of the New York Real Property Law or any successor statute of similar import then in force or otherwise, and further waives the right to recover any damages or obtain any other compensation from Landlord which may result from Landlord's failure to deliver possession of the Premises on the date set forth in the Data Sheet and/or in the condition provided herein.

Section 5.03 ALTERATIONS AND REFURBISHMENTS TO THE PREMISES. (a) In the event Tenant desires to make any future modifications to the Premises or the Fixed Improvements during the Term, Tenant shall not make such modifications without first obtaining the prior written consent of Landlord, American and the Authority, and otherwise complying with the terms and conditions outlined in this Article V for the initial Fixed Improvements.

(b) If the Term of this Sublease will exceed seven (7) years, whether under the original term or any extension thereof, Tenant agrees that by no later than seven (7) years after the date of beneficial occupancy of its Premises, Tenant will spend and invest as a mid-term reinvestment (in each case with the manner and source of such expenditure and investment being subject to the same procedures applicable to initial Fixed Improvements, including the prior approval of Landlord and American) a minimum of One Hundred Fifty Dollars ($150.00) per square foot for each food and beverage concession and Seventy-Five Dollars ($75.00) per square foot of each other type of concession (e.g., retail or service) for such Refurbishments or other upgrades to the Fixed Improvements. Tenant shall provide to Landlord and American such back-up data as Landlord and American may reasonably request to confirm that such Refurbishment and upgrade to the Fixed Improvements has been made. The foregoing shall only be applicable in the event the Term of this Sublease is subsequently extended by Landlord and Tenant so that any such extended term, together with the original Term set forth in the Data Sheet, shall be at least ten (10) years.

ARTICLE VI. RESERVATION OF RIGHTS TO RELOCATE, CONTRACT, TERMINATE, SURRENDER AND WAIVER OF CLAIMS

Section 6.01 RESERVATION OF RIGHTS. (a) Tenant acknowledges that American has the right, at any time and from time to time during the Term, in the interest of the efficient operation of the Terminal, to close, move or alter any common corridor, passageway, walkway or common area, including, without limitation, entrances, exits, passages, halls, corridors, aisles, stairways, elevators and escalators, or to restrict or change the traffic on or through any such common corridor, passageway, walkway or common

area, with due regard to not unreasonably restricting the use and occupancy of the Premises by Tenant. Tenant shall not have any claim against Landlord, American or the Authority for such action, nor shall such action by American release Tenant from any of its obligations under this Sublease, the Consent Agreement or any other agreement in connection herewith. If as a result of the exercise of any of the foregoing rights with respect to the Terminal, in the event that Tenant's Gross Receipts have decreased for a period of at least six (6) consecutive months by an amount equal to thirty-three percent (33%) or greater as compared to Tenant's Gross Receipts for the same corresponding six (6) consecutive month period in the immediately preceding Lease Year, then Tenant shall have the right to terminate this Sublease. Tenant shall give Landlord at least thirty (30) days prior written notice to Landlord prior to any such termination becoming effective and Tenant shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Tenant under this Sublease up to and including the effective date of such termination. **Under no circumstances shall Landlord or any other third party including American or the Authority have any obligation to Tenant, nor shall Tenant be entitled to any payment from either Landlord or any other third party including American and the Authority for Tenant's Eligible Costs (as defined below) or any other sums if Tenant so elects to terminate this Sublease.**

(b) Landlord, American and the Authority, and their respective directors, officers, employees, agents, representatives, contractors, and furnishers of utilities and other services, have the right from time to time, at their own cost and expense, for their own benefit or for the benefit of others at the Terminal and/or Airport: (1) to construct and maintain existing and future utility and other systems throughout the Premises; (2) to enter the Premises at all reasonable times and upon reasonable notice (provided no notice shall be required during any real or threatened emergency) to inspect any part of the Premises, Fixed Improvements and Operating Equipment and to make such repairs, replacements or alterations thereto as may, in the opinion of Landlord, American or the Authority, be necessary or advisable (and, if Tenant is otherwise obligated under this Sublease to perform such work and/or take such action, the cost thereof shall be due and payable by Tenant on demand, as Additional Rent, along with an additional charge in an amount equal to fifteen percent (15%) of the cost thereof); (3) to construct or install facilities over, in or under parts of the Premises otherwise not conveniently accessible; and (4) to install, operate, maintain, recover and repair the property used in connection with their respective rights to the Premises provided, in each case in the exercise of such rights of access, maintenance, repair, replacement, alteration or new construction, Landlord shall use reasonable efforts not to unreasonably interfere with the use and occupancy of the Premises by Tenant.

(c) In the event that any movable property of Tenant shall obstruct the access of Landlord, American and/or the Authority, their employees, agents and/or contractors to any of the existing or future utility, mechanical, electrical and/or other systems and thus shall interfere with the inspection, maintenance or repair of any such system, Tenant shall move such property, as directed by Landlord, American or the Authority, in order that access may be had to the system or part thereof for its inspection, maintenance and/or repair; and, if Tenant shall fail to so move such property after direction from Landlord, American or the Authority to do so, Landlord, American or the Authority may move it; and Tenant shall pay the cost of such moving upon demand. In the case of Fixed Improvements installed by or on behalf of Tenant that were approved by Landlord, American and/or the Authority, and thereafter are required to be moved for the reasons provided above, Landlord or American, at their cost, may move the same and, upon completion of the inspection, maintenance and/or repair; and, to the extent American is obligated pursuant to the Concession Area Lease, Landlord or American shall restore such permanent Fixed Improvements and repair any damage caused by such removal and restoration to the same condition as existed immediately prior to such removal.

Section 6.02 **RELOCATION, CONTRACTION OR TERMINATION.** (a) Tenant acknowledges that, pursuant to the Concession Area Lease, American may require Landlord to relocate or reduce the

size of the Concession Area and American may exercise its rights by giving not less than one hundred twenty (120) days prior written notice to Landlord or at least as much notice as reasonably possible for reasons and timing which are not within American's control. If American shall exercise such right, Landlord shall have the right to relocate or reduce the size of the Premises, and, if relocated or reduced, the portion of the Premises eliminated shall cease to be leased to Tenant and shall no longer be subject to the terms of this Sublease, and, if relocated, the relocated space, shall automatically be subject to the terms of this Sublease. Pursuant to the Concession Area Lease, if American desires to relocate all or a portion of the Premises to other space within the Terminal, such relocated space shall be reasonably comparable to the Premises in terms of passenger traffic, size and potential for generation of Gross Receipts and any Base Building Work required to make the new space suitable for concession operations is the responsibility of American. If Tenant is unable to operate its business in the Premises as a result of the exercise of any of such rights, Tenant's payment of Rentals shall be abated during the period which Tenant is unable to operate. Further, if the net contraction of the Premises exceeds fifteen percent (15%), and Tenant demonstrates that such contraction is having a materially adverse impact on its Gross Receipts that is distinct from other conditions that may be adversely affecting Tenant's business operations, then, at Tenant's request, Landlord will engage in good faith negotiations with Tenant for up to ninety (90) days regarding a possible equitable reduction of the Guaranteed Rent and corresponding adjustments to the Percentage Rent Breakpoints. Any such equitable reductions/adjustments are subject to American's and the Authority's approval, determined in their respective sole and absolute discretion.

(b) If Landlord desires to relocate Tenant to a substitute area as provided in Section 6.02(a), Tenant shall have the right, in its sole discretion, to terminate this Sublease within thirty (30) days after receipt of Landlord's relocation notice, provided, however, Landlord can negate Tenant's election to terminate within twenty (20) days after receipt of Tenant's termination notice by revoking Landlord's election to relocate the Premises and thereafter this Sublease shall continue to remain in full force and effect in accordance with its terms. If Tenant elects to so terminate this Sublease due to the proposed relocation of the Premises, this Sublease shall terminate on the effective date thereof as reasonably specified by Landlord and Tenant shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Tenant under this Sublease up to and including the effective date of such termination. **Under no circumstances shall Landlord or any other third party including American or the Authority have any obligation to Tenant, nor shall Tenant be entitled to any payment from either Landlord or any other third party including American and the Authority for Tenant's Eligible Costs (as defined below) or any other sums if Tenant so elects to terminate this Sublease.**

(c) If American exercises its right to cause a contraction or relocation of the Premises (not including carts, kiosks, and other portable or temporary facilities) from one (1) location to another after the Premises have been constructed and opened for business: (1) American or Landlord shall in the case of a relocation, reimburse Tenant within sixty (60) days for reasonable and actual moving costs, and for reasonable and actual costs incurred to construct Fixed Improvements in the new space according to Final Drawings approved by Landlord and American; and (2) if Tenant does not relocate to other space or if this Sublease is terminated by American or the Authority without cause under Section 6.03 and Tenant, in either case, does not have any outstanding uncured material defaults under this Sublease beyond applicable notice and cure periods, American or Landlord shall reimburse Tenant within sixty (60) days after the effective date such contraction, an amount equal to the then unamortized portion of Tenant's Eligible Costs (based upon the Depreciation Schedule previously submitted by Tenant and approved by Landlord and American detailing such investment in Tenant's Fixed Improvements or Refurbishments, if applicable). Within ten (10) days after request by Landlord, and in any event not later than the effective date of such contraction or termination, Tenant shall provide Landlord with its calculations in reasonable detail, together with appropriate back-up or confirmatory data, of the amount which Tenant claims to be due pursuant to this Section 6.02 based upon the approved Depreciation Schedule. **If Tenant fails to**

provide such information within ninety (90) days following Landlord's written request thereof, Tenant shall have forever waived its right to reimbursement from American and Landlord and forever released Landlord and American from any obligations under this Section 6.02.

Section 6.03 **TERMINATION BY AMERICAN OR THE AUTHORITY.** (a) Tenant acknowledges that this Sublease may be terminated, without cause for any reason and at any time, by the Authority upon thirty (30) days notice by means of revocation of the Consent Agreement, or by American upon one hundred eighty (180) days notice; and in neither event shall the Authority be responsible, directly or indirectly, for any portion of Tenant's investment (amortized or un-amortized) in, at or to the Premises. It is hereby acknowledged by Tenant that the Authority shall have no obligation or liability to Tenant with respect to such termination, including without limitation any reimbursements, credits, offsets or otherwise for investments in the Fixed Improvements. In such event, Tenant shall be reimbursed for the unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

(b) If Landlord's leasehold interest under the Concession Area Lease is terminated by either American or the Authority in accordance with their respective rights under the Concession Area Lease and Landlord's Operator Permit with the Authority, then, in such event, at the option of American determined in accordance with the applicable provisions of the Concession Area Lease: (1) this Sublease shall be assigned by Landlord to and assumed by American (or its designee) and this Sublease shall remain in full force and effect and Tenant shall not have any approval or rejection rights with respect to any such assignment/assumption and, in the event of such an assignment/assumption, Tenant shall attorn to American or its designee and recognize American or its designee as landlord for all purposes hereunder; or (2) this Sublease shall immediately terminate upon termination of the Concession Area Lease without direct recourse of any kind against Landlord, American or the Authority and thereafter neither party shall have any further obligations or liabilities to the other party except for any accrued obligations or liabilities of Tenant, whether monetary or non-monetary, which have arisen prior to the effective date of such termination and have not yet been fully performed and/or paid by Tenant or which are expressly stated to survive the expiration or earlier termination of this Sublease. Within sixty (60) days following the date that Tenant shall have vacated and surrendered the Premises in the condition required under this Sublease, paid all Rentals and performed all of its other accrued obligations under this Sublease through the effective date of such termination, Tenant may be reimbursed by Landlord for any unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

Section 6.04 **SURRENDER OF PREMISES.** Tenant shall quit and deliver peaceably to Landlord possession of the Premises, and Tenant shall release and not attempt to retain any interest in the Fixed Improvements and Refurbishments, on the date that the Term expires, whether by early termination, expiration, or otherwise. Prior to the expiration of the Term or earlier termination of this Sublease, Tenant shall, at its sole expense, remove signs and trade fixtures (other than trade fixtures and other property which it is otherwise prohibited from removing under the Authority Lease) from the Premises and shall surrender the Premises and appurtenances thereto in broom-clean and sightly condition and in good repair, except for reasonable wear and tear arising from use of the Premises to the extent permitted elsewhere in this Sublease. Tenant shall deliver to Landlord all keys to the Premises. Any personal property of the Tenant placed on or kept at the Premises as to which the letting pursuant to this Sublease has ceased shall be removed as soon as practical but in no event later than the expiration or earlier termination of this Sublease. If Tenant shall fail to so remove its personal property at the end of the Term or any earlier termination, Landlord may at its option, and at the risk and expense of the Tenant, remove such property to a public warehouse, or may retain the same in its own possession, and, in either event, after the expiration of thirty (30) days, may sell the same at public auction or, at Landlord's or American's discretion, the personal property will be deemed abandoned and ownership thereof will be vested in American; the proceeds of any such sale shall be applied first to the expenses of removal, sale and

storage, second to any sums owed by Tenant to Landlord, American or the Authority; and any balance remaining shall be paid to the Tenant.

Section 6.05 **WAIVER OF CLAIMS BY TENANT. Tenant specifically acknowledges that the relocation, contraction and termination provisions are a material inducement to Landlord in entering into this Sublease with Tenant. Except as specifically provided in this Article VI, such termination and the removal and surrender obligations of Tenant, shall in no event give rise to any claims, causes of actions, suits, or damages that Tenant may have or rights to payment to Tenant by either Landlord, American or the Authority including, without limitation: (a) any and all awards in the nature of land damages under all applicable laws; and (b) any and all rights under the terms of this Sublease; and (c) incidental, consequential, special or severance damages as a result of Tenant's use and occupancy of the Premises. Tenant hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and claims for relocation and termination benefits under any Federal, state or local law, ordinance or regulation or otherwise.**

ARTICLE VII. CONDUCT OF BUSINESS BY TENANT

Section 7.01 **PERMITTED USE.** Tenant shall use the Premises only for the purpose of conducting the business specifically set forth in the Data Sheet ("**Permitted Use**") and for no other use or purpose. Notwithstanding anything to the contrary contained herein, including Tenant's Permitted Use, if Landlord, American or the Authority reasonably determine that any item displayed, offered for sale or sold by Tenant is objectionable or inappropriate for display or sale at the Terminal, Tenant shall, upon delivery of Landlord's written notice to the Premises, immediately remove such item from display and its inventory (if the objectionable item and/or service displayed, offered for sale or sold shall be deemed to be potentially dangerous to the public or violate any security regulations, as determined by Landlord, American or the Authority from time to time, Tenant shall remove such potentially dangerous item and/or service or violation immediately upon verbal notice from Landlord) and Tenant shall not thereafter display, offer for sale or sell any such item or service. If Tenant shall fail to remove any such item from display or cease providing such service as may be required from time to time as provided herein, then Tenant shall pay as liquidated damages and not as a penalty the amount of Fifty Dollars ($50.00) per day for the first (1st) violation in any twelve (12) month period and the amount of One Hundred Twenty-Five Dollars ($125.00) per day for the second (2nd) and any subsequent violations in any twelve (12) month period until such time as Tenant has complied. Further, Landlord shall be entitled to remove such item without any liability. This remedy shall be in addition to any and all other remedies provided in this Sublease or by law to Landlord, including, but not limited to the graduated fines listed in **Exhibit K**. Tenant represents and warrants to Landlord that it holds all certificates, meets all Authority Requirements, licenses and other entitlements required by federal, state and local, laws, rules and regulations in order to enable Tenant to conduct its operations and to engage in its Permitted Use and that such certificates, Authority Requirements, licenses or other entitlements are and shall be kept current, valid and complete at all times during the Term. Tenant shall submit any/or all of the foregoing for inspection by Landlord from time to time. Tenant, at Tenant's expense, shall at all times comply with the requirements of each such certificate, permit, license and other entitlement. Tenant shall not conduct or permit operations in the Premises that in the reasonable judgment of Landlord or American or the judgment of the Authority that (a) interfere or might interfere with the reasonable use by others of common facilities at the Terminal or the Airport, (b) hinder or might hinder police, firefighters or other emergency personnel in the discharge of their duties, (c) would or would be likely to constitute a hazardous condition at the Airport, (d) would increase the premium for insurance policies maintained by Landlord, American or the Authority, unless such operations are not otherwise prohibited hereunder and Tenant pays the increase in insurance premiums occasioned by such operations, (e) would involve any illegal purposes, or (f) are not in accordance with the commitment of Tenant to

operate first-class concessions in the Concession Area. Prohibited uses which are expressly agreed to include all **"American Reserved Uses"** and **"Port Authority Reserved Uses"** as such terms are defined in the Concession Area Lease.

Section 7.02 **OPERATION OF BUSINESS.** (a) General. Tenant and its Operating Staff (as defined below) agree to actively and diligently conduct business at all times in a first-class, professional and business-like reputable manner, using best efforts so as to maximize revenues in accordance with best industry practices and standards observed generally by first-class business enterprises of local, regional and national scope which operate at other major US airports, provide superior customer satisfaction and maintain at all times a complete stock of high-quality merchandise and products. Tenant agrees not to divert or allow or cause to be diverted any business from the Terminal and/or Airport. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements and Operating Equipment shall be maintained in good condition and repair. Tenant shall accept at least two (2) nationally recognized credit cards for payment, shall offer all of its customers shipping, delivery and gift wrap services (if appropriate for the type and size of merchandise or product being requested) at cost and shall provide, without charge, change making service at each cashier's location in the Premises, regardless of whether a purchase is made. At all times from and after the Rental Commencement Date, Tenant covenants that it shall continuously and uninterruptedly occupy and use the Premises for the Permitted Use and shall keep the Premises open for business during all required Terminal concession hours unless otherwise agreed to by Landlord and American or prevented by Force Majeure (as defined in Section 27.04) or the acts of Landlord. Tenant shall install and maintain at all times a display of non-perishable merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises. Tenant shall not permit the installation or operation of any coin or credit/debit-card operated vending machines or pay telephones in the Premises, including, but not limited to, the rental of cellular phones, facsimile machine services, other public communication devices, sales of entertainment event tickets, lottery tickets and reservations for ground transportation, hotels or other lodging and the sale of pre-paid telephone calling cards without the prior written consent of the Authority. Tenant shall not sell or display any items except within the areas outlined in the Design Guidelines unless such sale or display shall be expressly approved on the Final Drawings or otherwise approved by Landlord, in writing and in accordance with the TAA Process except that Tenant shall be permitted to display merchandise in the display windows, if any. Tenant shall not use the areas adjacent to or outside the Premises for business purposes or any other purposes, including the display or sale of merchandise, products or services in any areas outside the Premises without Landlord's advance written approval, which approval may be withheld in Landlord's sole discretion. Tenant shall not store anything in service or exit corridors. All receiving and delivery of items for the Premises, and all removal of supplies, equipment, trash and debris and all storage of trash and debris from the Premises shall be made only by way of, or in, the areas provided therefor. No trash, trash containers, hand trucks, carts, racks or movable fixtures designed for the movement of products and/or trash within the Premises or to or from the Premises may be left unattended in the storefront, corridors or other public areas; nor may such items or devices in non-public areas be visible from public areas of either the Premises or the Terminal. Tenant shall be solely responsible for prompt disposal within the Premises, or in such areas as may be provided by Landlord, of all trash and debris from the Premises. Tenant shall not install any radio, television, communication dish or other similar device or related equipment exterior to the Premises, shall not cause or make any penetration of the roof of the Premises or the building in which the Premises is located and shall not erect any aerial or antenna on the roof or exterior walls of any building within the Terminal without the prior written approval of Landlord, American and the Authority, determined in their discretion. Tenant shall not abandon or permanently vacate the Premises without the prior, advance written approval of Landlord. For the purposes of this Sublease "abandonment" shall mean closing the Premises to customers for two (2) or

more consecutive days, unless such closing is permitted by other provisions of this Sublease. Notwithstanding the requirements set forth herein, Landlord shall have the right to make reasonable objections to the number or quality of staff used by Tenant, the prices for merchandise or products sold or services rendered, the number or quality of items sold, the character of the service offered to the public, responses to customer complaints and the appearance and condition of the Premises. Tenant agrees to take reasonable steps to promptly comply with Landlord's reasonable objections.

(b) Continuous Operations and Service Hours. Tenant agrees to be open for business during the hours of operation specified in the Data Sheet and such other hours as may be required hereunder and to continuously and uninterruptedly operate in all of the Premises during the entire Term. The Airport is open for business every day, three hundred sixty-five (365) days per year and is busy during non-traditional working and shopping hours. Accordingly, service hours shall include the hours the Terminal's concession program shall be open as directed by Landlord from time to time, including without limitation, the hours necessary to provide service for the earliest daily incoming and outgoing flights (including the provision of service to passengers who arrive in advance of same) and the latest daily incoming and outgoing flights, including non-scheduled activity by charter airlines as Landlord may notify Tenant verbally from time to time. To that end, Tenant shall open and operate its business in the Premises during hours directed by Landlord; provided that, if passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the opinion of Landlord or as Landlord is directed by American, the Terminal's concession program, including the Premises, shall be open at times not then scheduled. The following are the minimum operating hours: (1) for newsstand concessions, a minimum of sixteen (16) hours per day, each day of the year, with the opening for business each day at least one (1) hour prior to the first scheduled flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (2) for all food and beverage concessions, at a minimum, opening at 5:30 a.m. and closing at 10:00 p.m., each day of the year, or at least one (1) hour prior to the first flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (3) for duty-free and foreign currency exchange concessions, at a minimum, opening at 7:00 a.m. and closing at 10:00 p.m., each day of the year, or other hours necessary to service the earliest scheduled international flight departure and the latest scheduled international flight departure from the Terminal on the respective day, whichever constitutes the earlier opening and later closing; and (4) for all other concessions, 7:00 a.m. to 10:00 p.m., each day of the year. Landlord reserves the right to direct Tenant to change or adjust the service hours at any time, and Tenant agrees and covenants to adequately staff the Premises and be open for business during the hours directed by Landlord. The hours of operation required of Tenant hereunder shall not be materially different than operating hours required of other specialty retail concessions in the Terminal. In addition, in an emergency, as determined by Landlord or American, Tenant shall open or keep open the Premises upon two (2) hours prior verbal notice. Tenant expressly acknowledges the need for flexibility in the service hours from time to time. Any modifications to the required operating hours that may be requested from time to time by Tenant shall be subject to Landlord's prior written approval determined in its discretion. Tenant agrees to otherwise abide by all service hours of operation as set by Landlord. Tenant acknowledges that the concession program and its business operations are essential services at the Terminal and Tenant's failure to cause continuous operation of its business in the Premises will result in damages to Landlord, American and the Authority that are difficult to quantify in light of airport operational and customer service factors. Therefore, in addition to any other remedies set forth herein, including, but not limited to the graduated fines listed in **Exhibit K,** Tenant shall pay to Landlord as liquidated damages and not as a penalty, the amount One Hundred Fifty Dollars ($150.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the first (1st) violation in any twelve (12) month period, and the amount of Three Hundred Dollars ($300.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the second (2nd) and any subsequent violations in any twelve (12) month period. Failure by Tenant to be open for business and to operate shall entitle Landlord, in addition to other remedies provided in this Sublease or by

law, including, but limited to, a mandatory injunctive relief if awarded by a court of competent jurisdiction.

(c) Staffing/Personnel. Tenant shall employ a full-time professional staff ("**Operating Staff**") at all times during the Term of sufficient size, expertise, ability, suitability, and experience in sales and customer service to carry out all of its obligations under this Sublease. Tenant shall maintain a sufficient number of Operating Staff on site at the Premises (including, without limitation, on-site sales, cashiers, management and supervisory personnel) to provide good, friendly, prompt and efficient service adequate to fully meet the demands of all customers at all times and shall furnish said service on a fair, equal and nondiscriminatory basis to all users thereof and shall increase such number of Operating Staff, upon the reasonable request of Landlord, to provide outstanding customer service and satisfaction. All such personnel shall be knowledgeable, helpful to the public, courteous, efficient, neat in appearance and appropriately attired and shall not act in a loud, offensive or otherwise objectionable manner. Tenant's employees shall wear name tags and security identification badges at all times. Tenant shall not employ at or about the Premises any person who shall use offensive language, makes persistent announcements of its merchandise and products and/or services over loud speakers or whose conduct is loud or offensive or otherwise detrimental to the best interests of the Terminal and/or Airport. Tenant's Operating Staff shall be available by telephone and such other communication device as Landlord may reasonably require during the operating hours. Tenant's Operating Staff and employees shall have sufficient knowledge of the Terminal and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

(d) Store Manager/Emergency Contact. In order to assure compliance with the terms, covenants and conditions of this Sublease, Tenant shall retain a qualified, competent manager suitably experienced to provide on-site management of Tenant's business on a full-time basis to manage all of Tenant's obligations and responsibilities under this Sublease ("**Store Manager**"). Tenant shall notify Landlord of the identity of its Store Manager and of any changes in such identity. Tenant shall assure that the Store Manager or his or her designee, is available on-site during all required operating hours and by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies. Tenant shall notify Landlord of the name and telephone number or such representatives and shall update such information as necessary. The Store Manager or his or her designee must be able to arrive by car at the Airport within two (2) hours of being called in an emergency situation.

(e) Customer Complaints. Tenant agrees that it will reasonably and promptly respond to all customer complaints regarding unsatisfactory service and/or unsatisfactory quality of merchandise, products and/or service, including all refunds as appropriately requested from time to time by any customer. In the event that any written customer complaint with respect to Tenant's operations or merchandise is delivered to Tenant (or to Landlord, American or the Authority and forwarded to Tenant), Tenant agrees that it shall promptly respond in writing to such complaint and make a good faith attempt to explain, resolve or rectify the cause of the complaint. Tenant shall provide, without further demand, copies of the written complaints received and Tenant's responses thereto to Landlord, American and the Authority each calendar month but not more than one (1) time during any calendar month.

(f) Compliance with Laws. Tenant, at its expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations ("**Legal Requirements**"), applicable business licenses and requirements of Landlord, American, the Authority and all governmental authorities having jurisdiction over the Premises or the cleanliness, safety, occupancy and use of the same, whether or not any such law, ordinance, order, rule, regulation or requirement is foreseen or unforeseen, ordinary or extraordinary,

necessitates changes or improvements (other than structural changes or structural improvements) and/or interferes with the use and/or enjoyment of the Premises. Tenant shall promptly correct any deficiencies reported by Landlord, American, or any other governmental authorities having the aforesaid jurisdiction. Tenant shall not do or permit anything to be done in or about the Premises, nor bring anything therein, which will in any way conflict with any such Legal Requirements or requirement affecting the occupancy or use of the Premises or the Terminal which has been or may hereafter be enacted or promulgated by Landlord, American, the Authority or any governmental authorities, or in any way obstruct or interfere with the rights of others; nor shall Tenant use or allow the Premises to be used for any improper, immoral or objectionable purposes or do any act tending to injure the reputation of the Terminal and/or Airport. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive and unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord, American, and the Authority and in accordance with any and all Legal Requirements that may be promulgated from time to time by governmental agencies or authorities. All apparatus, utensils, devices, cooking equipment, machines and piping used by Tenant shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and/or serving of all food and/or beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. If Landlord or American does not contract for pest control service for all concessions in the Terminal, then Tenant, at its sole cost and expense, shall contract directly with a pest control service reasonably acceptable to Landlord at such reasonable intervals as Landlord may require.

(g) Street Pricing. Tenant shall not charge prices to its customers in excess of Street Prices (as hereinafter defined) and shall conspicuously display notices, in form and substance satisfactory Landlord in the Premises, to the effect that the Tenant adheres to the Authority's Street Prices policy. The term "**Street Prices**" means: (1) if Tenant conducts a similar business in off-airport location(s) in the Greater New York City – Northern New Jersey Metropolitan Area ("**Metro Area**"), the price regularly charged by Tenant for the same or similar item or service in those off-airport locations; (2) if Tenant does not conduct a similar business in off-airport location(s) in the Metro Area, the average price regularly charged in the Metro Area by similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar items or service; (3) if neither Tenant nor any other similar retailers sell a particular item or provide a similar service in the Metro Area, the price regularly charged by Tenant or similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar item or service in any other geographic area with a reasonable adjustment for any cost-of-living variance between such area and the Metro Area; and (4) if Tenant is in the business of selling duty-free goods, the price regularly charged by Tenant or other similar retailer (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar duty-free item or service at other major airports serving large urban areas in the northeast region of the United States, including, without limitation, the Airport. Tenant agrees to adjust its prices to ensure that they meet the Street Prices without any further notice or immediately upon written notice from Landlord if Tenant is not in compliance therewith. Prior to opening for business, Tenant agrees to supply to Landlord a detailed list of all merchandise, products and services to be offered at the Premises and the prices to be charged therefor. Tenant agrees to continue to provide this data on a quarterly basis throughout the Term hereof. Tenant shall, at all times, observe and comply with the pricing policy as set forth in **Exhibit E**. Further, for the benefit of the users of the Terminal, Landlord has the obligation to promote a "free market" competitive environment

within the Terminal and, to the extent possible, Landlord may cluster concession operators with similar products and services in groups to help stimulate competition, provide superior service and competitive pricing.

(h) Coordination of Operational Matters with Landlord and Performance Standards. Tenant shall: (1) cooperate in the testing of pressure, water-flow, and other appropriate tests of the fire-extinguishing system and apparatus located within the Premises (and elsewhere in the Concession Area to the extent Tenant's cooperation is required for such testing) from time to time and as often as reasonably required by Landlord, American or the Authority, and if requested by Landlord, furnish Landlord with copies of written reports of such tests; (2) keep in proper functioning-order all fire-fighting equipment in the Premises and at all times maintain in the Premises adequate stocks of fresh, suitable chemicals for use in such system and apparatus; and (3) notify Landlord prior to conducting such tests. Tenant agrees that, after it has taken delivery of the Premises, it will contact Landlord on all operational matters pertaining to its occupancy including but not limited to the following areas (1) hours of operation, (2) employee parking and security requirements, (3) customer inquiries and complaints, (4) facility maintenance issues, (5) utility services, and (6) staffing issues. To ensure that Tenant is in compliance with the quality of products, pricing and service standards set forth in this Section 7.02 and in the Service and Operating Performance Standards ("**Performance Standards**") attached hereto as **Exhibit K**, and that Landlord's, American's and the Authority's objectives are met, Landlord or an agent shall perform service audits, such as surprise shopper programs and inspections, of the conduct of Tenant's operation of its business in the Premises at any time during the Term of this Sublease. The results of such service audits performed on behalf of Landlord may be employed by Landlord to enforce Tenant's obligations under this Sublease. The Performance Standards address three (3) main categories of performance: product and service quality/price, customer service/personnel, and Premises cleanliness and maintenance (collectively, the "**Performance Categories**"), among other matters and includes a set of minimum performance standards ("**Minimum Performance Standards**") for each of the Performance Categories. Tenant acknowledges the desires of Landlord and American, as part of their obligation to ensure the highest level of public service, to provide the public and passengers with the level and quality of service as described herein. Pursuant to the Concession Area Lease, American may monitor, test or inspect the requirements imposed on tenants for applicable business operations standards at any time and to consult with Landlord to correct any deficiencies in standards required hereunder.

(j) Liquidated Damages and Fines. If Tenant fails to comply with any of the provisions of this Section 7.02 or any of the provisions of the Performance Standards, Tenant shall pay as liquidated damages and not as a penalty, or as a series of graduated fines on a daily basis for such failure in the correction of deficiencies of the Performance Standards, the amounts set forth in **Exhibit K** until such time as Tenant is in compliance with any such requirements. The liquidated damages and fines set forth in **Exhibit K**, are in addition to the liquidated damages for failure to provide continuous operations during all Terminal concession service hours as set forth in Section 7.02(b) above. This remedy shall be in addition to any and all other remedies provided herein or by law to Landlord. The provisions of this Section 7.02 shall survive the expiration or earlier termination of this Sublease.

(k) Tenant acknowledges that although it is subleasing the Premises directly from Landlord (1) American and the Authority control the Terminal, (2) the Authority controls the overall operations at the Airport, and (3) pursuant to the Authority Lease and the Concession Area Lease, as well as the Consent Agreement and state and federal laws and regulations, including the Authority's rules and regulations, American and the Authority have the right to regulate and control certain aspects of the operations at the Premises including but not limited to the matters listed in this Section 7.02. In the event any question or dispute arises as to the sale of any specific item or category of items in the Concession Area and whether such sale violates the Street Prices policy or does not comply with the Performance Standards, Tenant

may submit a request in writing to Landlord and American asking that the matter be reviewed. American is obligated under the Concession Area Lease to render a decision in writing, after consultation with the Port Authority, within fifteen (15) days after such submission and such determination shall be considered final. Tenant shall, as of the date of the decision, immediately abide by and conform to the decision of American.

Section 7.03 **HAZARDOUS MATERIALS.** (a) As used herein, the term "**Toxic or Hazardous Materials**" means hazardous or toxic chemicals or any supplies, materials and wastes containing hazardous or toxic chemicals or substances at levels or content which cause such materials to be classified as hazardous or toxic as then prescribed by the highest industry standards or as set from time to time by the United States Environmental Protection Agency ("**EPA**") or the United States Occupational Safety and Health Administration ("**OSHA**") or as defined under 29 CFR 1910 or 29 CFR 1925 or other applicable governmental laws, rules or regulations in any way applicable to Toxic or Hazardous Materials (collectively, "**Environmental Laws**"). Tenant shall never incorporate into, or dispose of, at, on or under the Terminal or elsewhere at the Premises or at the Airport, or any portion thereof, any Toxic or Hazardous Materials. Tenant agrees not to use at, place on, or store at the Premises or at the Airport any Toxic or Hazardous Materials, except for those Toxic or Hazardous Materials that are either (1) office supplies, or (2) cleaning materials that are generally considered to be a household cleaner and are purchased in a container not larger than one (1) gallon, and then only if: (i) all such Toxic or Hazardous Materials arising therefrom, are properly labeled and contained; (ii) all such Toxic or Hazardous Materials arising therefrom, are stored, handled, transported and disposed of in accordance with highest accepted industry standards and all Environmental Laws; and (iii) if a material safety data sheet or other reporting or registration document is required under applicable Environmental Laws to accompany the Toxic or Hazardous Materials, supplies or materials or wastes or to be filed with any federal, state or local authority, a copy of such current material safety data sheet or other reporting or registration document shall be provided to Landlord. If there is a spill or other discharge of a Toxic or Hazardous Materials in the Premises which spill or discharge is required to be reported to any federal, state or local authority by applicable Environmental Laws, Tenant shall immediately notify Landlord and American of the method, time and procedure for any clean-up and removal of such Toxic or Hazardous Materials; and Landlord and American shall have the right to require reasonable changes in such method, time or procedure (provided that such changes may not contradict applicable law). Tenant shall further notify Landlord and American if any such spill or other discharge, whether reportable or otherwise, would in any way endanger or pose a threat to any employees, Terminal maintenance or custodial personnel or the general public. In the event there is a spill or other discharge of any Toxic or Hazardous Materials outside the Premises, which spill or discharge is required to be reported to any federal, state or local authority by applicable laws, rules or regulations, and upon being so notified American is required under the Concession Area Lease to undertake to clean-up, remove and abate the condition at its cost initially, reserving the right to seek indemnification of its costs for failure of Tenant to abide by the requirements of this section. In the event Tenant fails to comply with this Section 7.03 in respect of any contamination within the Premises, or in the event of a contamination of any other part of the Terminal and/or Airport caused by Tenant, in addition to any other consequences thereof, Tenant shall pay or reimburse to Landlord and/or American, as the case may be, all of such party's costs for the removal, abatement and clean-up of the involved Toxic or Hazardous Materials. Similarly, if a contamination was caused by Landlord or American in the Premises, Landlord (or American as required under the Concession Area Lease), as the case may be, shall reimburse all costs incurred by Tenant for the removal, abatement and/or clean-up of the involved Toxic or Hazardous Materials.

(b) If a lien is filed against Tenant's leasehold interest, the Premises, the Terminal or the Airport relating to Tenant's violation of any Environmental Laws, then Tenant shall, within ten (10) days or such shorter period as may be required under any Environmental Laws, or such even shorter period as is prior to

a governmental authority commencing steps to cause any of the foregoing to be sold pursuant to such lien, either: (1) immediately pay the claim and remove the lien; or (2) immediately furnish a cash deposit, bond or such other security as is satisfactory in all respects to Landlord and legally sufficient to effect a complete discharge of such lien.

(c) Landlord at its cost, reserves the right to conduct annually an environmental audit of the Premises and Tenant's operations, equipment, facilities and fixtures thereon. It shall be a material default and breach hereunder if the resulting audit report reveals non-compliance or violations by Tenant of any Environmental Laws. American shall have the same rights as Landlord under this sub-section (c).

(d) Except with respect to Landlord's, American's or the Authority's direct violation of Environmental Laws (and, in such case, such exception only applies to the party that is in direct violation) Tenant hereby agrees to indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York), their respective Affiliates, parent corporations, subsidiaries, partners, management companies, and the agents, employees, officers, commissioners, directors and contractors of any and all of them from and against any and all losses, claims, demands, penalties, causes of action, fines, settlements, damages, costs and expenses of whatever kind or nature (including reasonable attorneys' and consultants' fees and expenses, investigation and laboratory fees and expenses, court costs and litigation expenses) arising directly or indirectly out of or in any way related to: (1) any default by Tenant of this Section 7.03; (2) any violation or failure to comply by Tenant with any of the Environmental Laws; (3) any personal injury (including death) or property damage as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (4) any litigation brought or threatened by any governmental authority as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (5) the presence of Toxic or Hazardous Materials at, above, in and/or the Premises; and (6) the use of Toxic or Hazardous Materials by Tenant. As used herein "costs and expenses" shall also include, in addition to those set forth above, costs associated with administrative and judicial proceedings, costs arising from any lien, costs of any remedial actions and business interruption resulting from any remediation, or any executive, administrative or judicial order. This indemnification shall constitute the personal recourse undertaking, obligation and liability of Tenant. The obligations set forth in this Section 7.03 shall survive the expiration or earlier termination of this Sublease.

ARTICLE VIII. USE OF TERMINAL, PUBLIC AREAS, LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE

Section 8.01 OPERATION AND MAINTENANCE OF TERMINAL. Tenant acknowledges that American is required to cause to be operated and maintained during the Term all public areas to the extent required in the Concession Area Lease and the Authority Lease. The manner in which such public areas and facilities are operated and maintained, and the expenditures therefor, are at American's sole discretion. Accordingly, the use of such public areas and facilities is subject to reasonable rules and regulations, including security directives as American, the Authority or authorized regulatory agencies may make from time to time.

Section 8.02 USE OF PUBLIC AREAS IN TERMINAL. The term "**public areas**" as used herein shall mean all improved areas within the Terminal which are not devoted to the exclusive use by any airline,

tenant or other occupant occupying space in the Terminal including, without limitation, public transportation, loading and unloading facilities, pedestrian walkways and horizontal pedestrian movers, delivery areas, landscaped areas, community rooms, elevators, escalators, stairs and ramps, public restrooms and comfort stations, service areas, service and fire exit corridors, passageways and those areas adjacent to the Terminal containing parking facilities, if any. Tenant shall have as appurtenant to the Premises the right to the non-exclusive use in common with others of all public areas and facilities in the Terminal as designated as such by Landlord from time to time, and such reasonable access, during Tenant's normal operating hours, to the Premises. Landlord, the Authority and American each shall have the right, but not the obligation, from time to time, to modify the public areas, remove portions of the public areas from common use, permit entertainment events, advertising displays, educational displays and other displays in the public areas and lease retail merchandising units or temporary pushcarts or carts ("**RMUs**"). If Landlord determines in its discretion to place RMUs in the public areas near the Premises, such placement shall not be within fifteen (15) feet of Tenant's storefront entrance and shall not materially interfere with ingress or egress to the Premises by the public. Tenant shall not be entitled to any credit for income earned by Landlord with respect to the public areas. Tenant and its employees shall not park their cars or any other vehicles in the parking facilities except in the areas specifically designated by Landlord for employee parking. There is no free parking at the Airport for Tenant or any of Tenant's employees, contractors or customers. Tenant and its agents, employees, contractors and subcontractors shall comply with the rules and regulations with respect to parking as the same may be amended or modified from time to time and will be subject to any enforcement action (including towing) pursued by the Authority's airport police without any notice thereof. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York and their employees, agents, and representatives from and against any and all claims of the employee and/or owner of any vehicle so towed.** Landlord, American or the Authority may at any time close any public areas to make repairs or changes, to prevent the acquisition of public rights in such area, to use areas for attendant or valet parking, and to do such other acts in and to the public areas as in its judgment may be desirable.

Section 8.03 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE.** (a) All deliveries of equipment, supplies, materials, inventory, merchandise or products required to support the operations of Tenant shall be made to the designated loading dock areas of the Terminal. American has developed food courts and public seating areas in various locations in the Terminal which are intended to benefit all Tenants, their patrons and the public. For purposes of this Sublease "**public seating areas**" means a non-exclusive, common public seating area for patrons of both retail and food service concession facilities and for the traveling public. All sanitation, cleaning, maintenance and trash removal services for such food courts and public seating areas shall be controlled by Landlord. Such responsibilities shall include, but not be limited to, cleaning including floors, trash removal, trash receptacles, food court trays (operating food court tray washing equipment and well as retrieval and distribution of food court trays to food court concession facilities), public seating area tables and chairs, related public seating area furniture and fixtures, if any, and repair, maintenance and/or replacement thereof. No deliveries of any items shall be made by any Person directly to the Premises without the prior written authorization of Landlord; and, if given by Landlord, Landlord shall have the right to revoke any such authorization at any time and for any reason. Tenant shall be advised by Landlord of all shipments for all items received at the loading dock area and Tenant shall be responsible, at its sole cost and expense, for promptly transporting all such items from the loading dock area to the Premises or to any related Storage Premises leased by Tenant. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of Landlord for such items which may include, but not limited to, the transporting of equipment, supplies, materials, inventory, merchandise or products in the Terminal, pest control extermination services, trash removal, refuse, recycling and compactor services, grease trap maintenance and cleaning (including waste grease removal) to the extent not required to be performed by Tenant, repair and maintenance of food courts and public seating areas furniture, fixtures and equipment maintenance and cleaning (including exhaust

hood, duct and roof top maintenance and cleaning and exhaust hood fire suppression equipment inspection and maintenance to the extent not required to be performed by Tenant), all of which shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances including, but not limited to, FAA and TSA rules and regulations as well as all Airport rules and regulations promulgated from time to time by Landlord, American or the Authority. Tenant shall comply with all rules, regulations and directives of Landlord, American the Authority, the FAA, the TSA or any other federal or state agency of competent jurisdiction with respect to deliveries which may include, but not be limited to: (1) restrictions on delivery times (days and hours) and the time in which any vehicle may remain in the loading dock areas; (2) methods of delivering equipment, supplies, materials, inventory, merchandise or products from the loading dock areas to the Premises such as rolling carts, wheels, pallet or plastic wrap requirements; (3) delivery escort guidelines, badging, background checks, rules, instructions and training if so required which must be complied with by Tenant and all transportation companies and vendors delivering any such items to the loading dock areas; and (4) security screening of equipment, supplies, materials, inventory, merchandise or products. Landlord, American and the Authority may deny access or require any vehicle to be removed for failure to follow any such rules, regulations, directives and guidelines that may be established by Landlord, the Authority or applicable governmental agencies from time to time. The foregoing is in addition to the requirements of Section 27.24.

(b) Tenant shall have the non-exclusive use, in common with other tenants and users of the Terminal, to the loading dock areas as provided in this Section 8.03 and to the food courts, public seating areas and other designated common areas of the Concession Area subject to the control and management thereof at all times by Landlord, provided that Landlord and American, at their sole cost, each reserves the right to make any changes which they deem appropriate to the loading dock areas and the food courts, public seating areas and other designated common areas of the Concession Area, including relocating and/or eliminating all or any part thereof to assure public safety and convenience or to assure efficient operation of the Concession Area or the Terminal.

(c) Pursuant to the Concession Area Lease, (1) American is generally responsible for all structural maintenance, repair and/or replacement of the Base Building Work in the Concession Area and the Terminal, and (2) Landlord is otherwise generally responsible for the maintenance, upkeep and repair of the Concession Area to the extent not the obligation of the tenants of the Concession Area.

Section 8.04 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE FEE.** (a) Tenant and all of Landlord's other subtenants, shall use and share the prorated cost of common logistical support and common operation maintenance service providers provided by various independent contractors selected and contracted with in the sole discretion of Landlord. Tenant shall pay to Landlord, as Additional Rent, a fee (the "**Logistical Support and Maintenance Fee**") equal to Tenant's proportionate share (as described in Section 8.04(b) below) of Landlord's actual and commercially reasonable out-of-pocket costs and expenses incurred in order to manage the loading dock areas and maintain and service the food courts, public seating areas and other designated common areas of the Concession Area ("**Operating Costs and Expenses**"). These expenses include, without limitation: all costs and expenses of every kind and nature, foreseeable or unforeseeable, paid or incurred by Landlord for any service providers with respect to the food courts, public seating areas, purchase of tray wash equipment; floor cleaning (sweeping and mopping) and storefront cleaning services and cleaning of food court amenities, furnishings and equipment; food tray retrieval, washing and distribution; management of the loading dock areas for Tenant deliveries and distribution and delivery vehicle escort services; trash removal; repair and replacement of tray wash equipment and food court chairs, tables, and food trays. By way of example, Operating Costs and Expenses shall include, but not be limited to, the full cost of all labor costs (including both on-site and independent third party off-site supervisory personnel) as well as the cost of uniforms and identification badges for all such personnel employed to: (1) provide centralized trash, refuse and recycling material

removal services in the Terminal for all concession facilities, and in loading dock areas and storefront façade cleaning services for all concession facilities; (2) manage, operate, maintain, repair, clean and replace the loading dock areas and equipment and the areas surrounding the trash dumpsters; (3) operate the vehicle escort delivery service across the airfield and to maintain, repair and/or replace the escort delivery service equipment; (4) assist in the delivery of equipment, supplies, goods, inventory, merchandise and products (which may need to include a central commissary system); (5) to the extent not otherwise charged directly to subtenants, provide security screening services for equipment, supplies, goods, inventory, merchandise and products; (6) operate, maintain and clean the food courts and public seating areas, cleaning and maintenance of the grease trap system, waste grease removal, cleaning and maintenance of exhaust hood, duct and roof top systems and inspection and maintenance of exhaust hood fire suppression equipment; (7) provide pest extermination services for all concession facilities; (8) the cost of all supplies and equipment utilized to clean the food courts and public seating areas; (9) cost of all trash removal receptacles and equipment for the food courts and public seating areas; (10) the cost to purchase, maintain, repair and/or replace all public seating areas tables, chairs, trash removal receptacles and equipment, furniture and fixtures; (11) the cost to purchase, clean, maintain, repair and/or replace the food trays used by patrons and to operate, maintain, repair and/or replace the food tray washing facilities and equipment; (12) any and all other direct costs and expenses which Landlord deems reasonably necessary or desirable in order to properly maintain and provide such services described herein in an efficient and acceptable manner. The preceding is for definitional purposes only and shall not impose any obligation upon Landlord to incur such expenses or provide such services. Tenant shall comply in all respects with such procedures and the policies established by Landlord with respect to common logistical support and common operation maintenance services.

(b) The proportionate share to be paid by Tenant shall be that portion of Operating Costs and Expenses which the Floor Area in the Premises bears to the total Floor Area in the Concession Area which has been leased to subtenants who are in occupancy and contributing to the Logistical Support and Maintenance Fee; provided, however, any Floor Area in the Concession Area which is excluded from the foregoing calculation shall not exceed twenty percent (20%) of the gross leaseable Floor Area of all concession facilities in the Concession Area but such restriction shall not be applicable until Landlord has completed the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Tenant's proportionate share shall only include those items passed through by Landlord for specialty retail uses and shall not include any such items applicable only to food and beverage uses or with respect to any public food court areas. Annual increases in Tenant's proportionate share shall not exceed fifteen percent (15%) other than extraordinary costs imposed by local, state or federal regulations or as may otherwise be requested by Tenant from time to time as compared to the immediately preceding Lease Year following completion of the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal.

(c) The Logistical Support and Maintenance Fee following the Rental Commencement Date shall be paid to Landlord as Additional Rent in equal, consecutive monthly installments on or before the first (1st) day of each calendar month, in advance, in an amount estimated by Landlord from time to time. All sums not received within five (5) days after written notice from Landlord shall be delinquent and shall be a default as defined in Article XIX. Subsequent to the end of each Lease Year, Landlord shall furnish Tenant with a detailed statement of Tenant's proportionate share of such Operating Costs and Expenses for such period showing the general method of computing such proportionate share. Tenant shall not have any inspection or audit rights of any of Landlord's books and records pertaining to Operating Costs and Expenses and the Logistical Support and Maintenance Fee. Tenant hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on Landlord's statement, Tenant shall pay the difference between the amount paid and the actual amount due within thirty (30) days after the furnishing of each such statement. If the total amount paid by Tenant under

this Section 8.04 for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Tenant to Landlord for Operating Costs and Expenses under this Sublease. If at the end of the Term of this Sublease, the total amount paid by Tenant under this Section 8.04 for such final Lease Year shall exceed the actual amount due for such final Lease Year, such excess shall be refunded to Tenant within sixty (60) days after Tenant has vacated the Premises in the condition required at the conclusion of this Sublease and after all Rentals and other sums due Landlord from Tenant under this Sublease have been paid in full; or Landlord shall be entitled to deduct any such remaining sums due from any such excess. Landlord may estimate the annual budget and charge the same to Tenant on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Operating Costs and Expenses for the Logistical Support and Maintenance Fee.

(d) If Tenant suffers damages to equipment, materials, supplies, inventory, merchandise and products or any injuries to persons as a result of the activities of the various independent contractor service providers, Tenant shall only look to the independent contractor service provider who caused such damage or injuries for any recovery. Landlord, American and the Authority (including their members, shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits arising out of or relating to the activities of the various service providers, except to the extent that any such damage is due solely to the gross negligence or willful misconduct of Landlord or American.

ARTICLE IX. SIGNS

Section 9.01 TENANT'S SIGNS. The design, construction, location, use and maintenance of Tenant's signs (whether blade or band signs) are subject to the provisions of the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall affix a sign to the exterior surface of the storefront of the Premises subject to the advance approval of Landlord, American and the Authority in compliance with the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall pay all costs of fabricating, constructing, operating and maintaining such exterior storefront sign(s). Tenant shall keep said sign(s) well lit during such hours as Landlord shall designate and shall maintain said sign(s) in good condition and repair during the entire Term hereof. Said sign(s) shall conform to the criteria for signs contained in the Tenant Construction Review Manual, the Design Guidelines; and the size, content, design and location thereof shall be subject to the prior written approval of Landlord, American and the Authority pursuant to the TAA Process. Except as hereinabove mentioned, Tenant shall not place or cause to be placed, erected or maintained on any exterior door, wall, window or the roof of the Premises, or on the interior or exterior surface of the glass of any window or door of the Premises, or on any sidewalk or other location outside the Premises, or within any display window space in the Premises, or within one (1) foot of the front of the storefront leaseline, whether or not there is display window space in the Premises, or within any entrance to the Premises, any sign (flashing, moving, hanging, handwritten, or otherwise), decal, placard, decoration, flashing, moving or hanging lights, lettering, or any other advertising matter of any kind or description; provided, that subject to the prior written approval of Landlord with respect to design and placement, Tenant may place decals relating to charge cards accepted and alarm system used for safety purposes on glass storefronts where warranted. No symbol, design, name, mark or insignia adopted by either Landlord, American or the Authority for the Terminal or the Airport shall be used without their prior written consent. Notwithstanding the foregoing, if Landlord or American, in their reasonable business judgment, determines that any such materials are unacceptable, improper or inappropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter without any liability. Tenant, upon obtaining Landlord's prior consent not to be unreasonably withheld, may utilize its customary interior signs, placards and decorations provided they

are professionally prepared and in good taste and are utilized in a manner substantially similar to the manner which Tenant employs in its first-class stores located in large, urban airports and regional shopping centers in the United States, and, further, so long as the same comply with American's and the Authority's requirements and the Authority's TAA Process. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.01 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Dollars ($100.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

Section 9.02 TENANT'S INTERIOR ADVERTISING AND DISPLAY WINDOWS. Tenant acknowledges and agrees that the condition and appearance of its interior advertising and display windows facing into or in any manner visible from the Terminal property including exterior glass windows (if any) is important to Landlord, American and the Authority. If Tenant installs such interior advertising displays or window displays or any signs in the window display facing into or in any manner visible from the public areas of the Terminal which any of Landlord, American or the Authority reasonably determines to be objectionable to the general character and appearance of the Terminal, Tenant agrees to remove the stanchions, window display and/or signs within forty-eight (48) hours after notice. If Tenant fails or refuses to remove such advertising, window displays or signs, Tenant hereby grants Landlord the right to remove the objectionable advertising, displays or signs at Tenant's expense. Tenant agrees that its interior advertising displays and window displays will be designed and printed in a professional manner and will contain only first class products. Tenant shall not display any advertising, promotional or informational pamphlets, circulars, brochures or similar materials outside the Premises without the prior written consent of Landlord and American. No temporary signs or displays will be used by Tenant including any employment opportunity signs, except for temporary holiday decorations, which shall also be designed and printed in a professional manner. Notwithstanding the foregoing, if Landlord or American determine that any such materials are not appropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter, at Tenant's expense. At a minimum, Tenant shall refresh and change the interior advertising items and signs in the display windows on a quarterly basis during each Lease Year. Tenant, upon obtaining Landlord's prior consent not to be unreasonably withheld, may utilize its customary interior advertising and display windows provided they are professionally prepared and in good taste and are utilized in a manner substantially similar to the manner which Tenant employs in its first-class stores located in large, urban airports and regional shopping centers in the United States, and, further, so long as the same comply with American's and the Authority's requirements and the Authority's TAA Process. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.02 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Dollars ($100.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

ARTICLE X. MAINTENANCE AND REPAIRS

Section 10.01 TENANT'S OBLIGATIONS FOR MAINTENANCE. (a) Except for American's obligations pursuant to the Authority Lease and the Concession Area Lease for structural maintenance, repair and/or replacement of the Base Building Work in the Premises, Tenant, at Tenant's sole cost and expense, shall keep and maintain in a first-class appearance, in a "like new" condition equal to or better than that which existed when Tenant initially opened the Premises for business, reasonable wear and tear excepted, and in a safe, clean, neat, sanitary and lawful order, good condition and repair (including replacement of parts and equipment, if necessary), the Premises and every part thereof and any and all appurtenances thereto wherever located, including, without limitation, surfaces of all walls, windows and window casings and sills (both interior and exterior), the interior and exterior portion of all doors, door

frames and door checks, other entrances, plate glass (except outside surfaces of windows, window casings and sills located on the exterior of the Terminal building, if any), storefronts, wall coverings, floor coverings, ceilings, relamping and/or replacement of light fixtures, trade fixtures, Fixed Improvements, Operating Equipment, HVAC (as defined in Section 12.01(d)) and electrical and other utility systems and utility branch lines exclusively serving the Premises (whether or not located within the Premises), sprinkler systems and sprinkler heads exclusively serving the Premises (whether or not located within the Premises), and all other repairs, replacements, renewals, restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen that relate to all work by or on behalf of Tenant pursuant to Article V, **Exhibit D** and the Design Guidelines. For the purposes of this Article, the installation, maintenance, repair and replacement of a sprinkler system, fire alarm system, communication system or any repairs or work involving asbestos or other hazardous materials or involving compliance with Local Laws #5 of 1973, #16 of 1984, #58 of 1987 and the Americans With Disabilities Act and any successor laws of like import shall be deemed to (a) be non-structural maintenance, repairs and/or replacements, and (b) not involve the Base Building Work.

(b) Tenant's maintenance and repair of the Premises is an obligation which runs directly to Landlord, American and the Authority and includes all of the following duties:

(1) Tenant, at its own expense, shall install and maintain fire extinguishers, fire hoses and other fire protection devices as may be required by Landlord, American, the Authority, the applicable fire marshall official, any agency having jurisdiction over the Premises or by the insurance underwriter insuring the Terminal.

(2) Tenant shall obtain Landlord's prior written approval of the materials used in any plate glass or window glass installation, repair or replacement and of the contractor performing any such repair or replacement (the foregoing is subject to Landlord's sole discretion).

(3) Tenant, at all times and at its sole cost and expense, shall use the Premises with care. Maintenance, repairs and replacements shall be accomplished as necessary to maintain the Fixed Improvements and Operating Equipment and trade fixtures in a first-class "like-new" condition. Tenant shall repaint, retile, recarpet or replace wall coverings, floor coverings and ceiling coverings as reasonably necessary; and high traffic areas shall be repainted, retiled, recarpeted on a regular basis or as otherwise reasonably directed by Landlord to maintain a high quality, first-class appearance; and all furniture and furnishings that become worn or torn shall be promptly replaced.

(4) Tenant, at its own expense, shall provide complete and adequate arrangements for the sanitary handling and disposal of all trash, garbage, recycling materials and other refuse generated in the Premises, including suitable receptacles situated in locations determined by Landlord. Such shall be removed at times and in a manner which will cause minimum interference with the use of the Terminal by the public and other authorized persons. Tenant shall be required to participate in American's recycling program, if any, as appropriate. Tenant shall also furnish, at its own expense, custodial services for the Premises. The piling of boxes, cartons, containers or other similar items in the public areas or in the Premises is not permitted.

(5) With respect to utility systems and lines servicing the Premises, (a) in areas where such utility systems and lines serve other areas in the Terminal in addition to the Premises, Tenant, at its own expense, shall only be responsible for the maintenance of the utility branch systems and utility branch lines located within or exclusively serving the Premises, (b) where utility systems and lines are installed by Tenant and solely for its use, Tenant shall have the sole responsibility, at its own expense, for the maintenance, repair and replacement thereof from the Premises up to the American-maintained main utility systems or lines or to the shut-off valves located in the Terminal, as appropriate, (c) Tenant shall have sole responsibility, at its own expense, for the maintenance, repair and replacement, as necessary, of all electrical, telephone, data

transmission and other communication cables, conduits, wiring, fire alarm systems and protection devices, wiring panels and associated equipment located within or exclusively serving the Premises. American reserves the right to maintain, repair or replace any such utility systems and lines.

(6) Tenant shall prepare a comprehensive preventive maintenance program for all equipment and lines for which it is responsible to maintain and submit the same to Landlord and shall maintain such program on a current basis. Tenant shall report all malfunctions to all systems, lines, devices and equipment installed or located within the Premises to Landlord as promptly as possible after discovery and shall provide timely notice to Landlord as required by this Sublease with respect to maintenance issues.

(7) All repairs, replacements and maintenance by Tenant hereunder shall comply with all of the applicable provisions of the TAA Process, as the same may be amended from time to time by the Authority in their sole discretion, shall be performed in accordance therewith and with the applicable provisions of the Design Guidelines and shall be subject to the Landlord's prior written approval, such approval to be determined in Landlord's sole discretion. All such maintenance, repairs and replacements shall be of a quality equal to the original in materials and workmanship; Landlord shall have the right to disapprove any improvements, replacements or alterations which, in its judgment, are of a design, quality, condition or in any color or in any other way deemed to be inconsistent with the Design Guidelines, the TAA Process or the general character and design of the Terminal.

(8) Landlord, American and the Authority each reserves the right to interrupt temporarily the heating, air conditioning, plumbing, fire sprinkler, electrical services and any and all other utility services when necessary to make repairs, alterations, replacements or improvements thereto; and no such party shall have any responsibility or liability to Tenant (including consequential damages and lost profits) for failure to supply heat, air conditioning, any other utilities or plumbing or, when prevented from doing so by laws, orders or regulations of any federal, state or local agency or as a result of strikes, accidents, force majeure or by any other cause whatsoever beyond their control. Landlord shall provide Tenant with as much advance notice as reasonably possible and under the circumstances shall use reasonable efforts to avoid interrupting Tenant's business operations except as deemed necessary by Landlord, American or the Authority.

(c) In no event shall Landlord be liable for consequential damages or Tenant's lost profits claimed to be caused by any failure of maintenance or repair. If Tenant does not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then Landlord, American or the Authority, in addition to any other remedy which may be available to them, may enter the Premises and perform such maintenance or repair, as they determine, in their sole and absolute discretion, is required. **Tenant shall indemnify and save harmless Landlord, American, the Authority and the City of New York from all injury, loss or damage to any Person or property occasioned by Landlord's, American's or the Authority's completion of such maintenance or repair, except to the extent such loss or damage is solely the result of the gross negligence or willful misconduct of Landlord, American, or their respective employees, agents or contractors.** Tenant shall reimburse Landlord for any and all reasonable costs incurred in completing such maintenance or repair (including without limitation an administrative fee equal to fifteen percent (15%) of such costs), together with Late Interest from the date Landlord, American or the Authority incurred such costs. Landlord, without prior notice to Tenant, may enter the Premises and make inspections as often as it considers necessary, to determine the proper maintenance of the Premises by Tenant. The provisions of this Section 10.01 shall survive the expiration or earlier termination of this Sublease.

ARTICLE XI. INSURANCE AND INDEMNITY

Section 11.01 TENANT'S INSURANCE. (a) Tenant, at its sole cost and expense, shall, during the entire Term hereof, procure and maintain the following insurance in not less than the following amounts: (1) commercial general liability insurance with respect to the Premises and the operations in, on or about the Premises, in which the combined limits shall be not less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, insuring for bodily injury, death and property damage and including, without limitation, premises operations, products-completed operations, explosion, collapse, underground property damage and independent contractors coverage, with such commercial general liability insurance containing a contractual liability endorsement covering the obligations assumed by Tenant under Sections 7.03, 11.03 and all other of Tenant's indemnification obligations under this Sublease, such insurance not to contain any care, custody or control exclusions which would conflict with or in any way impair coverage under the contractual liability endorsement and business automobile liability insurance covering all owned, hired and non-owned vehicles, in which the limits for landside vehicle/mobile equipment operation shall be not less than Two Million Dollars ($2,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage and in which the limits for airside vehicle/mobile equipment operation, if applicable, shall be not less than Twenty-Five Million Dollars ($25,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage; (2) all risk property insurance, including plate glass coverage, against fire, extended coverage, vandalism, malicious mischief, water damage, which does not exclude backup from sewers or drains or sprinkler leakage, and such other additional perils including flood as now are or hereafter may be included in a standard extended coverage "ISO Special Form" policy or its equivalent from time to time in general use in the county in which the Terminal is located, insuring Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property of Tenant located on or in the Premises or the Terminal in an amount equal to the full replacement cost thereof; (3) statutory workers' compensation coverage as required by the State of New York from time to time and including Employer's Liability Insurance in the amount of One Million Dollars ($1,000,000.00) for each accident, One Million Dollars ($1,000,000.00) for each employee, by disease, One Million Dollars ($1,000,000.00) policy aggregate by disease; (4) builder's risk (ALL RISK) insurance covering construction and installation of the Fixed Improvements and Refurbishments and Operating Equipment during the performance thereof, including, without limitation material delivered to the site but not attached to the realty as more particularly described in **Exhibit D**, naming Landlord, American, the Authority, the City of New York, Tenant and their respective contractors and subcontractors as additional insureds or as loss payees (as applicable to the type of insurance provided) and provide that the loss shall be adjusted with and payable to Tenant and used for the repair, restoration or rebuilding of the Fixed Improvements and Refurbishments and Operating Equipment, as necessary; (5) business interruption insurance in amounts at least sufficient to cover, and applicable to, all Rentals, fees, charges and other payments that are payable by Tenant to Landlord under this Sublease for a period of not less than twelve (12) months for any business interruption losses in business revenue that occur when the Premises or any portion thereof is unusable or is out of operations due to fire or any other risks or hazards that are normally covered under a standard form of "ISO Special Form" policy or its equivalent or for any other reason; (6) the insurance required under the Authority's TAA Process; (7) such other insurance as may be required by Landlord, American or the Authority from time to time after suitable notice thereof based upon circumstances in the Terminal and imposed upon other concession operators in the Terminal; and (8) if the Permitted Use permits the sale of alcoholic beverages, Tenant shall also procure and keep in force liquor law liability insurance (on an occurrence basis), in which the limits shall not be less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, which shall insure against all claims, demands and actions for injury to, and/or death to, one (1) or more persons in one (1) or more accidents, and for property damage, as well as for damages due to time loss and means of support; so that at all times Landlord, American and the Authority will be fully and completely protected

against any claims that may arise by the dispensing of beer, wine and/or other spirited or alcoholic beverages in the Premises; provided, however, that Landlord and Tenant acknowledge and agree that commercially available liquor law liability insurance coverage contains specific exclusions. **Tenant agrees to indemnify and hold harmless Landlord, American, the Authority and the City of New York, their respective Affiliates, parent corporations, subsidiaries, directors, officers, partners, shareholders, representatives, members, management companies, agents and employees, from and against any loss or claim arising under such exclusions.** Notwithstanding the foregoing, Tenant specifically understands and agrees that Landlord and American have the right, on their own initiative or as requested by the Authority, to require Tenant to make reasonable additions, deletions, amendments or modifications to the above minimum insurance requirements or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as American may deem reasonably necessary or as the Authority may deem necessary. Landlord will not increase the above-required coverage amounts or limits in excess of five percent (5%) in any Lease Year during the Term, unless such increase is required for reasons beyond Landlord's control, and Tenant shall so adjust the amounts or limits of the insurance carried by Tenant hereunder and shall provide Landlord with Certificates indicating the adjusted amounts or limits as provided in this Section 11.01. All policies of insurance required to be carried by Tenant pursuant to this Sublease shall be written by insurance companies of adequate financial capacity (having a A.M. Best's rating and Financial Size Category of not less than A-VII or better) and qualified to do business in the State of New York. Any such insurance required of Tenant hereunder may be furnished by Tenant under any blanket policy carried by it, with any amendments or endorsements that may be necessary to conform to the requirements of this Article XI or under a new or separate policy therefor. An insurance certificate or certificates (and endorsements where same become necessary) from Tenant's insurer, certifying that such policy has been issued, provides the coverage required by this Section 11.01 and contains all of the provisions specified in this Section 11.01 (including, without limitation, naming of additional insured and/or loss payee entities as required by Section 11.01(b) below), shall be delivered to Landlord prior to the commencement of the Term hereof, and certificates in connection with all renewals (if any), not less than thirty (30) days prior to the expiration of the term of each such policy. In addition, if requested by American, Tenant shall promptly deliver to Landlord a certified copy of each policy bearing the endorsement of or accompanied by evidence of payment of the premium thereof. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant and certificates delivered to Landlord prior to any such expiration or termination.

(b) Each policy evidencing insurance required to be carried by Tenant pursuant to this Section 11.01 shall contain the following clauses and provisions: (1) a provision that such policy and the coverage evidenced thereby shall be primary and noncontributing with respect to any policies carried by Landlord, American or the Authority and that any coverage carried by Landlord, American or the Authority be excess insurance; (2) except for workers' compensation and employers' liability coverage, a provision including the parties set forth on **Exhibit F** and any other parties designated in writing by Landlord from time to time as additional insured and/or loss payee entities, as applicable; (3) a waiver by the insurer of any right to subrogation against Landlord, American and the Authority and other additional insured and/or loss payee entities, their respective agents, commissioners, directors, employees, insurance carriers, officers and representatives which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, American or the Authority, their respective agents, commissioners, directors, employees, insurance carriers, officers or representatives; (4) a severability of interest clause or endorsement; (5) a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving Landlord, American and the Authority at least thirty (30) days prior written notice; (6) a provision that such policy is an occurrence-form policy; and (7) a provision or endorsement that the insurer shall not, without obtaining the express advance written permission from the Authority's General Counsel, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Authority, the immunity of the Authority, its commissioners, officers, agents and employees, the governmental nature of the

Authority or the provisions of any statutes respecting suits against the Authority. Such liability policies shall also provide or contain an endorsement providing that the protections afforded Tenant thereunder with respect to any claims or actions against Landlord by a third Person shall pertain and apply with like effect with respect to any claim or action against Tenant by Landlord, American or the Authority, and that such protections shall also pertain and apply with respect to any claim or action against Landlord, American or the Authority, including by Tenant, but such endorsement shall not limit, vary or affect the protections afforded Landlord, American and the Authority thereunder or other named insureds as an additional insured. The "All Risk" property insurance coverage shall name Landlord, American and the Authority as additional loss payees to the extent of their respective interests and shall provide that any loss shall be adjusted with and payable to Tenant, Landlord and American (to the extent of Landlord's or American's loss) and to the extent Landlord or American receives insurance proceeds from such policies or otherwise participates in the adjustment of claims thereunder, Landlord shall (and American is obligated under the Concession Area Lease to) cooperate with Tenant and shall make all of such proceeds available to Tenant to cover the cost of restoration of such Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property.

(c) In the event that Tenant fails to procure and to maintain, at the times and for the duration specified in this Section 11.01, any insurance required by this Section 11.01, or fails to carry insurance required by law or governmental regulation, Landlord may (but shall not be required to) at any time and from time to time, and upon five (5) days notice to Tenant, procure such insurance and pay the premiums therefor; and the cost of same shall be deemed Additional Rent and shall be payable by Tenant within ten (10) days after receipt of Landlord's written demand. Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's, American's, the Authority's or the Airport's policies of hazard or liability insurance or which will prevent Landlord, American or the Authority from procuring such policies in companies acceptable to Landlord, American and the Authority.

(d) If at any time any of Tenant's insurance policies shall be or become unsatisfactory to Landlord, American or the Authority, in their reasonable judgment, as to form or substance, of if any of the Tenant's insurers issuing such policies shall not maintain the minimum rating required above, Tenant shall promptly obtain a new and satisfactory policy in replacement.

Section 11.02 **LANDLORD'S AND AMERICAN'S INSURANCE.** Landlord has the obligation to carry the insurance set forth in the Concession Area Lease but only to protect the interests of Landlord, American and the Authority. Landlord, by virtue of this Sublease or otherwise, has no obligation to protect the interests of Tenant or to name Tenant as an additional insured under any of its insurance covering the Terminal. American is obligated to maintain the types of insurance required under the Authority Lease.

Section 11.03 **INDEMNIFICATION.** **(a) Tenant shall defend, indemnify and hold harmless Landlord, American, the Authority and the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York) and their respective directors, officers, employees, agents, commissioners, representatives and Affiliates (collectively, the "Indemnitees") from and against any and all claims, demands, actions, causes of action, suits, fines or judgments asserted, imposed or obtained by third parties, and the costs (including reimbursement of Indemnitees' reasonable costs and expenses of any related legal proceedings or attorneys' fees), expenses, losses, liabilities (including, without limitation, claims and demands for death or personal injuries, or for property damages) and damages of all kinds related to such third party claims, arising out of the construction of Fixed Improvements or Refurbishments or the improper use or occupancy of the**

Premises by Tenant or out of any other acts or omissions of, or any breaches or defaults under the terms or conditions of this Sublease by Tenant, its directors, officers, employees, representatives, contractors, guests and/or invitees in the Premises or other areas in the Terminal and/or elsewhere at the Airport including, without limitation, claims and demands of any of the occupants in the Concession Area or of the City of New York, from which the Authority derives its rights in the Airport (collectively, the "Claims"). The foregoing indemnification shall not apply to a particular Indemnitee, other than the Authority, to the extent that a Claim is caused or contributed to by the negligence or willful misconduct of such Indemnitee other than the Authority. As a condition to the foregoing indemnification with respect to Claims and demands for indemnification made by Landlord: (1) Landlord or the Indemnitee shall give Tenant prompt written notice specifying with reasonable particularity any Claim that Landlord or the Indemnitee reasonably believes may become the basis for indemnification pursuant to this Section 11.03; (2) Landlord, the Indemnitee and their directors, officers, employees and representatives shall cooperate fully in the defense of such Claim; (3) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the right to contest, defend or litigate, and to retain counsel of its choice in connection with any proceeding or litigation which would give rise to a claim for indemnification under this Section 11.03; and (4) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the sole and exclusive right to settle any proceeding or litigation which could give rise to a claim for indemnification under this Section 11.03 (provided such settlement would not result in any loss, cost, harm, expense, damage or liability to any of the Indemnitees). A failure by Landlord or an Indemnitee to timely notify Tenant of any Claim shall excuse Tenant's obligations hereunder only to the extent the defense of such Claim is prejudiced thereby.

(b) Tenant represents that it is the owner of or fully authorized to use or sell any and all intellectual property used or sold by it in its activities under or in any way connected with this Sublease. **Without in any way limiting its obligations hereunder, Tenant agrees to indemnify, defend and hold harmless the Indemnitees of and from any loss, liability, expense, suit or judgment in connection with any actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the activities of Tenant under or in any way connected with this Sublease.** With respect to claims or demands against Indemnitees for actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or for actual or alleged unfair competition or other similar theories arising out of the operations of Tenant, Tenant shall pay or reimburse Indemnitees all actual and reasonable attorneys' fees and costs of defense that Indemnitees may incur in defending any such intellectual property or unfair competition claims or demands.

(c) Tenant agrees to include in all franchise or license agreements and construction contracts and other agreements involving Tenant, a provision by which such franchisee, licensee or contractor agrees to defend, indemnify and hold harmless the Indemnitees, on at least the same basis and to the same extent as required of Tenant under this Section 11.03. The obligations set forth in this Section 11.03 shall survive the expiration or earlier termination of this Sublease.

Section 11.04 **INJURY CAUSED BY THIRD PARTIES.** Tenant covenants and agrees that Landlord, American and the Authority (including their respective agents, employees, officers, directors, commissioners, members and shareholders) shall not be responsible or liable to Tenant, or any entity or person claiming by, through or under Tenant, for any injury, death or damage to persons or property resulting from any latent defect in the Premises, the Terminal, the Airport or appurtenant areas; or from any acts or omissions of entities, persons, tenants or other occupants occupying adjoining premises in the Terminal or any other part of the Airport or the agents, servants, employees, contractors or invitees of such

entities, persons, tenants or occupants; or from fire, electricity, water, snow or leaks from any part of the Terminal or Terminal systems or Airport, including sprinkler systems; or from any other cause of whatever nature, unless caused by or due to the direct gross negligence or direct willful misconduct of Landlord (or as American, as obligated under the Concession Area Lease), its agents and employees, in which case only the party that acted grossly negligent or with willful misconduct shall be responsible or liable.

ARTICLE XII. UTILITIES

Section 12.01 **UTILITY SERVICES AND CHARGES:** (a) Pursuant to the Concession Area Lease, American is obligated to provide access to reasonable and normal amounts (as determined by Landlord and American) of electric, heat, air conditioning, domestic cold water (if applicable), high temperature hot water (if applicable), gas (if applicable) and sewage (if applicable) services to the Premises for use by Tenant provided by utility systems, connections and related equipment existing as of the Commencement Date; but neither Landlord nor American have any obligation to provide telephone or data transmission and communication services to the Premises. The types, capacities and amounts of the various utilities which are being provided by American to the Concession Area, including the Premises, are set forth on the Utilities Matrix, which is included as an exhibit to the Concession Area Lease. All of such utilities, except for electricity for all food & beverage concession locations, and telephone and data communication services, are to be provided without charge by American in accordance with the Concession Area Lease. Should Tenant require access to utility services over and above those provided by American as set forth on such Utilities Matrix, Tenant shall pay directly for the costs of extending those additional utilities to the Premises, if available. Tenant shall be solely responsible for all fees, deposits and charges, including use or connection fees, hook-up fees, standby fees, and the like, for fire alarm, burglar alarm, telephone, data transmission and communication and cable television used in or upon or furnished to the Premises, including, without limitation, any services to be supplied by American, irrespective of whether any of the foregoing are initially paid in advance by American, Landlord or otherwise.

(b) Tenants who operate a food & beverage concession facility shall be solely responsible for, and shall promptly pay for the construction and installation of, electric check meters required for all electricity to be consumed within the Premises. Any such check meters required for the conduct of business operations in the Premises shall be installed by Tenant, at its sole cost and expense, in locations approved by Landlord, American and/or the appropriate public utility service provider. If the Permitted Use provides for display and sale of food and beverages, Tenant shall pay to Landlord American's actual cost of purchasing the electricity consumed as measured by a separate check meter to be installed by Tenant pursuant to the Final Drawings. Any such charges shall be billed to Tenant in arrears and shall be paid, as Additional Rent, to Landlord with the next monthly installment of Guaranteed Rent following Tenant's receipt of the invoice therefor from Landlord.

(c) Landlord, American or the Authority shall not be liable for damages, loss of business, loss of profits or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, services from a central utility plant or any other utility or other service, or if either the quantity, quality or character thereof is changed or is no longer available for Tenant's requirements, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character will not excuse or relieve Tenant from its obligations hereunder, including but not limited to the payment of Rentals or all other sums, damages, fees, costs and expenses payable under this Sublease. Except as otherwise provided by applicable law, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character shall not constitute or be deemed to constitute actual or constructive eviction of Tenant. Any obligation of American to furnish utilities is conditioned upon the availability of adequate energy sources. American has the right to reduce heating, cooling and lighting within the Premises and the public areas as required by any mandatory or voluntary fuel or energy saving allocation, or similar

statute, regulation, order or program. No such interruptions, reductions, disruptions, curtailments or failures shall entitle Tenant to any abatement of Rentals or relieve Tenant from fulfillment of any covenant or agreement set forth in this Sublease, except specifically provided in this Section 12.01(c). Notwithstanding the foregoing, if Tenant is prevented from opening to the public for more than five (5) days during any Lease Year by an interruption in utility services due to the negligence of Landlord or American, including, without limitation, electricity, gas, water, plumbing, sewage, telephone communications, heating, ventilation, or air conditioning, but American's operations and the flow of Enplaned Passengers nevertheless continue normally through such interruption of utility services in the Premises, Guaranteed Rent that would otherwise apply during such period will be reduced by the proportion that three hundred sixty-five (365) days bears to the actual number of days Tenant was able to operate during such calendar year.

(d) If applicable, Tenant shall operate its additional heating, ventilating and air conditioning system(s) ("**HVAC**") serving the Premises so as to maintain comfortable conditions during its hours of operation. Temperatures in the Premises shall be compatible with temperatures in the Terminal. Tenant's obligation to connect to the services supplied by American, as set forth in this Section 12.01 and **Exhibit D**, as well as Tenant's operation and maintenance of its HVAC system(s) within the Premises, shall be as set forth herein, in **Exhibit D** and in any related document(s), such as the Design Guidelines or approved Final Drawings. If Tenant desires to install any equipment which shall exceed the capacity of any utility facilities or which shall require additional utility facilities, Tenant shall not have the right to do so without Landlord's and American's prior written approval of Tenant's plans and specifications therefor. If such installation is approved by Landlord and American, and if such additional facilities are provided to accommodate Tenant's installation, Tenant agrees to pay Landlord, on demand, the cost of providing such additional utility facilities or utility facilities of greater capacity. Tenant shall in no event use any of the utility facilities in any way which shall overload or overburden the utility systems at the Terminal and the Airport. Landlord and American shall have the right to impose reasonable restrictions and to require Tenant to comply with any and all state and local regulations and measures adopted from time to time with respect to conservation of any utilities, including water usage.

ARTICLE XIII. ATTORNMENT AND SUBORDINATION

Section 13.01 **ATTORNMENT.** Landlord shall be permitted to assign this Sublease to American or its designee; and, in the event of such assignment, Tenant shall attorn to American or its designee and recognize American or its designee as the landlord for all purposes hereunder.

Section 13.02 **SUBORDINATION.** Tenant further agrees that this Sublease shall be subordinate to the Concession Area Lease, the Authority Lease and to any and all mortgages, deeds of trust and ground leases that may now exist or at any time hereafter constituting a lien or charge upon the Concession Area or the Terminal or other improvements that constitute a part of the Concession Area and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacement and extensions thereof. Tenant, within no more than fifteen (15) days after written request, shall execute any and all instruments, releases and other documents that may be required by each and every mortgagee, trustee and holder thereof for the purpose of subjecting and subordinating this Sublease to the lien of any such mortgage or deed of trust.

Section 13.03 **ESTOPPEL STATEMENT.** Within twenty (20) days after request therefor by Landlord, Tenant shall execute, in recordable form, and deliver to Landlord a statement, in writing, certifying (a) that this Sublease is in full force and effect, (b) the Rental Commencement Date and the Expiration Date hereof, (c) that Rentals and all other charges hereunder are paid currently without any offset or defense thereto, (d) the amount of Rentals and all other charges hereunder, if any, paid in advance, (e) whether this Sublease has

been modified and, if so, identifying the modifications, (f) that, to the best of its knowledge, there are no uncured defaults by Landlord or stating in reasonable detail those claimed by Tenant, and (g) such other matters as may be reasonably requested by Landlord.

ARTICLE XIV. ASSIGNMENT AND SUBLETTING

Section 14.01 RESTRICTIONS, PROCEDURES AND OTHER ASPECTS GOVERNING TENANT. (a) Tenant shall not transfer or assign this Sublease or Tenant's interest in or to the Premises or any part thereof without having first obtained the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion; provided, however, the transfer of Tenant's securities in connection with Tenant becoming a publicly held company or issuing securities in connection with an additional public offering of securities shall not constitute a transfer or assignment of this Sublease. The public trading of Tenant's securities on a nationally recognized stock exchange or on the NASDAQ market shall not constitute or be considered to result in any such transfer or assignment of this Sublease. Each transfer, assignment or subletting to which there has been consent shall be by instrument in writing, in form satisfactory to Landlord, and shall be executed by the transferee, assignee or subtenant who shall agree in writing for the benefit of Landlord to be bound by and to perform the terms, covenants and conditions of this Sublease. Failure to first obtain in writing Landlord's consent, or failure to comply with the provisions herein contained shall operate to prevent any such transfer, assignment or subletting from becoming effective. The receipt by Landlord of rent from an assignee, transferee, subtenant or any other occupant of the Premises shall not be deemed a waiver of the covenant in this Sublease against assignment, transfers and subletting or an acceptance of the assignee, transferee, subtenant or any other occupant as a tenant or a release of the Tenant from further observance or performance by Tenant of the covenants contained in this Sublease.

(b) Notwithstanding the foregoing provisions of this Article 14, Tenant shall have the right to transfer or assign this Sublease, without Landlord's consent to a subsidiary of Tenant or its parent entity or to an entity that is an Affiliate of Tenant or its parent entity, and with Landlord's consent, such consent not to be unreasonably withheld, conditioned or delayed, to: (1) any entity with which Tenant shall merge, reorganize or consolidate; or (2) any entity acquiring all or substantially all of the assets of, or equity interests in, Tenant or which may succeed to a controlling interest in the business of Tenant; provided that in the case of any and each such transfer or assignment under clauses (1) and (2) above which is permitted hereunder, Landlord shall have the discretionary right to withhold its consent unless: (i) such transferee or assignee shall have a net worth equal to or greater than Tenant as of the effective date of any proposed transfer or assignment; (ii) such transferee or assignee shall have proven airport concession operating experience and the ability to efficiently and effectively operate the business in the Premises consistent with at least as high a standard as then exists in the Premises; (iii) the business conducted in the Premises by such transferee or assignee shall be conducted under the same Permitted Use and under a trade name required to be used by Tenant hereunder; (iv) Tenant shall not be in default after the applicable notice and cure periods under any of the terms and provisions hereof at the time of any such proposed transfer or assignment; (v) the use of the Premises by such transferee or assignee shall not violate any agreements affecting the Premises, Landlord or other tenants or occupants in the Airport and shall not disrupt the concession mix within the Terminal as determined in the reasonable discretion of Landlord; (vi) except as may otherwise be prohibited under federal securities laws, notice of any proposed transfer or assignment shall be given to Landlord at least thirty (30) days prior to its proposed effective date, and there shall be delivered to Landlord instruments evidencing such proposed transfer or assignment and the agreement of such transferee or assignee to assume and be bound by all the terms, conditions and covenants hereof, all in form reasonably acceptable to Landlord; and (vii) Tenant shall continue to remain fully liable for the payment of all sums due and the performance of all the terms and conditions hereof.

(c) Tenant shall not sublet the Premises or any part thereof without having first obtained the prior written consent of Landlord. In the event Tenant requests permission to sublease, the request shall be submitted to Landlord prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the subtenant, the area or space to be subleased, the rental to be charged, the type of business to be conducted, recent audited financial statements and history and all other information requested by Landlord shall be specified. In the event of an assignment or sublease where the rental per square foot established in the sublease exceeds the rental per square foot established in this Sublease, Tenant shall pay to Landlord as Additional Rent the excess of the rental received from the transferee or subtenant over that specified to be paid by Tenant herein per square foot. Should any method of computation of rental to be paid by a transferee or subtenant, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Premises by Tenant exceeds the rental paid to Landlord for said proportionate area of the Premises.

(d) If Tenant is a corporation, limited liability company, association or partnership which, under the current laws, rules or guidelines promulgated by the governmental body or agency having jurisdiction and authority to promulgate the same, is not deemed a public corporation, or is an unincorporated association or partnership, the transfer, assignment or hypothecation, in the aggregate of more than a controlling interest of the total outstanding voting stock or voting interests in such corporation, limited liability company, association or partnership shall be deemed an assignment and transfer within the meaning and provisions hereof.

(e) Notwithstanding anything to the contrary set forth in this Article XIV and regardless of any Landlord approval noted herein, any and all proposed assignments, transfers and subletting and/or any other arrangement pursuant to which Tenant authorizes any other Person to use and occupy the Premises shall also be subject to the written consent of American and the Authority determined in their sole and absolute discretion and not be effective until any such required consents of American and the Authority have been obtained.

ARTICLE XV. WASTE OR NUISANCE

Section 15.01 WASTE OR NUISANCE. Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, invitees, subtenants or agents to, injure, deface or otherwise harm the Premises, Concession Area, Terminal or the Airport, nor commit any waste upon the Premises, Concession Area, Terminal or the Airport, and shall not place a load upon the floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry. Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, subtenants or agents to, commit any nuisance or other act or thing which may constitute a menace or which may affect either American's operation of the Terminal, Landlord's operation of the Concession Area or the Authority's operation of the Airport or which may disturb the quiet enjoyment of any other occupant or tenant of the Airport. Tenant shall not use or permit to be used any medium that might constitute a nuisance, such as loudspeakers, sound amplifiers, tape decks, compact disc players, radios, televisions, or any other sound-producing or other device which will carry sound or objectionable odors outside the Premises except as may otherwise be approved in advance in writing by Landlord and, upon notice from Landlord to Tenant's business representative at the Premises, Tenant shall cause any such noise or odors to cease immediately. Tenant shall not allow any use of the Premises or any other portion of the Concession, Area, Terminal and/or the Airport in a manner which is a source of annoyance, disturbance or embarrassment to Landlord, American and/or the Authority, or to the other tenants and occupants of the Concession Area, Terminal and/or the Airport or which is deemed by Landlord or American, in their sole discretion, as not in keeping with the character of the Concession Area, Terminal and/or Airport. The Premises shall not be used for any unlawful or immoral purpose or which will

invalidate or increase the premiums on any of the Landlord's, American's or the Authority's insurance.

ARTICLE XVI. TRADE NAME, TRADEMARKS AND THE JOINT MARKETING FUND

Section 16.01 **TRADE NAME.** Tenant shall operate its business in the Premises under the name specifically set forth in the Data Sheet ("**Trade Name**") and shall not change the Trade Name without the prior written approval of Landlord, which approval shall not be unreasonably withheld or change character of the business operated in the Premises, including, without limitation, Tenant's Permitted Use, without the prior written approval of Landlord, which may be withheld in Landlord's absolute discretion.

Section 16.02 **TRADEMARKS.** "**Trademarks**" means the trademarks, trade names, logos, service marks, trade styles, trade dress and other proprietary marks of American and its Affiliates, including American Eagle, Inc. Tenant acknowledges that the Trademarks are and will remain at all times the exclusive property of American and its Affiliates. No interest in, license or other right to use the Trademarks is granted or may be deemed to granted to Tenant under this Sublease or otherwise. Tenant may not make any use of the Trademarks, or any colorable imitation or abbreviation thereof, including any reference by advertising or otherwise to the names "American Airlines", "American Airlines, Inc.", unless such use or reference has been specifically approved in writing by American in advance.

Section 16.03 **JOINT MARKETING FUND.** Landlord shall cause to be provided a central marketing and promotional program which, in Landlord's sole judgment, will serve to generally market and promote the overall concession operations at the Terminal or on any item that may enhance the overall passenger experience at the Terminal. Tenant, along with other concession facility operators, will contribute to the fund for this program which shall be known as the "**Joint Marketing Fund**". Tenant shall contribute during each month, as Tenant's share to the Joint Marketing Fund, and pay to Landlord as Additional Rent, an amount equal to Ex. 2.a. of Tenant's monthly Gross Receipts. This amount is payable to Landlord and must be paid no later than the fifteenth (15th) day following the end of each Lease Month. If Tenant is unable to calculate actual Gross Receipts in time to make the required monthly payment to the Joint Marketing Fund, the payment may be based on an estimate of monthly Gross Receipts. Any and all such estimated payments must be adjusted at the end of each 6-month period of each Lease Year. Within thirty (30) days after the end of each such 6-month period, Tenant must submit a report to Landlord reconciling estimated and actual Gross Receipts and showing any under or overpayments to the Joint Marketing Fund. A check for any underpayments must accompany the reconciliation. All overpayments will be credited to the next payment(s) due from Tenant for its contributions to the Joint Marketing Fund; or, if the Sublease has expired or has been terminated for any reason other than a default by Tenant, overpayments shall be refunded, without interest, to Tenant within sixty (60) days of the Sublease termination date by Landlord. Landlord shall not be obligated to expend more for marketing and promotional programs than is actually collected from Tenant and other concession facility operators in the Terminal. Any services and personnel so provided shall be under the exclusive control and supervision of Landlord, who shall have the sole authority to employ and discharge personnel, retain third-party independent contractors and to establish all budgets with respect to the Joint Marketing Fund. The primary purpose, but in no way a limitation, of the Joint Marketing Fund, will be to fund intra-Terminal promotional and advertising programs such as permanent directories, graphics, take-one directory pamphlets and establishing customer service and training programs with respect to the operations of the concession facilities in the Terminal, such as customer surveys, "secret shopper" programs and sales technique seminars, sales/service incentive awards for Tenant and other concession operators' employees or on any other items that may enhance the user's overall experience in the Terminal. Landlord shall conduct quarterly meetings to discuss the promotional and advertising programs and customer service and training programs. In the event the Premises is located within an expansion of or a new area within the Terminal

where a grand opening date or grand opening events shall be set by Landlord, then Tenant shall also pay an initial Joint Marketing Fund assessment in the amount set forth in the Data Sheet in addition to Tenant's monthly contributions to the Joint Marketing Fund, such initial assessment to be payable in one lump sum within sixty (60) days prior to the Rental Commencement Date. Landlord reserves the right at any time to terminate the Joint Marketing Fund and, in such event, shall notify Tenant in writing. Thereafter, in the event of such termination, Tenant shall no longer be obligated to make any further contributions to the Joint Marketing Fund and any remaining funds previously contributed to the Joint Marketing Fund shall be used by Landlord to promote the overall concession program and facilities within the Terminal. Landlord, following any such termination, also reserves the right to reinstate the Joint Marketing Fund and, in such event, shall notify Tenant in writing and thereafter, Tenant, upon any such reinstatement, shall immediately recommence contributions to the Joint Marketing Fund in accordance with this Section 16.03. Upon the expiration or earlier termination of the Concession Area Lease, Landlord is required to remit any unused monies in the Joint Marketing Fund in equal shares to American and the Authority.

ARTICLE XVII. DAMAGE AND DESTRUCTION

Section 17.01 **PARTIAL DESTRUCTION.** (a) Landlord and American shall not be required to make reparation for any injury or damage by fire or other cause, or to make any restoration or replacement of any Fixed Improvements, Refurbishments, or any other real or movable property located or installed in the Premises or in the Concession Area by or on behalf of Tenant, except as otherwise provided herein.

(b) In the event the Fixed Improvements or Refurbishments are damaged by any casualty covered under an insurance policy required to be maintained by Tenant pursuant to this Sublease, then Tenant shall repair the same as soon as reasonably possible (following any repair of Base Building Work by American that may be necessary to permit Tenant repairs to proceed) and this Sublease shall continue in full force and effect. In the event the Fixed Improvements or Refurbishments are damaged by any casualty not covered under any insurance policy required to be maintained by Tenant pursuant to this Sublease, then Landlord may, at Landlord's option (1) repair such damage at Landlord's expense and continue this Sublease in full force and effect, or (2) give written notice to Tenant within ninety (90) days after the date of occurrence of such damage of Landlord's intention to terminate this Sublease as of the date of the damage; provided, however, that if such damage is caused by an act or omission to act of Tenant, then Tenant shall repair such damage, promptly at its sole cost and expense. Any repair or restoration of the Premises by Landlord after the termination of this Sublease shall not be deemed to reinstate this Sublease or give Tenant any right to have this Sublease reinstated. In the event Landlord elects to terminate this Sublease under this section, Tenant shall have the right, within thirty (30) days after receipt of the notice from Landlord, to notify Landlord in writing of Tenant's intention to repair such damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible. If Tenant does not give such notice within the above thirty (30) day period, this Sublease shall be terminated as of the date specified by Landlord in its notice to Tenant.

Section 17.02 **TOTAL DESTRUCTION.** If the Concession Area or the Premises are totally destroyed during the Term by any cause whether or not covered by the insurance required under this Sublease (including, without limitation, any destruction required by any authorized public authority), and the Concession Area or the Premises cannot be repaired or replaced within sixty (60) days of such total destruction, this Sublease shall terminate as of the date of such total destruction at the option of American, Landlord or the Authority with a total abatement of Rental obligations as of such date, but without affecting any of Tenant's obligations which may have accrued or other rights or remedies of American, Landlord or Tenant which may have arisen as a result of such termination, including insurance claims based on the destruction.

Section 17.03 **DAMAGE OR DESTRUCTION OF THE TERMINAL.** If fifty percent (50%) or more of the Terminal shall be damaged or destroyed by an insured risk, or if twenty-five percent (25%) or more of the Terminal shall be damaged or destroyed by an uninsured casualty, notwithstanding that the use and occupancy of the Premises is not materially affected thereby, and if as a result of any such damage or destruction American's flight operations at the Terminal are suspended or more than fifty percent (50%) curtailed for a period of sixty (60) days or more, Landlord shall have the right to terminate this Sublease within ninety (90) days from the date of such damage or destruction. In such event, this Sublease shall terminate upon a mutually agreeable date (or, in the absence of a mutually agreed upon date, on the date reasonably specified by Landlord or American which shall be within one hundred eighty (180) days from the date of such damage or destruction) and Tenant, upon such termination, shall surrender the Premises to Landlord. American shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Terminal; and Landlord shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Concession Area or the Premises; provided, however, Tenant shall not be obligated to repair any damage or destruction to its Fixed Improvements or Refurbishments pursuant to Section 17.01 or 17.04 to the extent and for so long as any damage or destruction to the Terminal precludes such repairs to the Concession Area, the Premises, Fixed Improvements or Refurbishments.

Section 17.04 **DAMAGE OR DESTRUCTION NEAR END OF TERM.** If, during the last Lease Year of the Term, more than twenty-five percent (25%) of the Premises is partially destroyed or damaged, either party may at its option terminate this Sublease as of the date of occurrence of such destruction or damage by giving written notice to the other of its election to do so within twenty-five (25) days after the date of occurrence of such destruction or damage; provided, however, if Landlord elects to terminate this Sublease pursuant hereto, Tenant shall have the right within fifteen (15) days after receipt of the required notice to notify Landlord in writing of Tenant's intention to repair such destruction or damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible.

Section 17.05 **ABATEMENT OF RENTALS, REMEDIES.** If twenty-five percent (25%) or more of the Premises is destroyed or damaged, and such destruction or damage materially and adversely impairs or interferes with Tenant's use and occupancy of the Premises as reasonably determined by Landlord and will be repaired pursuant to this Sublease, then in addition to any other remedies which may apply under this Sublease, Landlord and Tenant shall negotiate in good faith to reach a mutually satisfactory agreement on an equitable abatement, for the period during which such damage and repair continues, of the amounts which may be due and owing as Rentals, which abatement shall be based on any projected resulting reduction in Tenant's Gross Receipts. Except for abatement of Rentals (if any), Tenant shall have no claim against Landlord or American for any damage suffered by reason of any such damage, destruction, repair or restoration unless said damage is caused by the gross negligence or willful misconduct of Landlord or American, nor shall Tenant have any claim against the Authority for any such damage regardless of its cause. It is understood that, in the application of the foregoing Sections in this Article XVII, American's and Landlord's obligations shall be limited to repair and restoration of the Base Building Work for the Premises to, as nearly as possible, a condition and quality as existed at the commencement of Tenant's Work hereunder. In no event shall Landlord or American be responsible to repair or restore any portion of the Premises relating to Tenant's Work and/or installed by Tenant in the Premises including, but not limited to, Tenant's Fixed Improvements, Refurbishments, Operating Equipment, personal property, products and inventory.

Section 17.06 **WAIVER.** Tenant hereby expressly waives the provisions of Section 227 of the New York Real Property Law, and of any successor law of like import then in force; and Tenant agrees that the provisions of this Sublease shall govern and control in lieu thereof.

ARTICLE XVIII. CONDEMNATION

Section 18.01 **CONDEMNATION.** (a) If more than thirty percent (30%) of the Floor Area of the Premises shall be taken or condemned for any public or quasi-public use under any governmental law, ordinance or regulation or by the right of eminent domain or in the event of a private conveyance, by purchase, sale or otherwise, in lieu thereof (**"Taking"**), this Sublease shall terminate as of the date of such Taking; and the Term hereof shall cease as such date of Taking and all Rentals shall be abated during the unexpired portion of this Sublease, effective on the date physical possession is commenced by the taking or condemning authority.

(b) If thirty percent (30%) or less of the Floor Area of the Premises should be taken or condemned as aforesaid, this Sublease shall not terminate; rather, the amounts which may be due and owing as Rentals during the unexpired portion of the Term (or for such shorter period during which such Taking or condemnation shall continue) shall be reduced proportionally based on the projected reduction, if any, in Tenant's Gross Receipts as mutually agreed to by Landlord and Tenant (and, if unable to agree, Landlord's reasonable decision with respect thereto shall be conclusive and binding) effective on the date physical possession is commenced by the taking or condemning authority, such reduction to end on the date (if such date falls during the Term) that the Premises is returned to Tenant in a condition which reasonably allows for the commencement of business; provided, however, that in all events any reduction under this section in the Authority's allocated share of Rentals shall require the prior written approval of the Authority. If the taking or condemning authority does not specify the actual portions of floor area of the Premises to be taken or condemned as aforesaid, then Landlord, Tenant and American shall endeavor to agree on such actual portions (and, if they are unable to so agree, American's reasonable decision with respect thereto shall be conclusive and binding).

(c) A voluntary sale or transfer of interest of all or any part of the Premises or the public areas in the Terminal by Landlord or American to any public or quasi-public body, agency, person or other entity having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a Taking under the power of eminent domain for the purposes of Article XVIII. Tenant hereby waives the provisions of any statute or other law that may be in effect at the time of the occurrence of any such Taking under which a lease/sublease is automatically terminated or pursuant to which a tenant is given the right to terminate a lease/sublease by reason of such a Taking.

Section 18.02 **AWARD.** All compensation awarded for any Taking or condemnation (or, in either case, the proceeds of a private sale in lieu thereof) of the Premises shall be the property of the party entitled to any such compensatory award under the Authority Lease and to the extent Tenant is not entitled to any such compensatory award under the Authority Lease, Tenant hereby assigns its interest in any such award to American. The distribution of any such compensatory awards shall be made to the Authority, American, Landlord, if any, and Tenant, if any, as set forth in the Authority Lease.

ARTICLE XIX. DEFAULTS, REMEDIES AND DAMAGES

Section 19.01 **EVENTS OF DEFAULT.** The occurrence, at any time prior to or during the Term, of any one (1) or more of the following events (referred to herein, singly, as an **"Event of Default"** and collectively as **"Events of Default"**) shall be an Event of Default by Tenant under this Sublease:

(a) Tenant fails to pay any Rentals or any other charges or sums whatsoever due hereunder (including without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure so to perform) for more than five (5) days after written notice from Landlord to Tenant that such Rentals or any other charges or sums whatsoever due

hereunder were not received on the date required for payment pursuant to this Sublease together with all Late Interest accrued from the due date, provided, that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws and, provided, however, if Landlord gives such written notice once during a twelve (12) month period and the delinquent payment has not been fully cured (including Late Interest), no further written notice of default shall be required with respect to that payment or any other payment during such twelve (12) month period to establish a payment default and, thereafter, during such twelve (12) month period an Event of Default shall be deemed to have occurred if any payment under this Sublease is not made when due and such failure continues for a period of five (5) days after such payment was due; or

(b) Tenant fails to perform any other of the terms, conditions, or covenants of this Sublease to be observed or performed by Tenant for more than twenty (20) days after written notice from Landlord to Tenant of such default (unless such default cannot be cured within said twenty (20) days, in which event Tenant shall not be deemed to be in default hereunder if Tenant shall have commenced to cure said default promptly within said twenty (20) days and shall thereafter proceed to prosecute such cure to completion with all reasonable dispatch and diligence, provided that in no event shall such cure period extend beyond seventy-five (75) days or such longer period of time as is approved by Landlord in writing, and if Tenant's cure period is so extended, Tenant must, within five (5) days after the written extension notice, provide a written plan to Landlord outlining all steps Tenant is taking to cure the default and when the cure shall be completed), provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws; or

(c) Tenant fails to submit any statement or report required on or before the date required by this Sublease, including without limitation the statements and reports required by Article III, and such failure continues for five (5) days after written notice by Landlord, provided such notice shall not be required if Landlord has previously given two (2) notices of such a failure during the preceding twelve (12) month period; or

(d) Tenant fails to commence construction of Tenant's Work within twenty (20) days of the Authority's approval of the TAA for such Tenant's Work and such failure is not occasioned by reason of Force Majeure or due to delays caused by Landlord or American; or

(e) Tenant fails to complete Tenant's Work, move into and merchandise/stock the Premises with high-quality goods, products or services and to initially open for business on or before the Latest Rental Commencement Date; or

(f) Tenant fails to operate continuously in the manner and during the hours established by Landlord pursuant to Section 7.02 hereof or for the Permitted Use or discontinues its business operations in the Premises for a period in excess of forty-eight (48) consecutive hours; or

(g) Tenant's abandonment of the Premises, or permitting this Sublease to be taken under any writ of execution or similar writ or order; or

(h) Tenant fails to comply with any obligation as a result of any inspection or audit and such failure continues for ten (10) days after written notice from Landlord to Tenant of such failure; or

(i) If applicable, the failure of Tenant to obtain and maintain continuously throughout the Term, its eligibility and certification from the Authority of its M/W/DBE status and/or to renew such eligibility and certification as may be required by the Authority from time to time and such failure shall continue for a period of twenty (20) days; or

(j) Tenant fails comply with any of the other operational requirements set forth in Section 7.02 or any of the exhibits referenced therein (such as compliance with staffing/personnel, street pricing or fails to achieve the Minimum Performance Standards, for example); or

(k) Tenant shall fail to carry insurance as required under this Sublease on the date of such failure or to comply with any applicable law, rule or regulation concerning security, and such failure continues for forty-eight (48) hours after written notice from Landlord thereof; or

(l) A governmental authority, board, agency or officer with competent jurisdiction terminates or suspends any certificate, license, permit or authority held by Tenant without which Tenant shall not be lawfully empowered to conduct its business operations in the Premises; or

(m) Except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within thirty (30) days after it is begun, or if Tenant shall file or consent to a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of substantially all or general payment of debts; and/or

(n) Any act or omission to act by Tenant which, directly or indirectly, puts Landlord in default of its obligations to American under the Concession Area Lease or puts Landlord in default of its obligations to the Authority under the Operator Permit;

then, during such time as such Event(s) of Default is/are continuing, Landlord may at any time, at Landlord's option, give to Tenant five (5) days' notice of termination of this Sublease (which shall be in lieu of any notice required under New York law) and, in the event such notice is given, this Sublease and the Term shall come to an end and expire (whether or not said Term shall have commenced) upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date, but Tenant shall remain liable for damages and all other sums payable pursuant to the provisions of Section 19.03.

Section 19.02 REMEDIES. (a) If Tenant shall default in the payment when due of any installment of Rentals or if Tenant shall default in the performance of any of the other terms, provisions, conditions or covenants of this Sublease, or if this Sublease and the Term shall expire and come to an end as provided in Section 19.01: (1) Landlord and its agents and servants may immediately, or at any time after such default or after the date upon which this Sublease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or by force or otherwise (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and dispossess Tenant and any other Person from the Premises and remove any and all of their property and effects from the Premises; and/or (2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises, from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to

collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Sublease or otherwise to affect any such liability; Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Sublease or otherwise affecting any such liability.

(b) Tenant hereby waives the service of any notice of intention to re-enter or to institute legal proceedings to that end which may otherwise be required to be given under any present or future law. Tenant, on its own behalf and on behalf of all Persons claiming through or under Tenant, including all creditors, does further hereby waive any and all rights which Tenant and all such persons might otherwise have under any present or future law to redeem the Premises, or to re-enter or repossess the Premises, or to restore the operation of this Sublease, after (1) Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or (2) any re-entry by Landlord, or (3) any expiration or termination of this Sublease and the Term, whether such dispossess, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Sublease. The words "re-enter", "re-entry" and "re-entered" as used in this Sublease shall not be deemed to be restricted to their technical legal meanings. In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord shall have the right to enjoin such breach and the right to invoke any other remedy allowed by law or in equity as if re-entry, summary proceedings and other special remedies were not provided in this Sublease for such breach. The right to invoke the remedies hereinbefore set forth in this Sublease is cumulative and shall not preclude Landlord from invoking any other remedy allowed by law or in equity.

(c) No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Sublease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Sublease for such previous breach and shall have the remedies provided herein.

(d) In the event of re-entry by Landlord, Landlord may remove all Persons and property from the Premises; and such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, with notice but without resort to legal process and without Landlord being deemed guilty of trespass, conversion or becoming liable for any loss or damage which may be occasioned thereby. In the event Tenant shall not remove its property from the Premises within five (5) days after Tenant has vacated the Premises, then such property shall be deemed abandoned by Tenant; and Landlord may dispose of the same without liability to Tenant subject to the rights of the City of New York, the Authority, American and their designees to such property. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rental then due, then, after the property has been stored for a period of thirty (30) days or more, Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in this subsection 19.02(d).

(e) Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any successor law of like import then in force, in connection with any

holdover summary proceedings which Landlord may institute to enforce the foregoing provisions of this Sublease.

Section 19.03 **DAMAGES.** (a) If this Sublease and the Term shall expire and come to an end as provided in Section 19.01, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 19.02(a), or by or under any summary proceeding or any other action or proceeding, then, in any of such events:

(1) Tenant shall pay to Landlord, American and the Authority all Rentals and other charges payable under this Sublease by Tenant to Landlord to the date upon which this Sublease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be; and

(2) Tenant shall also be liable for and shall pay to Landlord, as damages, any deficiency ("**Deficiency**") between the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 19.02(a) for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Sublease or Landlord's re-entry upon the Premises and with such reletting including, but not limited to, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and other expenses of preparing the Premises for such reletting). Any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Sublease for payment of installments of Guaranteed Rent, Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding. Solely for the purposes of this Section 19.03(a)(2), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have terminated or expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted, from time to time, to reflect any increases which would have been payable pursuant to any of the provisions of this Sublease including, but not limited to, the provisions of the Data Sheet and Section 2.01 of this Sublease if the Term hereof had not been terminated; and

(3) At any time after the Term shall have expired and come to an end or Landlord shall have re-entered upon the Premises, as the case may be, whether or not Landlord shall have collected any monthly Deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, as and for liquidated and agreed final damages, a sum equal to the amount by which the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of four percent (4%) per annum. If, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting. Solely for the purposes of this Section 19.03(a)(3), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted to reflect any increases preceding such event pursuant to the provisions of the Data Sheet and Section 2.01.

(b) If the Premises, or any part thereof, shall be relet together with other space in the Concession Area, the

rents collected or reserved under any such reletting and the expenses of any such reletting shall be equitably apportioned for the purposes of this Section 19.03. Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Guaranteed Rent reserved in this Sublease. Nothing contained in Sections 19.01, 19.02 or this Section 19.03 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in Section 19.03(a).

Section 19.04. **LANDLORD'S RIGHT TO CURE TENANT'S DEFAULT.** If Tenant shall default in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord, at any time thereafter and without notice (except as notice may otherwise be required to be given to Tenant pursuant to any specific term or provision of this Sublease) may remedy such default for Tenant's account and at Tenant's expense, without thereby waiving any other rights or remedies of Landlord with respect to such default.

ARTICLE XX. BANKRUPTCY OR INSOLVENCY

Section 20.01 **TENANT'S INTEREST NOT TRANSFERABLE.** Neither Tenant's interest in this Sublease, nor any estate hereby created in Tenant, nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the United States Bankruptcy Code, as amended (the "**Code**").

Section 20.02 **ELECTION TO ASSUME SUBLEASE.** Even though this Sublease is a sublease of real property in an airport, the parties contractually agree that this Sublease shall be construed to be a lease of real property in a shopping center within the meaning of Section 365(b)(3) of the Code. If Tenant becomes a Debtor under Chapters 7, 11 or 13 of the Code, and the Trustee (as defined in the Code) or Tenant, as Debtor-In-Possession (as defined in the Code), elects to assume this Sublease for the purpose of assignment to a third party or otherwise, such election and assignment, if any, may only be made if all the terms and conditions of the applicable provisions of the Code are satisfied. If the Trustee or Tenant, as Debtor-In-Possession, fails to elect to assume or reject this Sublease by the 60th day after the entry of the Order for Relief in a case under Chapters 7, 11 or 13 of the Code, this Sublease shall thereafter be deemed rejected and terminated in accordance with Section 365 of the Code. The Trustee or Tenant, as Debtor-In-Possession, shall thereupon immediately surrender possession of the Premises to Landlord, and Landlord shall have no further obligation to Tenant or Trustee hereunder. The acceptance of Rentals by Landlord after the 60th day shall not be deemed a waiver of Landlord's rights herein and under Section 365 of the Code, and Landlord's right to be compensated for damages in such bankruptcy case shall survive.

Section 20.03 **OCCUPANCY CHARGES.** When, pursuant to the Code, the Trustee or Tenant, as Debtor-In-Possession, shall be obligated to pay reasonable use and occupancy charges for the use of the Premises or any portion thereof, such charge shall not be less than the Guaranteed Rent and Percentage Rent and all other monetary obligations of Tenant for the payment of Additional Rent.

Section 20.04 **OTHER LAWS.** The provisions of this Article 20 concerning the rights of Landlord and the obligations of Trustee, Tenant, Debtor (as defined in the Code), Receiver (as defined in the Code), Debtor-In-Possession and each and every permitted assignee are in addition to such rights and obligations provided by law, including applicable provisions of the Code. Nothing contained in this Article 20 shall limit or reduce in any manner whatsoever rights and/or obligations which are otherwise provided by law.

ARTICLE XXI. ACCESS BY LANDLORD, AMERICAN AND THE AUTHORITY

Section 21.01 **RIGHT OF ENTRY.** Landlord, American and the Authority and their respective officers, employees and representatives shall each have the right to enter the Premises for any reasonable purpose (including inspecting the condition of the Premises and any equipment used by Tenant) during ordinary business hours. Tenant shall cooperate upon receipt of any such notice and arrange for its personnel to be available during any such entry. The Authority, American and Landlord and their respective officers, employees and representatives shall each have the further right to enter the Premises to make such repairs, alterations, improvements or additions as they may deem necessary or desirable; and such parties shall be allowed to take all material into and upon the Premises that may be required without the same constituting an eviction of Tenant in whole or in part; and Rentals and other charges reserved hereunder shall not abate while said repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant or otherwise. In exercising such right of entry, Landlord shall use reasonable efforts not to disrupt Tenant's business in the Premises. The Authority, American, Landlord and their agents shall each have the further right to enter the Premises without notice at any time in the event of an emergency. Tenant shall assure Landlord, American and the Port Authority emergency access to all enclosed areas of the Premises either by delivering duplicate keys to the Premises to Landlord's General Manager and American's JFK Airport Manager or by providing emergency telephone numbers by which the Store Manager can be reached on a twenty-four (24) hour basis. Finally, Landlord, during the last six (6) months prior to the expiration of the Term, may enter the Premises for the purpose of exhibiting the same to prospective tenants and their representatives.

ARTICLE XXII. TENANT'S PROPERTY

Section 22.01 **TAXES ON TENANT'S PROPERTY.** Tenant shall be responsible for, and agrees to pay prior to delinquency, any and all taxes and other assessments, levies, fees and other governmental charges and impositions or every kind or nature, regular or special, direct or indirect, presently foreseen or unforeseen, known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (a) Tenant's leasehold interest in the Premises, (b) the Fixed Improvements, the Operating Equipment, all furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Premises by or on behalf of Tenant, and (c) all alterations, additions, or improvements of whatsoever kind or nature, if any, made to the Premises, by or on behalf of Tenant, irrespective of whether any such tax is assessed, real or personal, and irrespective of whether any such tax is assessed to or against, American, the Authority, Landlord or Tenant (collectively, "**Tenant's Taxes**"). Tenant shall provide Landlord with evidence of Tenant's timely payment of such Tenant's Taxes upon Landlord's request. If at any time any of such Tenant's Taxes are not levied and assessed separately and directly to Tenant (for example, if the same are levied or assessed to Landlord, American or the Authority, or upon or against the building containing the Premises and/or the land underlying said building), Tenant shall pay to Landlord Tenant's share thereof as reasonably determined and billed by Landlord. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Tenant's Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Tenant's Taxes described in this Section 22.01.**

Section 22.02 **LOSS AND DAMAGE.** Except with respect to Landlord's own negligence, Landlord shall not be responsible or liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying premises or any part of the premises adjacent to or connected with the Premises or any part of the building of which the Premises are a part, or any other area in Concession Area,

the Terminal or the Airport, or for any loss or damage resulting to Tenant or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes, or (without limiting the foregoing) for any damage or loss of property within the Premises from any cause whatsoever. Tenant shall give immediate notice to Landlord in case of any damage to or destruction of all or any part of, or of accidents occurring within the Premises, or of defects therein, or of any damage to or destruction of any inventory, fixtures or equipment within the Premises. In no event shall American or the Authority have any liability to Tenant whatsoever for the foregoing damage and destruction.

ARTICLE XXIII. HOLDING OVER

Section 23.01 **HOLDING OVER.** If, at the termination or expiration of this Sublease, Tenant has not delivered possession of the Premises to Landlord as required in Section 6.04, and, for any reason, Tenant retains possession of the Premises or any portion thereof, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes either: (a) the creation of a month-to-month tenancy, or (b) the creation of a tenancy at sufferance, in either case upon the terms and conditions set forth in this Sublease; provided, however, that the monthly Guaranteed Rent shall, in addition to all other sums which are to be paid by Tenant hereunder, whether or not as Additional Rent, be equal to double the highest monthly Guaranteed Rent paid in the preceding twelve (12) month period (and prorated in the case of (b) on the basis of a three hundred sixty-five (365) day year for each day Tenant remains in possession), plus Additional Rent accruing during the period of Tenant's occupancy based on a termination for an Event of Default if such unlawful holding over exceeds five (5) days after the natural expiration or earlier termination of the Term. The provisions of this Section 23.01 shall not constitute a waiver by Landlord of any right of re-entry as herein set forth; nor shall receipt of any hold-over rent or other amount under this Sublease or any other act in apparent affirmation of the tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the terms, covenants, or obligations to be performed by or on behalf of Tenant. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Sublease except as otherwise expressly provided. The preceding provisions of this Section 23.01 shall not be construed as consent for Tenant to retain possession of the Premises in the absence of prior written consent thereto by Landlord. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York from and against any and all loss, claims, demands, liabilities, damages (including, without limitation, consequential damages), costs and expenses (including, without limitation, attorneys' fees and expenses) resulting from any failure by Tenant to surrender the Premises in the manner and condition required by this Sublease upon the expiration of the Term or earlier termination of this Sublease, including, without limitation, any claims made by any proposed new tenant founded upon such failure.**

Section 23.02 **SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the parties hereto shall inure to and be imposed upon the respective heirs, executors, administrators, successors and assigns of the said parties; and, if there shall be more than one (1) entity or individual comprising Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant unless the assignment to such assignee has been approved in advance by Landlord in writing as required by Article XIV.

ARTICLE XXIV. RULES AND REGULATIONS

Section 24.01 **RULES AND REGULATIONS.** Tenant shall at all times comply with any and all Rules and Regulations (as hereinafter defined) in effect at the Airport or the Terminal. The term "**Rules and Regulations**" means all rules and regulations governing the conduct and/or operations of the Airport or the Terminal as may be promulgated from time to time, by any governmental authorities, including but not limited to, the FAA, the U.S. Department of Transportation ("**DOT**"), the TSA and/or the EPA, and

any rules and regulations promulgated from time to time by Landlord or American specifically for or otherwise affecting conduct and/or operations in the Terminal and/or Concession Area, provided that Landlord's and American's rules do not have an unreasonable and material adverse discriminatory impact on concession operations within the Concession Area. Landlord shall not have any duty or obligation to enforce the Rules and Regulations or the terms and conditions in any other lease or sublease as against any other tenant; Landlord and American shall not be liable to Tenant for violations of the same by other tenants, invitees, their servants, employees, contractors, subcontractors and agents. Tenant's failure to keep and observe the Rules and Regulations shall constitute a material breach of the terms hereof in the same manner as if the Rules and Regulations were contained herein as covenants.

ARTICLE XXV. QUIET ENJOYMENT

Section 25.01 **LANDLORD'S COVENANT.** Subject to the terms and conditions hereof, the terms and provisions of the Concession Area Lease, the Authority Lease as well as the Consent Agreement, upon payment by Tenant of Rentals herein provided and other charges payable by Tenant hereunder, and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term without hindrance or interruption by Landlord.

ARTICLE XXVI. PERFORMANCE GUARANTY

Section 26.01 **PERFORMANCE GUARANTY.** (a) Tenant shall provide Landlord with the Performance Guaranty in the amount specified in the Data Sheet, which shall be at Landlord's option, in the form of either immediately available funds or the unconditional, irrevocable standby letter of credit ("**Letter of Credit**"), as security for the faithful observance and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed. Such Letter of Credit must be in form and content as set forth in **Exhibit H**. No surety bonds shall be permitted. If Landlord permits Tenant to provide a Letter of Credit, the following shall be applicable. Such Letter of Credit must be for a term of not less than one (1) year which term shall be automatically renewed for successive one (1) year periods, unless the Bank gives not less than sixty (60) days prior written notice that it will not so renew the Letter of Credit for such successive term and the last term of the letter of credit shall end not less than sixty (60) days after the Expiration Date. If such letter of credit is not automatically renewed as aforesaid, Tenant agrees to cause the Bank to renew such letter of credit, from time to time, during the Term, at least ninety (90) days prior to the expiration of said letter of credit or any renewal or replacement, upon the same terms and conditions. In the event of any transfer of said Letter of Credit pursuant to Section 26.05, and notice of such transfer to Tenant, Tenant, within twenty (20) days thereafter, shall cause a new Letter of Credit to be issued by said Bank to the transferee, upon the same terms and conditions, in replacement of the Letter of Credit so transferred and Landlord agrees that, simultaneously with the delivery of such new Letter of Credit, it will return to said Bank the Letter of Credit being replaced. The Letter of Credit shall be held in trust by Landlord for the purposes set forth in this Article and shall not be transferred except for transfer (a) to an agent for collection, or (b) pursuant to the provisions of Section 26.05. In the event Tenant defaults beyond any applicable grace period hereunder in the performance of its obligations to issue a replacement Letter of Credit, or in the observance or performance of Tenant's agreement to cause the Bank to renew the Letter of Credit, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank to make payment to Landlord of the entire sum of the Letter of Credit or the undrawn portion thereof, as the case may be, which sum may be held by Landlord as the Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article. If payment of the entire sum of the Letter of Credit or the undrawn portion

thereof is made to Landlord by reason of Tenant's failure to renew or replace the Letter of Credit in accordance with the foregoing provisions of this Article, Landlord shall have the right, at any time on behalf of Tenant, to replace said Performance Guaranty with a new Letter of Credit issued by the Bank or any other bank selected by Landlord, in Landlord's sole discretion, and Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's agent and attorney-in-fact to cause the Bank or any such other bank selected by Landlord to issue such a replacement Letter of Credit. The Letter of Credit provides for partial drawings. In the event Tenant defaults in the payment when due of an installment of Rentals and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default or if this Sublease and the Term shall expire and come to an end, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, then Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, may from time to time, draw on the Letter of Credit in one (1) or more drawings for the amount of any Rentals then due and for any amount then due and payable to Landlord under this Sublease. In the event of a partial drawing, as provided in the immediately preceding sentence, Tenant shall, within five (5) days after demand, cause the Bank to issue an amendment to the Letter of Credit restoring the amount available thereunder to the amount required under this Sublease. Notwithstanding anything to the contrary set forth in this Sublease, including, but not limited to, the foregoing provisions of this Article, in addition to all rights granted to Landlord pursuant to the provisions of the Sublease, if this Sublease and the Term shall expire and come to an end as provided in Article XIX, or by or under any summary proceeding, or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank to make payment to Landlord of the entire sum of the Letter of Credit or the undrawn portion thereof, as the case may be, which sum shall be held by Landlord as a Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article.

(b) Any Performance Guaranty held by Landlord in the form of immediately available funds (cash) shall be held subject to the provisions of any and all legal requirements applicable thereto. Landlord agrees that, if not prohibited by law or the general policies of lending institutions in New York, Landlord shall deposit the Performance Guaranty held by Landlord either in an account that does not bear interest or in an interest-bearing account at a bank or banks selected by Landlord, and all interest, if any, accruing thereon shall be added to and become a part of the Performance Guaranty and shall be retained by Landlord under the same conditions as the principal sum held as the Performance Guaranty. Notwithstanding anything to the contrary set forth in the preceding sentence of this Section 26.01(b), in the event the Performance Guaranty is held in an interest-bearing account, Landlord shall be entitled to retain the one percent (1%) administrative fee permitted by law to by landlords with respect to security deposits.

Section 26.02 **APPLICATION OF PERFORMANCE GUARANTY.** In the event Tenant defaults in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, including, but not limited to, the covenant for the payment of Rentals, beyond the applicable notice and cure periods provided under this Sublease for curing such default, Landlord may use, apply or retain the whole or any part of any Performance Guaranty held by Landlord under any of the provisions of Section 26.01, to the extent required for the payment of any Rentals or performance of any other obligations, without thereby waiving any other rights or remedies of Landlord with respect to such default, and Landlord shall hold the remainder of such Performance Guaranty as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed with the same rights as hereinabove set forth to use, apply or retain all or any part of such remainder in the event of any further default by Tenant under this Sublease.

Section 26.03 **RESTORATION OF PERFORMANCE GUARANTY.** If Landlord uses, applies or retains the whole or any part of the Performance Guaranty held by Landlord under any of the provisions of this Article, Tenant, promptly after notice thereof, shall deliver to Landlord, in cash or by cashier's check or certified check, payable to the order of Landlord, the sum necessary to restore the Performance Guaranty to the sum required under this Sublease.

Section 26.04 **RETURN OF SECURITY.** The Letter of Credit and/or any remaining portion of any Performance Guaranty then held by Landlord for the performance of Tenant's obligations under this Sublease as security shall be returned to Tenant after (a) sixty (60) days following the Expiration Date and (b) the full observance and performance by Tenant of all of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed.

Section 26.05 **TRANSFER OF LETTER OF CREDIT.** In the event of a transfer of Landlord's interest in this Sublease, Landlord shall transfer the Letter of Credit and/or any remaining portion of any Performance Guaranty then held by Landlord as security for the performance of Tenant's obligations under this Sublease to the transferee, and Landlord shall thereupon be released from all liability for the return of such security; Tenant agrees to look solely to the transferee for the return of any such security and it is agreed that the provisions of this sentence shall apply to every sale or transfer of the Premises or Landlord's interest in this Sublease by Landlord named herein or its successors, and to every transfer or assignment made of any such security. Any transferee shall be deemed to have agreed that any Letter of Credit or Performance Guaranty transferred to such transferee pursuant to this Section shall be held in trust for the purposes of this Article.

Section 26.06 **NO ASSIGNMENT OF SECURITY BY TENANT.** Tenant agrees that it will not assign, mortgage or encumber, or attempt to assign, mortgage or encumber, the Letter of Credit or any Performance Guaranty held by Landlord under this Sublease, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, mortgage, encumbrance, attempted assignment, attempted mortgage or attempted encumbrance. Landlord shall not be required to exhaust its remedies against Tenant before having recourse to the Letter of Credit, the Performance Guaranty or any other security held by Landlord. Recourse by Landlord to the Letter of Credit, the Performance Guaranty or any other security held by Landlord shall not affect any remedies of Landlord which are provided in this Sublease or which are available in law or equity.

ARTICLE XXVII. MISCELLANEOUS

Section 27.01 **WAIVER; ELECTION OF REMEDIES.** One (1) or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same covenant or condition by the other party, and the consent or approval to or of any act by Tenant requiring consent or approval shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act by Tenant. No breach by either party of a covenant or condition hereof shall be deemed to have been waived by the non-breaching party unless such waiver is in writing and signed by a representative of the non-breaching party. The rights and remedies of Landlord hereunder or in any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have elsewhere hereunder or at law or equity, whether or not such Section, subsection or clause expressly so states.

Section 27.02 **ENTIRE AGREEMENT.** This Sublease supersedes all prior agreements between the parties and sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises; and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth

herein (other than the Concession Area Lease, the Consent Agreement and Authority Requirements), and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. **Neither Landlord nor its agents or representatives have made any representation or warranty regarding the profitability of the Premises, the enplaned passenger and/or airline volume in the Terminal and/or the Airport or operating airlines in the Terminal and/or the Airport; and Tenant has not entered into this Sublease in reliance on any such representations, warranties or financial projections prepared or furnished to Tenant by Landlord or its agents or representatives.** No alteration, amendment, change or addition to this Sublease shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party.

Section 27.03 INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint ventures between the parties hereto; it being understood and agreed that neither the method of computation of Rentals, nor any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If this Sublease is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this Sublease on behalf of such corporation, partnership or entity.

Section 27.04 DELAYS; FORCE MAJEURE. **"Force Majeure"** means, strictly in relation to the conditions that may cause a party to be temporarily or partially prevented from performing its obligations to the other party under this Sublease, and not for any other purpose or for any benefit of a third party: (a) strikes, boycotts, lockouts, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of Tenant; (b) embargoes, shortages of material, acts of God, acts of the public enemy, acts of a governmental authority (including, without limitation, the FAA, the DOT, the TSA and the EPA or defense authorities), extreme weather conditions, riots, rebellion, or sabotage, war (declared or undeclared), invasion, insurrection, or terrorism; or (c) any other circumstances for which an affected party is not responsible and which are not within its ability to control in the exercise of commercially reasonable efforts. In the event either party is delayed in the performance of any obligation required by this Sublease, such performance shall be excused (unless the specific provision otherwise provides) for the period of the delay, and performance of any such obligation shall be extended for a period equal to the delay, if and only if the delay is by reason of Force Majeure. However, the time for Tenant's performance of any obligation shall not be extended due to any lack of funds, financial or economic problems of either Tenant or Tenant's architects, contractors, suppliers, agents, consultants and/or employees If Tenant shall claim a delay due to Force Majeure, Tenant must notify Landlord in writing for receipt by Landlord within fifteen (15) days of the first occurrence of an event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming force majeure and the anticipated delay in Tenant's performance. In no event shall any delay extend Tenant's performance beyond a sixty (60) day period without the specific written approval of Landlord. Under no circumstances shall any such condition or delay (unless the specific provision provides for abatement of Rentals), whether such condition or delay is claimed by Landlord or Tenant, excuse or delay Tenant's payment of any Rentals and other charges due hereunder. Further, Landlord's, American's or the Authority's reasonable reduction but not elimination of heat, light, air conditioning or any other services whatsoever to the Terminal or the Premises shall not relieve or excuse Tenant from any of its obligations hereunder.

Section 27.05 NOTICES. Notwithstanding the fact that certain descriptions elsewhere in this Sublease of notices required to be given by one (1) party to the other may omit to state that such notices shall be in writing, any notice, demand, request or other instrument which may be or is required to be given hereunder shall be in writing and sent by (a) United States certified mail, return receipt requested, postage prepaid, (b)

United States express mail, (c) recognized overnight national air courier (such as Federal Express, Airborne or UPS for example), (d) personal delivery or (e) any other overnight method creating a receipt, waybill or other indication of delivery. Notices shall be addressed if to the Landlord, at the address as set forth on the Data Sheet, or such other address or addresses as Landlord may designate by written notice, together with copies thereof to such other parties designated by Landlord, and if to Tenant, the address set forth on the Data Sheet, or such other address or addresses as Tenant shall designate by written notice, together with copies thereof to such other parties designated by Tenant. Notices shall be deemed given on the 3rd day after deposit for notices sent under (a) and (b) above, on the first (1st) day after deposit for notices sent under (c) and (e) above and on the date delivered for notices sent under (d) above. Nothing contained in this Section 27.05 shall preclude, limit or modify Landlord's service of any notice, statement, demand or other communication in the manner required by law, including, but not limited to, any demand for rent under Article 7 of the New York Real Property Actions and Proceedings Law or any successor law of like import.

Section 27.06 **CAPTIONS AND SECTION NUMBERS.** The captions, section numbers, article numbers appearing herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles hereof nor in any way affect this Sublease.

Section 27.07 **BROKER'S COMMISSION.** Each party represents and warrants to the other party that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Sublease, and each party agrees to indemnify the other and hold it harmless from all liabilities arising from any claim due to its own acts for brokerage commissions and finder's fees in connection with this Sublease. Such indemnity shall survive the termination hereof. Notwithstanding the foregoing, each party shall be solely responsible for the payment of any claims for brokerage commissions or finder's fees as a result of such party's retaining a broker or similar entity in connection with this Sublease.

Section 27.08 **RECORDING.** Tenant shall not record this Sublease or any short form or memorandum hereof.

Section 27.09 **FURNISHING OF FINANCIAL STATEMENTS.** Tenant has provided Landlord at or prior to the date of this Sublease with statements reflecting its financial condition and a credit report as of a date within the last twelve (12) months as an inducement to Landlord to enter into this Sublease, and Tenant hereby represents and warrants that its financial condition and credit rating have not materially changed since the date of those statements and reports. Upon Landlord's written request, Tenant shall promptly furnish Landlord, from time to time, but not more frequently than once in any Lease Year, with a copy of its published annual report to stockholders containing its financial statements. Landlord shall treat such financial statements, credit reports and information provided to it confidentially, and shall not disclose them except to Landlord's lenders or otherwise as reasonably necessary for the operation of the Terminal or administration of Landlord's business or unless disclosure is required by any judicial or administrative order or ruling.

Section 27.10 **TENANT'S WAIVERS IN ACTION FOR POSSESSION.** Landlord and Tenant agree that in any action brought by Landlord to obtain possession of the Premises, the parties desire an expeditious resolution of such litigation. Accordingly, Tenant shall not file and hereby waives the right to file any non-compulsory counterclaim in such action. Tenant also shall not file and hereby waives the right to file any defense to such action for possession other than the defense that the default alleged by Landlord did not occur unless Tenant would otherwise be precluded from the filing of any such other defense in a separate action.

Section 27.11 **TRANSFER OF LANDLORD'S INTEREST.** In the event of any transfer or transfers of Landlord's interest in the Premises, the transferor shall be automatically relieved of any and all obligations

on the part of Landlord accruing from and after the date of such transfer, provided that (a) the interest of the transferor, as Landlord, in any funds in the hands of Landlord in which Tenant has an interest shall be turned over, subject to such obligations, to the then transferee; and (b) notice of such sale, transfer or lease shall be given to Tenant as required by law. Landlord also has the right at any time to assign this Sublease to American, the Authority or to any successor operator to American or the Authority in the Terminal or the Airport in the event of the expiration, termination or assignment of the Concession Area Lease without notice to Tenant.

Section 27.12 **FLOOR AREA.** The term "Floor Area" as used in this Sublease means with respect to any leasable area of the Premises the aggregate number of square feet of interior floor space of all floor levels therein, including any mezzanine space which shall be measured: (a) with respect to the front and rear width thereof, from the exterior face of the adjacent exterior or corridor wall, or if none, to the center of the demising partition; and (b) with respect to the depth thereof, from the front of the lease line as shown on **Exhibit A-2** to the exterior face of the exterior wall, or corridor wall, or if none, to the center of the demising partition. No deduction or exclusion from Floor Area shall be made by reason of columns, ducts, stairs, elevators, escalators, shafts or other interior construction or equipment.

Section 27.13 **INTEREST ON PAST DUE OBLIGATIONS.** Any amount due from Tenant to Landlord hereunder which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the lesser of: (a) the prime rate of interest plus four percent (4%); (b) or the highest rate permitted by the laws of the State of New York (collectively, "**Late Interest**") from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant hereunder. The "prime rate of interest" means the average interest rate per annum published in the national addition of The Wall Street Journal "Money Rates" section as of the relevant date of determination under this Sublease. If The Wall Street Journal ceases to publish such an average prime rate, the rate shall be the prime rate established by the commercial bank having an office in the City of New York with the highest net worth and which is a member of the New York Clearing House Association, then establishing and publishing a prime rate, or if no such commercial bank shall establish a prime rate, the rate to be used shall be a comparable rate for the purposes of establishing the cost of money as reasonably determined by Landlord. The parties hereto agree that such late payment charge represents a fair and reasonable estimate of costs and expenses Landlord will incur by reason of any such late payment.

Section 27.14 **LIABILITY OF LANDLORD AND LIMITATION OF DAMAGES.** If Landlord shall fail to perform any covenant, term or condition hereof upon Landlord's part to be performed, and if as a consequence of such default Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the management fees from the concession program in the Terminal received by Landlord; and neither Landlord nor any of the officers, directors, employees, agents, partners or Affiliates of Landlord shall be liable for any deficiency. No shareholder, director, officer, agent or employee of Landlord shall be charged personally or held contractually liable under any term or provision of this Sublease or because of any breach thereof or because of the execution or attempted execution of this Sublease. Landlord (including its shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, special, consequential or exemplary damages or lost profits.

Section 27.15 **EXECUTION OF SUBLEASE; NO OPTION.** The submission of this Sublease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of an option for Tenant to lease, or otherwise create any interest by Tenant in the Premises or any other premises in the Terminal. Execution of this Sublease by Tenant and the return of same to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has executed and delivered this

Sublease to Tenant and the parties have obtained the required Consent Agreement executed by the Authority. Once so executed and delivered by Landlord as aforesaid and the parties have obtained the required Consent Agreement executed by the Authority, this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives and assigns where permitted by this Sublease.

Section 27.16 **GOVERNING LAW.** All obligations of the parties hereunder are performable in Queens County, New York. This Sublease shall be governed by and construed under and in accordance with laws of the State of New York except where any state law shall be preempted by any rules, laws or regulations of the government of the United States of America and all agencies thereof. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible; in any event, all other provisions hereof shall be deemed valid and enforceable to the full extent.

Section 27.17 **SPECIFIC PERFORMANCE OF RIGHTS.** Each party shall have the right to obtain specific performance of any and all covenants or obligations of the other party hereunder except to the extent otherwise provided herein for the benefit of Landlord excusing any such performance by Landlord, and nothing contained herein shall be construed as or shall have the effect of abridging such right.

Section 27.18 **SURVIVAL OF OBLIGATIONS.** All obligations of Tenant hereunder which cannot be ascertained to have been fully performed prior to the end of the Term or any earlier termination hereof shall survive any such expiration or termination. Further, all of the terms, conditions, covenants, provisions, restrictions or requirements imposed upon Tenant hereunder shall be deemed to extend to Tenant's agents, employees, officers, directors, partners, guarantors, contractors, invitees, concessionaires, licensees and subcontractors; and Tenant shall cause all such persons and entities to comply herewith and include any applicable provisions in any agreements, contracts, subcontracts or the like entered into by Tenant with such persons and/or entities with respect to Tenant's activities and operations in the Premises, the Terminal and the Airport.

Section 27.19 **CERTAIN RULES OF CONSTRUCTION.** Time is of the essence in Tenant's performance of this Sublease. Notwithstanding the fact that certain references elsewhere in this Sublease to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Sublease by Tenant, omit to state that such acts shall be performed at Tenant's sole cost and expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant hereto shall be performed or fulfilled at Tenant's sole cost and expense, and all breaches or defaults by Tenant hereunder shall be deemed material. Tenant shall be fully responsible and liable for the observance and compliance by concessionaires, franchisees, subtenants and licensees of Tenant and with all the terms and conditions of this Sublease, which terms and conditions shall be applicable to concessionaires, franchisees, subtenants and licensees as fully as if they were the Tenant hereunder; and failure by a concessionaire, franchisee, subtenant or licensee fully to observe and comply with the terms and conditions of this Sublease shall constitute a default by Tenant. Nothing contained in the preceding sentence shall constitute consent by Landlord to any concession, subletting or other arrangement. Further, although the printed provisions of this Sublease were drawn by Landlord, the parties agree that this circumstance alone shall not create any presumption, canon of construction or implication favoring the position of either Landlord or Tenant; and the deletion of language from this Sublease prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, adverse or opposite of the deleted language.

Section 27.20 **CONFIDENTIALITY.** Any and all information contained in this Sublease or provided to or by Tenant and/or Landlord by reason of the covenants and conditions hereof, economic or otherwise, shall remain confidential between Landlord and Tenant and shall not be divulged to third parties other than American and the Authority except as required to be disclosed by law. Landlord shall be permitted to divulge the contents of statements and reports derived and received in connection with the provisions of Articles 3 and 4 in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Concession Area Lease or in connection with any administrative or judicial proceedings in which Landlord is involved.

Section 27.21 **ATTORNEY FEES.** If at any time after the date that this Sublease has been executed by Landlord and Tenant, either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions hereof or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs and disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Any such amounts due from Tenant to Landlord under this provision shall be considered as Additional Rent hereunder and shall be paid by Tenant to Landlord within twenty (20) days after written demand. Any such amounts due from Landlord to Tenant under this provisions shall be paid by Landlord to Tenant within twenty (20) days after written demand.

Section 27.22 **WAIVER OF TRIAL BY JURY.** Landlord and Tenant desire and intend that any disputes arising between them with respect to or in connection with this Sublease be subject to expeditious resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waives the right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought by either Landlord against Tenant or Tenant against Landlord or any matter whatsoever arising out of, or in any way connected with, this Sublease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Section 27.23 **A.D.A. & OTHER HANDICAP ACCESS AND NON-DISCRIMINATION LAWS COMPLIANCE.** Tenant agrees that with respect to the Premises, its Fixed Improvements and Operating Equipment (including communications equipment) thereon, Tenant shall be responsible for compliance with the Americans with Disabilities Act of 1990 ("**ADA**", 42U.S.C.§§12101 et seq.) and the Regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto ("**ADAAG**"). Within five (5) days after receipt, Tenant shall advise Landlord in writing and provide copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises. Tenant acknowledges that a portion of the Premises is to be used by the traveling public. Tenant shall make available such space to the traveling public on a nondiscriminatory basis, including ensuring access by disabled persons, and shall coordinate its activities and operations with abutting tenants so as to maximize efficient use of available space. If Tenant fails to comply with the requirements of this Section, Landlord, upon reasonable notice to Tenant and an opportunity to cure, shall have the right, but not the obligation, to enter the Premises and perform all necessary tasks to ensure Tenant's compliance with the ADA and other handicap access and nondiscrimination laws and requirements as set forth in this Section 27.23. **Tenant shall indemnify, defend and save harmless Landlord and American from all injury, loss or damage to any Person or property occasioned by Landlord's completion of any necessary tasks to ensure**

compliance with this Section, except to the extent such loss or damage is the result of the gross negligence or willful misconduct of Landlord or American. Tenant shall reimburse Landlord for any and all actual costs plus an administrative fee equal to fifteen percent (15%) of such costs incurred in completing such necessary tasks to ensure Tenant's compliance with this Section, including, but not limited to, reasonable attorneys' and consultants' fees and disbursements and costs of corrective measures.

Section 27.24 **AIRPORT SECURITY.** Tenant shall be fully responsible, at its sole cost, for providing security for the Premises with no right of reimbursement from Landlord. Tenant hereby agrees that it shall take such reasonable security precautions with respect to the Premises and its operations and personnel as Landlord, American and the Authority, in their discretion, may require from time to time. Notwithstanding the foregoing, Tenant shall comply with security policies, regulations, rules, statutes, orders, directives, mandates and/or practices as such now exist or as they may be changed, amended, or replaced with new and different requirements in the future as Landlord, American (including, without limitation, American's FAA-approved "Safety Program" as it is in effect from time to time), the Authority or any local, state or federal agency of competent jurisdiction, including the FAA and/or the TSA, may from time to time require, including, but not limited to, compliance, at Tenant's sole cost and expense, with any background investigation, fingerprinting, verification of citizenship and residency and badging requirements for all of its personnel employed at the Terminal (including Tenant's employees and employees of any of Tenant's contractors, subcontractors, concessionaires, franchisees, subtenants and licensees) and with respect to screening of all of the equipment, supplies, materials, merchandise, goods, products and inventory. **Tenant hereby covenants and agrees with Landlord that Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York and their respective officers, directors, agents, representatives, elected officials and employees from and against any and all liabilities, claims, costs, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing out of or in any way connected with, directly or indirectly, the failure by Tenant to strictly comply with the requirements of local, state and federal law, including, but not limited to, the FAA's, the TSA's, the Authority's, American's and Landlord's rules and regulations concerning the subject matter set forth in this Section 27.24.**

Section 27.25 **NON-DISCRIMINATION AND AFFIRMATIVE ACTION.** With respect to non-discrimination and affirmative action, Tenant, its agents, employees, licensees, contractors and subcontractors shall comply at all times with all of the terms and conditions set forth in **Exhibit I**. Tenant, for itself, its successors in interest, and assigns, as a part of the consideration for the Sublease, shall covenant and agree that: (a) no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (b) in the construction of any improvements on, over, or under the Premises and furnishing of services thereon, no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in such activities, denied the benefits thereof, or otherwise be subject to discrimination; and (c) Subtenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time to time may be applicable to Subtenant's operations at the Premises, whether by reason of agreement between American, the Authority and the United States Government or otherwise. Furthermore, during the performance of this Sublease, the parties hereto hereby incorporate by reference the provisions set forth in 41 CFR § 60-1.4, §60-250.5 and §60-741.5, which provisions apply to all nonexempt contractors and vendors.

Section 27.26 LABOR HARMONY. Tenant agrees that in the use of the Premises or any work performed in or about the Premises that Tenant will employ only labor which can work in harmony with all elements of labor being employed at the Airport. Tenant shall use its best efforts, taking all measures and means, to insure labor harmony in its activities at the Terminal and the Airport, all to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. Tenant particularly recognizes the essential necessity of the continued and full operation of the whole Airport as a transportation center. Tenant shall immediately give oral notice to Landlord (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. If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Tenant or against any of Tenant's operations pursuant to this Sublease which in the opinion of Landlord, American and/or the Authority: (a) physically interferes with the operation of the Terminal or the Airport, or (b) physically interferes with access by the public between the Premises and any portion of the Terminal or the Airport, or (c) physically interferes with access by the public to other areas of the Terminal or the Airport, or (d) physically interferes with the operations of other tenants, concessionaires, lessees or licensees at the Terminal or the Airport, or (e) presents a danger to the health or safety of users of the Terminal or the Airport, persons employed thereat, or to members of the public, whether or not the same is due to the fault of Tenant or is caused by employees of Tenant or of others, Landlord, American and/or the Authority shall have the right at any time during the continuance thereof, by twenty-four (24) hours oral notice, to suspend Tenant's operations hereunder effective at the time specified in such oral notice. During any suspension, Tenant shall cease all its activities and operations hereunder and take such steps to secure and protect the Premises as shall be necessary or desirable. The period of suspension shall end automatically no later than twenty-four (24) hours after the cause thereof has ceased or been cured. While Tenant shall be relieved of its obligation to continually conduct its business in the Premises during a suspension period, suspension shall not relieve Tenant of its payment or reporting obligations hereunder; and there shall be no abatement of Rentals under any circumstances whatsoever unless otherwise approved in writing by Landlord determined in its sole and absolute discretion.

Section 27.27 CROSS DEFAULT. Notwithstanding anything to the contrary contained in this Sublease, a default of Tenant's obligations under the provisions of any other lease with Landlord covering any other concession facilities within the Terminal shall constitute a default by Tenant under this Sublease, entitling Landlord to the rights and remedies provided to it under this Sublease at law, and at equity.

Section 27.28 DISCOUNT TO CERTAIN EMPLOYEES AND CUSTOMER VOUCHERS. Notwithstanding anything to the contrary contained in this Sublease, Tenant is hereby required to give a discount for all merchandise, products and/or services sold and/or rendered hereunder to all individuals employed at the Airport and to all Terminal airline employees. The discount to be given as required under this Sublease shall be in the amount of ten percent (10%) as compared to Tenant's normal non-sale prices offered to the general public and the discounted portion of the sale shall be separately stated. All Tenants shall honor, for reimbursement by American, food and beverage vouchers issued by American from time to time by passengers bearing a boarding pass or other verifying documentation deemed sufficient by American.

Section 27.29 LOCAL BUSINESS ENTERPRISE COMMITMENT. Tenant commits to use good faith efforts to implement an extensive program to utilize Local Business Enterprises in accordance with, and as set forth on, **Exhibit J.**

Section 27.30 TENANT'S CERTIFICATION. Tenant hereby represents and warrants to Landlord that Tenant is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated

and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. Tenant acknowledges that Landlord is executing this Sublease in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing Landlord to enter into and execute this Sublease. In the event of any breach of the foregoing representations and warranties by Tenant, Landlord shall have the right, in addition to any other remedies provided under this Sublease or at law, to immediately terminate this Sublease upon written notice to Tenant. In the event of any such termination by Landlord, Tenant shall, immediately on receipt of Landlord's termination notice, close the Premises for business and surrender possession of the Premises to Landlord without Landlord resorting to any other legal process.

Section 27.31 EARLY TERMINATION. Notwithstanding anything to the contrary contained in this Sublease, in the event Tenant's Gross Receipts for the third (3rd) full Lease Year of the Term of this Sublease shall be less than One Million Dollars ($1,000,000.00), then Tenant shall have the right, at its option, to terminate this Sublease upon one hundred twenty (120) days prior notice to Landlord ("Termination Notice"). For Tenant to exercise its option to terminate this Sublease, Tenant must give the Termination Notice to Landlord no later than sixty (60) days after the end of such third (3rd) full Lease Year and Tenant must have submitted its Annual Statement to Landlord within such sixty (60) day period. Landlord, American and the Authority shall have the right to inspect and/or audit Tenant's Records covering Gross Receipts made under this Sublease to verify that Tenant's Gross Receipts, as reported on such Annual Statement for such third (3rd) full Lease Year, were less than One Million Dollars ($1,000,000.00). In the event Tenant elects to terminate this Sublease as provided herein, then this Sublease shall terminate upon the expiration of one hundred twenty (120) days after the date of the Termination Notice ("Effective Termination Date") and Landlord, American, the Authority and Tenant shall thereafter be released from all obligations hereunder, except for any of Tenant's obligations which shall have accrued or which shall be arising out of events occurring prior to the Effective Termination Date or which are expressly stated to survive the expiration or earlier termination of this Sublease. Under no circumstances shall Landlord or any other third party including American or the Authority have any obligation to Tenant, nor shall Tenant be entitled to any payment from either Landlord or any other third party including American and the Authority for Tenant's Eligible Costs (as defined below) or any other sums if Tenant so elects to terminate this Sublease under this Section 27.31. If Tenant shall not elect to exercise its option to terminate this Sublease or shall to properly exercise such option within the time period as provided in this Section 27.31, then this Sublease shall remain in full force and effect for the remainder of the Term.

[SIGNATURE BLOCKS ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant, personally or by their duly authorized agents, have executed this Sublease as of the day and year first above written.

TENANT:

OAKLEY SALES CORP.,
a Washington corporation

By: Sophie Burdalo

Print Name: Sophie Burdalo

Title: Head of Retail

2.12.07

ATTEST:

By: J. Thompson

Print Name: Jaya Thompson

Title: Retail Property Coordinator

LANDLORD:

WESTFIELD CONCESSION MANAGEMENT, LLC,
a Delaware limited liability company

By: Arnold I. Mayersohn, Jr.

Print Name: Arnold I. Mayersohn, Jr.

Title: Asst. V.P. & Secretary

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

EXEMPTION (4)

DRAWINGS OF NON-PUBLIC AREAS

EXHIBIT B

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN
AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. _____
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of _____, 200_ ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), _____ ("Sublessee"), a (corporation/partnership/limited liability company) organized and existing under the laws of the State of _____ with an office and place of business at _____, whose representative is _____, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate each consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to Paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; (e) or such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee

with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under Paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of Paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably

hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this Paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. (a) The Sublessee acknowledges that it has received, and is familiar with the contents of, a copy of the

Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 (the "City Lease").

(b) In accordance with the provisions of the City Lease, the Port Authority and the Sublessee hereby agree as follows:

(1) This Consent is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(2) The Sublessee shall not pay fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(3) With respect to this Consent, the Sublessee on the termination of the City Lease will, at the option of The City of New York (the "City"), attorn to, or enter into a direct permit on identical terms with, the City;

(4) The Sublessee shall indemnify the City with respect to all matters to the extent described in Section 31 of the City Lease;

(5) The Sublessee shall not engage in the privilege permitted hereunder for any use other than as permitted under the City Lease;

(6) The Sublessee shall use, operate and maintain the privilege granted hereunder in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(7) The failure of the Sublessee to comply with the forgoing provisions shall be an event of default under this Consent, which, after the giving of reasonable notice, shall provide the Port Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have hereunder; and

(8) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to the Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline, the Permittee or the Sublessee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

[Note: Signature Blocks and Notary Forms will be provided in the Consent Agreement to be signed]

EXHIBIT C

MONTHLY STATEMENT & ANNUAL STATEMENT FORMS

EXHIBIT C

JOHN F. KENNEDY INTERNATIONAL AIRPORT

TENANT CERTIFIED GROSS RECEIPTS AND RENT STATEMENT

TENANT NAME: _____ SPACE#: _____ CONTACT: _____

YEAR: _____ PHONE: _____

Month	Gross Receipts	RENT										
		Guaranteed Rent	Percentage Rent				Mrktg Fund 0.5%	Electric (F&B Only)	Logistical Support & Pub. Area Main Fee	Taxes	Total Rent
			Breakpoint	Overage	%	Rent					
Jan											
Feb											
Mar											
Apr											
May											
June											
Jul											
Aug											
Sep											
Oct											
Nov											
Dec											
Y-T-D											

CERTIFICATION: The undersigned hereby certifies that the information contained herein is true and correct in all respects.

Signed: _____ Date: _____

Title: _____

EXHIBIT D

DESIGN AND CONSTRUCTION REQUIREMENTS

I. INTRODUCTION AND DEFINITIONS.

A. American has constructed or is in the process of constructing all of the existing improvements for the Terminal as generally shown on Exhibit A-1, including the base building structure and the base building utility systems. American shall have the right to perform the safe removal, encapsulation, enclosure or other disposition of Toxic or Hazardous Materials, if any, that exist within the Premises as of the date Tenant is delivered possession of the Premises. American is obligated under the Concession Area Lease to remediate or remove (or reimburse Tenant for the reasonable costs incurred by Tenant) any such pre-existing Toxic or Hazardous Materials that American determines, in its sole discretion, to be necessary in order for Tenant to perform Tenant's Work. If Tenant encounters any such pre-existing Toxic or Hazardous Materials during the performance of Tenant's Work for the initial construction of the Premises, Tenant shall immediately notify Landlord and American in writing and provide all details related thereto. In no event shall Tenant perform any of Tenant's Work that will in any way disturb any such Toxic or Hazardous Materials so encountered until American has determined whether it is necessary to remediate or remove the same.

B. The term "**American's Work**" shall mean American's total responsibility for construction of improvements for the Premises within the Terminal as set forth in this Exhibit D. The cost of American's Work shall be borne as set forth in this Exhibit D. American's Work shall be of a design, type, size, location, quality and nature as may be selected by American from time to time. Any item of work necessary to complete the Premises which is not hereinafter specifically included as part of American's Work under this Exhibit D shall be considered as part of Tenant's Work.

C. The term "**Tenant's Work**" shall mean Tenant's total responsibility (or any portion thereof) for the construction and improvement of the Premises. Tenant's Work shall be performed at Tenant's sole cost and expense. Tenant's Work shall include, but not be limited to, all work necessary or required to complete the Premises, except those items of work that are specifically included under this Exhibit D as part of American's Work.

II. GENERAL REQUIREMENTS AND PROVISIONS.

A. Tenant's Work shall be subject to Landlord's, American's and the Authority's prior approval, such approval to be determined in their sole discretion, and shall be designed, fabricated, constructed and installed to comply with all of the requirements set forth in the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process and with all of the requirements set forth in other various documents and requirements of the Authority pertaining to Tenant's construction within the Terminal. All details and information contained in either the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process, whether appearing on Tenant's Conceptual Plans and Final Drawings or not, shall be considered a part of Tenant's Conceptual Plans and Final Drawings and design and construction requirements. By this reference the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements are incorporated herein and made a part of this Exhibit D and the Sublease. This Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements may, when the context requires, hereinafter be collectively referred to as "**Tenant's Construction Requirements**".

B. The design, fabrication, construction and installation of Tenant's Work must comply with each of the following requirements:

1. This Exhibit D.

2. The Design Guidelines.

3. The Tenant Construction Review Manual, the Alteration Application and the TAA Process.

4. Tenant's Final Drawings, as approved by Landlord, American and the Authority.

5. All applicable laws, ordinances, codes, regulations and the requirements of all federal, state or local permitting, building and inspection agencies, including the Authority.

6. All applicable standards of the American Insurance Association, The National Electric Code (latest edition), the American Society of Heating, Refrigeration and Air Conditioning Engineer's Guide (latest edition), the Authority's, American's and Landlord's insurance carriers, the local building codes and regulations and all other agencies having jurisdiction.

In the event of a conflict between any of the above-referenced items, the most stringent requirement shall govern each increment of Tenant's Work.

C. All aspects of Tenant's Work shall be performed in a professional, first-class and workmanlike manner and shall be in a good and first-class and usable condition as of the date of completion and maintained in such condition at all times. All materials used in Tenant's Work, Tenant's construction of the Premises and installations made as a part of Tenant's Work shall be of new, commercial grade and first-class quality. After Tenant's initial construction of the Premises, any and all elective Refurbishments and any and all Refurbishments required of Tenant by Landlord or American under the applicable provisions of the Sublease shall be performed in accordance with all of the requirements set forth in this Exhibit D and the most current editions of the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process.

D. Tenant shall be solely responsible for the investment required for the planning, design, development, construction, fabrication and installation of all Fixed Improvements and other permanent leasehold improvements and Operating Equipment necessary to complete the Premises as required to provide the concession services within the Terminal as provided in the Sublease. Such investment shall be subject to the detailed review and approval by Landlord and American as provided elsewhere in the Sublease and in the Tenant's Construction Requirements.

E. All contracts and subcontracts for any portion of Tenant's Work shall require: (i) that all contractors and subcontractors provide labor that can work in harmony with other elements of labor employed or to be employed at the Airport as specified in Section 27.25 hereof; (ii) insurance coverage and suretyship reasonably satisfactory to Landlord, American and the Authority for the protection of Landlord, American, the Authority and their respective laborers, suppliers, contractors, subcontractors and the general public; (iii) that all contractors and subcontractors comply strictly with all of the applicable provisions of the Authority Lease, the Concession Area Lease, this Sublease, this Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process; and (iv) for all Fixed Improvements and other permanent leasehold improvements to the Premises, performance bonds and payment bonds from the Tenant or its general contractor, in form and substance satisfactory to Landlord and American, each of which shall name Landlord, American and the Authority as an additional obligee and which shall be in the penal

sum equal to the amount of Tenant's total construction contracts and subcontracts. Further, Tenant shall comply and shall cause all of its contractors and subcontractors to comply with the Authority's non-discrimination and affirmative action provisions contained in **Exhibit I** and shall require the inclusion of such provisions in all contracts and subcontracts relating in any way to Tenant's Work.

III. AMERICAN'S WORK.

A. As required by the Concession Area Lease, American shall perform the "**Base Building Work**" which is defined to mean the subflooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures and fixtures which American installs or causes to be installed at the Concession Area in accordance with the Authority Lease. Base Building Work includes delivery of portions of the Concession Area designated for concession activities including the Premises, in "shell condition". "Shell condition" is defined, for purposes of this Sublease, as smooth concrete floors, demising studs and walls, and utility services (conduits, lines, pipes, etc.) of commercially adequate capacity and size located at the lease lines of the Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), heating ventilating and air conditioning systems including access for exhaust ducts for food & beverage locations ("**HVAC**"), fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises. American's Work to be performed or provided at American's sole cost and expense shall be limited to the following:

1. A basic building in "shell condition" for the Premises (for in-line concession facility locations only) to American's specifications. Neither Landlord nor American shall provide any finished walls or wall coverings, finished ceiling or ceiling covering or finished floor covering within the Premises, all of such to be performed by Tenant as part of Tenant's Work.

2. Utility stub-ins of a commercially adequate capacity and size located at the lease lines of each of Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), HVAC systems including access for exhaust ducts for food & beverage locations, fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises, as more fully detailed on the utilities matrix ("**Utilities Matrix**") attached as an exhibit to the Concession Area Lease. Tenant acknowledges that a copy of the Utilities Matrix has been provided to Tenant.

3. Public use service corridors, if any, located as required by code or as selected by American, with such corridor walls, if any, finished on the corridor side only.

B. American and Landlord may, but shall not be required to, provide additional items of basic building shell or base building utility conduit services for the Premises as part of American's Work. If applicable, such additional items, if any, shall be provided in accordance with American's specifications.

IV. TENANT'S WORK.

A. Tenant shall prepare preliminary conceptual plans ("Conceptual Plans") for the Premises in accordance with the provisions of the Tenant's Construction Requirements and submit them to Landlord, American and the Authority (if American and the Authority determines to review Conceptual Plans) for approval, such

approval to be determined in their sole discretion. The Conceptual Plans must be submitted to Landlord not later than twenty (20) days from the Commencement Date or such shorter period of time as may be required for Tenant to open for business by the Latest Rental Commencement Date, and shall include at a minimum the following:

Floor Plans: To include overall dimensions; interior finishes; construction components; identification of any proposed structural alterations to the Premises.

Fixture Plans: Merchandising layouts of the Premises including fixture locations (permanent and movable); and details and/or catalog cuts of the fixtures including materials with smoke developed ratings and flame spread classifications.

Reflected Ceiling Plans: Showing types and electrical connections for lighting fixtures.

Elevations: Drawings of all interior and storefront elevations of the Premises visible to the public, storefront details illustrating architectural compatibility with surrounding areas, building sections or cross sections to accurately depict design details.

Material Boards: Material boards referenced to floor plans and elevations for the Premises illustrating floor base, wall, door, trim and ceiling materials and color selections; material boards shall include color photos and catalog cuts of furniture and/or fixtures where required; colors and materials for all storefront components. Include smoke developed ratings and flame spread classifications, as applicable.

Project Schedule: A preliminary project schedule describing the actions necessary to implement the project, the sequence of actions and the schedule of actions.

Signage Drawings: The shape, size, color and location of signs, and a description of all methods of fabrication, installation and construction.

B. Landlord shall have the right to require modifications to the Conceptual Plans and any approval granted by Landlord is subject to the Tenant's incorporation of the required modifications and draft set of Tenant specifications to ensure compliance with the Tenant Construction Requirements. In the event Landlord requires any such modifications to the Conceptual Plans, Tenant shall prepare and submit the same for Landlord's review and approval within ten (10) days after receipt of Landlord's modifications. Tenant shall follow the steps as outlined in the Tenant Construction Requirements for submitting the Conceptual Plans required for the Tenant.

C. Tenant shall prepare final drawings and specifications ("Final Drawings") which are based on the approved Conceptual Plans for the Premises as described in the Tenant Design Criteria and Handbook within twenty (20) days from receipt of the approved Conceptual Plans, or earlier as may be required to open the Premises for business no later than the Latest Rental Commencement Date. The Final Drawings shall be prepared, and all calculations must be signed and sealed by a registered architect or a registered engineer licensed in the State of New York, and at a minimum, must include the following:

Drawings: Floor Plans including location of all walls, partitions, and doors; lease lines to adjacent premises; overall dimensions of space with column locations; including room finish schedule with fire rating and door and hardware schedule.

Final Fixturing Plans: Merchandising layouts.

Reflected Ceiling Plans: To include ceiling grid, soffits, drops, recesses, coves, etc.; ceiling heights for each space; all light fixtures; HVAC supply and return grilles; type of ceiling system with fire-rating; sprinklers and smoke detectors; any items attached to or coming through the ceiling, if any, ceiling mounted signs, banners, flags, etc.; and communicated system components.

Structural Drawings: Structural drawings and calculations of proposed structural alterations to the base building.

Signage Drawings: Elevation of storefront showing design, location, size, color and layout of signs, including dimensions, etc., and a description of all methods of construction.

Mechanical Drawings: To include load calculations submitted as required in the Tenant's Construction Requirements and proposed locations of all equipment.

Plumbing Drawings: If applicable, to include location and size of water and supply lines, drains, vents and grease traps; and water and sanitary riser diagrams.

Fire Protection System: Fire suppression system including hydro-calculations, as required, to illustrate Tenant's alteration to existing sprinkler coverage; and fire alarm and location of connection point to the base building fire alarm systems and location of addressable smoke detectors, duct/smoke detectors, combination heat/smoke detectors and addressable heat detectors all per the Tenant's Construction Requirements and all applicable codes and regulations.

Electrical Plans: To include power and lighting layout with circuits and home runs; electrical load requirements; on panel schedules; service riser diagrams; telephone conduits; and load calculations.

Sections: Showing construction materials and design details.

Special Systems: Such as telephone and data transmission line systems; airport access control system (if applicable); paging system (if applicable); cable access television system (if applicable); and master clock system (if applicable).

Locking System: Tenant shall install a lock keying system compatible with American's and the Authority's system on all entrances to the Premises and mechanical room entrances located therein for police, security, fire protection and maintenance reasons.

Specifications: All specifications shall include the requirements contained in the Tenant's Construction Requirements.

D. Tenant shall submit to the Landlord, American and the Authority as part of the Conceptual Plans and Final Drawings, drawings (in color) showing storefronts, window displays, signage and any advertising structures; plus a lighting plan.

E. When Tenant submits any plans and specifications to Landlord it shall include complete sets for each submittal as specified in the Tenant's Construction Requirements.

F. Tenant's Work shall include the procurement of all necessary building permits, licenses, variances, and additional utility services required to facilitate Tenant's construction and occupancy of the Premises, and the payment of any fees associated therewith as may be required by the Authority, other public agencies and

utility companies. Within five (5) days after approval of the Final Drawings or such shorter period of time as may be required for Tenant to open the Premises for business no later than the Latest Rental Commencement Date, Tenant shall make all necessary applications, provide all necessary information, pay all required fees and take all necessary actions to obtain such items and shall endeavor to use due diligence and its best efforts to procure the same as quickly as possible. Please refer to the Tenant's Construction Requirements.

G. Tenant shall comply in all respects with the Tenant's Construction Requirements including, but not limited to, applicable local/state health department requirements, U.S. Department of Labor, Construction Safety and Health Regulations, Part 1926. Tenant shall comply and be liable for all costs associated with adherence to the Americans with Disabilities Act (ADA) codes and guidelines.

H. If the Premises are modified, renovated, or newly-constructed, the Tenant shall: (i) obtain the Architect's/Engineer's New York Seal on two (2) sets of final construction drawings or as may otherwise be specified by the Authority's TAA Process submitted for a building permit; (ii) obtain from the Tenant's contractor(s) a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the Premises. Tenant's contractor(s) shall be required by Tenant in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the Authority, American, Landlord or Tenant occupying the Premises; (iii) obtain all required manufacturers' guarantees, maintenance manuals and other pertinent documents; and (iv) furnish to Landlord the information and documentation specified in Section 5.01, no later than ninety (90) days after completion of the Fixed Improvements or any Refurbishments.

I. Tenant's Final Drawings must be submitted to Landlord in CADD and satisfy all other requirements for Final Drawings as set forth in this Exhibit D and the Tenant's Construction Requirements.

J. Tenant shall not be permitted to commence any work until all requirements of the Tenant's Construction Requirements and this Exhibit D have been completed.

K. Security clearance must be completed as required by American and/or the Authority.

L. Separate construction deposits of a minimum of Ten Thousand Dollars ($10,000.00) each will be required from both Tenant and from Tenant's general contractor and neither shall be released by Landlord to Tenant or Tenant's general contractor until after satisfactory completion of all requirements of this Exhibit D and the documents referenced herein, approval by both Landlord's American's and the Authority's on-site construction supervision personnel specifying that all of Tenant's Work has been completed and accepted by Landlord, American and the Authority, proper completion of any and all punch list items and acceptance thereof by Landlord and delivery to Landlord of all of the construction close-out documents required under this Sublease and acceptance and approval thereof by Landlord.

M. During the construction periods at the Terminal, Tenant and its agents, servants, employees, contractors and subcontractors shall be permitted entry and access to the Terminal and to the Premises for the purpose of performing and completing all work necessary to make the Premises and other improvements ready for use, occupancy and rental. During the construction periods, Tenant and its agents, consultants and employees, contractors and subcontractors shall observe all applicable rules and regulations and applicable directives imposed by American and/or the Authority at the Terminal as to the conduct of their work. Tenant shall be responsible for securing, keeping and maintaining all of their equipment, materials, supplies, tools, work trailers and the like within the Premises, or within a defined staging area for the exclusive purpose of supporting the Premises construction, subject to Landlord and American approval. Tenant shall also be responsible for insuring that all construction debris is removed from the construction site daily, and that the site is neat and clean at all times. Tenant shall comply in all respects with procedures for project close-out and acceptance of the space as detailed in the Tenant's Construction Requirements.

N. All policies of insurance and bonds addressed in this Sublease shall be issued for the protection of the Landlord, Tenant, American and the Authority, in accordance with their respective insurable interests. The terms of the policies and bonds and the insurer or surety shall be subject to the reasonable approval of Landlord, American and the Authority.

O. Tenant shall provide, maintain and identify the Authority, American and Landlord as an additional insured, with respect to the insurance protection required under the provisions outlined in the Sublease.

P. Construction Costs:

1. As part of Tenant's Work and the construction requirements required in this Sublease, Tenant shall submit to Landlord a statement of the total construction costs which it has certified as correct with all supporting documents required by Landlord as specified in the applicable sections of this Sublease.

2. The Authority, American, Landlord, or an independent professional firm retained by any of them, may audit costs associated with the construction, modification or renovation of the Premises. In this regard, the Authority, American, Landlord and/or their auditing firm(s) shall have the right upon seven (7) days advance request by the Authority, American or Landlord during the Term hereof and for such longer period as required by the Authority, to examine and audit books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly all construction costs claimed to have been incurred or anticipated to be incurred, in performing this Sublease. The right of examination shall extend to all documents necessary to allow evaluation of both the validity and reasonableness of said construction costs, including all documents of Tenant who shall make all construction records available to the Authority, American or Landlord within the Port of New York District for examination, audit, or reproduction, upon seven (7) days advance request by the Authority, American or Landlord.

Q. In its construction plans Tenant must insure that the Premises has strong visual appeal and is inviting to the customers; and that the Premises accommodates customers with luggage and meets all Americans With Disabilities Act (ADA) requirements relating to ingress, egress, access and other architectural matters, such as for example, large print price signs for the visually impaired and the ability to communicate with hearing impaired.

V. CONSTRUCTION CHARGEBACKS PAYABLE TO LANDLORD.

A. Landlord may provide items of construction, work or services for the Premises as a part of American's Work at Tenant's sole cost and expense, including, but not limited to the following:

1. Landlord, at Tenant's expense, may install a temporary construction barricade along the storefront area leaseline in a design, material and location approved by Landlord if Tenant fails to install such temporary construction barricade prior to the commencement of any of Tenant's Work in the Premises. If Landlord installs such a barricade, Tenant shall reimburse Landlord therefor as Additional Rent an amount which will be computed at the rate of One Hundred Fifty Dollars ($150.00) per lineal foot of the barricade. Upon completion of Tenant's Work, Tenant shall be responsible, at Tenant's sole cost, to remove such barricade to an appropriate disposal site outside of the Airport.

2. Tenant's general contractor shall pay to American, a non-refundable fee for use of the dumpster, with respect to all construction debris and trash required to be removed from the Terminal by Tenant's general contractor with respect to the performance of Tenant's Work. Such initial fee is estimated to be at the rate of One and 50/100 Dollars ($1.50) per square foot of Floor Area in the Premises and checks are payable to "American Airlines, Inc." but delivered to Landlord's on-site tenant coordinator. If American incurs costs greater than such estimated rate, Tenant shall reimburse American within twenty (20) days of demand for any such actual excess costs.

VI. PROGRESS MEETINGS; MISCELLANEOUS.

A. Representatives of Landlord and Tenant, as designated in writing to each other, shall establish and attend on-site progress meetings with such periods of frequency during the performance of Tenant's Work as may be mutually agreed upon but no less frequently than bi-weekly.

B. Tenant shall perform Tenant's Work so as not to: (i) unreasonably interfere with any other construction being performed at the Terminal or the Airport; or (ii) unreasonably impair the use, occupancy or enjoyment at the Terminal and/or the Airport by Landlord, American, the Authority, other airlines, other subtenants operating concession facilities or customers of any of them.

C. Tenant shall (i) take all safety measures required to protect the Terminal and/or the Airport from injury or damage caused by or resulting from the performance of Tenant's Work and defend, protect and indemnify Landlord, American and the Authority (including their respective agents, commissioners, officers, directors and employees), other airlines, other subtenants operating concession facilities or customers of any of them from any and all claims arising from or in connection with the death of or accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person or entity arising out of, in connection with, or as a result of Tenant's Work; (ii) repair any and all damage to the Terminal and/or the Airport as a result of Tenant's Work; and (iii) require all contractors and subcontractors to comply with all of the Authority's Requirements and Tenant's Construction Requirements for the performance of Tenant's Work.

EXHIBIT E

AUTHORITY STREET PRICING REQUIREMENTS

A. General Authority Street Pricing Policy.

The Aviation Department of the Authority requires specific pricing criteria in all concessions agreements at the Airport. In general, the Authority and American seek to promote fair and reasonable prices in airport concession programs. The street pricing policy is also designed to produce a greater volume of sales, thereby reflecting the Authority's and American's objective to provide high customer service and optimization of financial return. The Authority's street pricing policy requires that prices charged at the Airport will be comparable to off-airport prices. In general, the policy requires any specialty retail, newsstand and food & beverage vendors that operate both on-airport and off-airport to price goods in the on-airport store within the range of prices charged at their off-airport stores. For vendors without off-airport operations in the area, comparable stores in the region are identified to establish the basis for street prices (the specific methodology for this comparison is established based upon the specific type of store and merchandise sold). For duty free concession vendors, where there are no comparable off-airport operations, the pricing policy requires that the prices of duty free merchandise be substantially comparable to the prices charged for duty free goods in duty free stores at other airports in the northeastern United States. Further, vendors must submit price lists for all goods and services in advance for approval. The street pricing policy also requires vendors to post signs in clearly visible locations notifying customers that the store charges fair and reasonable prices that are comparable to other stores in the region. Landlord requires strict adherence to the Authority's street pricing policy.

B. Comparable Locations In the Metro Area.

1. Specialty Retail and Food & Beverage Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the various types of specialty retail and food & beverage concession facilities permitted hereunder shall be compared to similar specialty retail and food & beverage establishments located in major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time.

2. Newsstand and News & Gifts Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for newspapers, magazines and sundries shall be compared to local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for gifts, souvenirs and novelties shall be compared to both similar gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as well as to the local convenience store chains and/or local non-Airport news & gift locations (excluding any locations which do not have multiple independent competitive sources and operators) in the Metro Area as selected by Landlord from time to time.

C. **Specialty Retail and Food & Beverage Concession Facilities Pricing Requirements.**

Tenant's prices for all specialty retail and food & beverage products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor are the same or comparable with comparable brands in specialty retail and food & beverage establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) comparable establishments in such locations within the Metro Area. Tenant's prices may not exceed the average price of those similar items in the five (5) comparable establishments.

D. **Newsstand and News & Gifts Concession Facilities Pricing Requirements.**

Tenant's prices for all news and gift products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor for newspapers, magazines and sundries are the same or comparable to those charged by the local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time and for gifts, souvenirs and novelties to those charged by comparable gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) establishments in such locations within the Metro Area. Tenant's prices on any specific item may not exceed the average price of those similar items in the five (5) comparable establishments.

E. **General Pricing Requirements.**

In all other situations and circumstances for which no specific pricing requirement has been established, Tenant shall abide by the following pricing requirements. Tenant shall offer for sale only goods of first-class quality. For such goods, Tenant shall charge fair, reasonable and competitive prices. When an item has a suggested retail price pre-marked and established by the manufacturer or distributor, Tenant shall not charge the public a price higher than the suggested retail pre-marked price without the prior written approval of Landlord in accordance with the Authority's street pricing policy. When an item has no suggested retail price or pre-marked price, the item shall be sold at a price as first approved by Landlord in accordance with the Authority's street pricing policy.

EXHIBIT F

ADDITIONAL INSURED AND LOSS PAYEE ENTITIES

Each of Tenant's insurance policies (except for workers' compensation and employers' liability coverage) required under Section 11.01 of the Sublease shall name the following entities as additional insureds:

WESTFIELD CONCESSION MANAGEMENT, LLC, a Delaware limited liability company

WESTFIELD, LLC, a Delaware limited liability company

AMERICAN AIRLINES, INC., a Delaware corporation

AMERICAN EAGLE AIRLINES, INC., a Delaware corporation

AMR CORPORATION, a Delaware corporation

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THE CITY OF NEW YORK

NEW YORK CITY ECONOMIC DEVELOPMENT CORPOTATION, a New York not-for-profit corporation

Certificates of Insurance evidencing the Tenant's insurance coverages shall be delivered by Tenant to Landlord upon execution of the Sublease and no later than prior to delivery of the Premises to Tenant at the following address:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

The certificate holder on each of the Certificates of Insurance shall be as follows:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

EXHIBIT G

M/W/DBE CERTIFICATION

To qualify as a Disadvantaged Business Enterprise or Disadvantaged Business ("M/W/DBE"), the firm must meet the criteria established by the U.S. Department of Transportation in 49 CFR Parts 23 and 26 and be certified by the Authority. Currently, to qualify as a DBE, the firm must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed Thirty Million Dollars ($30,000,000.00) and it must be (a) at least fifty-one percent (51%) owned and controlled by one (1) or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one (1) or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one (1) or more of the socially or economically disadvantaged individuals who own it. For other types of business operations, the U.S. Small Business Administration size standards are used to determine eligibility for certification. The DBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Authority makes a "rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged:

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan and Bangladesh; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

"**Minority**" means the following: (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (b) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (c) 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 (d) 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). For purposes hereof, "Minority

Business Enterprise" or "MBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" or "WBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing.

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as M/WDBE, the Authority, as part of the certification process, will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

The Authority has compiled a list, which may be supplemented and revised from time to time by the Authority, to indicate the firms the Authority determined satisfy the criteria for M/W/DBE certification. Such list shall be made available to the proposers upon request. The Authority makes no representations as to the financial responsibility of such firms, their technical competence to perform, nor any other performance-related qualifications. Only listed M/W/DBEs and such firms not so listed, but certified by the Authority as M/W/DBEs hereunder, will count towards M/W/DBE requirements.

Certification of M/W/DBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If a proposer wishes to utilize a firm not so listed but which the proposer believes should be certified as a M/W/DBE, that firm shall submit to the Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required by the Authority from time to time. All such requests shall be in writing, addressed to Mr. John Alexander, Supervisor, Certification Programs or other designee of the Economic Development Department/Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, Newark Legal Center, One Riverfront Plaza, 9P^{thP} Floor, Newark, New Jersey 07102 or such other address as the Authority may designate from time to time. Eligibility for certification shall only be made in writing over the name of the General Manager in charge of the Office of Business and Job Opportunity. The determination of the Authority shall be final and binding on the applicant. For inquiries or assistance, please contact John Alexander at (973) 565-5522.

EXHIBIT H

Westfield Concession Management, LLC
2730 University Boulevard, Suite LL3
Wheaton, Maryland 20902
Attention: Airport Division Project Controller

Date: _____

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

To the Addressee:

At the request of ____A____, we ____B____, hereby open this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. ____C____ in your favor up to an aggregate of $ ____D____ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all of your drafts under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT will be duly honored upon presentation of your draft(s) drawn on us and presented to us at the office of our New York City Branch, now located at ____E____, ____E____ on or before the expiration set forth below or future expiration date as indicated below. Our obligation under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT is the individual obligation of the Bank, in no way contingent upon reimbursement with respect thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under ____B____ Letter of Credit No. ____C____ dated _____, 200_." Partial drawings under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT are permitted. Drafts must be accompanied by a statement from an authorized representative of Westfield Concession Management, LLC, or its designee, that ____A____ has not performed certain terms, conditions or covenants contained in the Sublease dated _____, 200_, by and between Westfield Concession Management, LLC and ____A____.

This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT expires at the close of business on _____F_____, 200_. This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT within the then applicable expiration date, no statement required. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.**

_____
Bank Officer/Representative

LEGEND:

A: INSERT APPLICANT NAME, I.E. TENANT NAME.
B: INSERT NAME OF ISSUING BANK.
C: INSERT LOC IDENTIFICATION NUMBER.
D: INSERT DOLLAR VALUE OF INSTRUMENT.
E: INSERT EXACT ADDRESS OF LOCAL BANK BRANCH.
F: INSERT EXPIRATION DATE OF SUBLEASE PLUS 90 DAYS.

EXHIBIT I

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY

Part I AFFIRMATIVE ACTION GUIDELINES – EQUAL EMPLOYMENT OPPORTUNITY

I. As a matter of policy the Authority, Landlord and American hereby require Tenant to comply with the provisions set forth hereinafter in this Exhibit I and in sections 41, 68(I)(b) and 79 (b)(1) of the Authority Lease. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

Tenant and Tenant's respective bidders, contractors and subcontractors 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"). Tenant 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. Tenant 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. Tenant 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%; and (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 Tenant and Tenant shall provide written notification to Landlord and the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the 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 herein: (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; and (2) **"Minority"** – as in the Definitions to the Concession Area Lease.

(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 non-working 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 (2) 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 Tenant 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 (6) 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 (1) 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 (6) 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 circulation of solicitations to Minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six (6) months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one (1) or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one (1) or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's Minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is

the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all Minority groups, both male and female, and all women, both Minority and non-Minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific Minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by Tenant. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, Tenant shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Concession Area Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Authority.

PART II MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Authority, Landlord and American require Tenant and Tenant shall itself and shall require all general contractors or other construction supervisors and each of Tenant's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work, pursuant to the provisions of this Exhibit I. For purposes hereof, "**Minority Business Enterprise**" "(MBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and

continuing. For the purposes hereof, "**Women-owned Business Enterprise**" "(WBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing. "**Meaningful participation**" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to Minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that Tenant and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If the Contractor wishes to utilize a firm not already certified by the Authority, it shall submit to the Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Authority. All such requests shall be in writing addressed to the Economic Development Department/Business and Job Opportunity, Port Authority of New York and New Jersey, Newark Legal Center, Riverfront Plaza, 9th floor, Newark, New Jersey 07102, or such other address as the Authority may specify by notice. Certification shall be effective only if made in writing by the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the Authority. The determination of the Authority shall be final and binding.

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

EXHIBIT J

LOCAL BUSINESS ENTERPRISE COMMITMENT

As a matter of policy, Landlord, American and the Authority hereby require Tenant and Tenant shall require any Contractor utilized by Tenant to perform construction work on the Premises to comply with the provisions set forth hereinafter in this Exhibit J.

(1) Tenant and each Contractor shall use every good faith effort to maximize the participation of Local Business Enterprises ("**LBEs**") in all construction work on the Premises, including without limitation, the Section 2B Work. In order to assure familiarity with the services and materials provided by LBEs, the Contractor shall attend such meetings as may be called by the General Manager of the Airport on LBEs and shall contact the Queens Air Services Development Office ("**ASDO**"), located at John F. Kennedy International Airport, Bldg. 80, First Floor, South Service Court, Jamaica, NY 11430 to obtain LBE Vendor Profiles and access ASDO's on-line vendor retrieval system ("**BASIS**"). Landlord, American or the Authority has not checked the references, capabilities or financial background of the LBEs registered with the ASDO, but is referring the Contractor to the ASDO and BASIS solely for the purpose of advising Contractors of LBEs who may be interested in providing services and/or materials to the Contractor.

(2) Good faith efforts to include participation by LBEs in construction work shall include at least the following: (i) Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible. (ii) Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from LBEs registered with ASDO and such other LBEs as the Contractor deems appropriate.

(3) Landlord, American and the Authority are committed to making employment opportunities available to local residents and expects that the Contractor will utilize LBEs.

(4) It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit, diminish or modify any of the obligations under the Concession Area Lease or this Sublease including, without limitation, the obligation to put into effect the affirmative action program and the MBE and WBE programs in accordance with the provisions set forth above in Exhibit I.

EXHIBIT K

PERFORMANCE STANDARDS

All items marked with an "*" denote a Minimum Performance Standard. There shall be no notice and cure periods for failure to comply with any Minimum Performance Standard. For all other Performance Standards which are not Minimum Performance Standards, the graduated fines shall not be applicable until fourteen (14) days after Landlord has provided Tenant with written notice of its failure to comply and such failure to comply by Tenant continues after such fourteen (14) day notice and cure period. These graduated fines are in addition to any other remedies available to Landlord under this Sublease, at law or in equity, including, but not limited to, the liquidated damages provisions set forth in Article VII. The Performance Standards and the Minimum Performance Standards are subject to change from time to time as may be directed by Landlord or the Authority.

PERFORMANCE CATEGORIES

A. PRICE AND PRODUCT QUALITY

"Street" Pricing:

1. Landlord will periodically perform benchmark "street" pricing surveys to establish "street" pricing and to ensure that the price/value relationship is consistent with major regional malls, shopping centers and complexes in the Metro Area as further described in Section 7.02(g) and **Exhibit E**. Upon written notification by Landlord of a pricing discrepancy, Tenant shall adjust prices to comply with the "street" pricing policy. Tenants who fail to do so within two (2) days of such notification shall be subject to fines identified herein until strict compliance has been achieved.

2. Tenant shall participate in marketing campaigns designed to promote the "street" pricing message. Tenant's participation may include, but is not limited to, employee buttons, POS signage and window decals.*

3. Tenant will respond within 72 hours to a complaint received on the Fair Pricing '800' number established and advertised by Landlord. Customers shall be reimbursed by Tenant as appropriate and provide evidence of such reimbursement to Landlord when requested from time to time.*

4. Prices for all products and services must be visible on the product, a menu board, price signage and/or on the shelf.*

5. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

Product and Service Quality:

1. All products displayed and offered for sale and all services rendered shall be authentic, high quality and in brand-new condition at all times.*

2. Tenant shall immediately remove from display and shall thereafter not display nor offer for sale any defective or lesser quality products (even if at a lesser price) or products which are deemed to be non-authentic, the so-called

"grey market", "imitation" or "knock-off" products.*

3. Tenant shall only be permitted to sell products or render services for which Tenant has the right, whether by license or otherwise, to sell or render.*

4. Tenant shall install and maintain at all times a display of non-perishable high-quality merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays.

5. Window displays shall be changed frequently and no less often than on a quarterly basis.*

6. All newsstand and news & sundries concessions shall sell United States postage at face value with associated signage located in the Premises that postage stamps are available.*

7. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

B. CUSTOMER SERVICE AND PERSONNEL

1. Tenant shall continuously operate its business in the Premises during all Terminal concession service hours. Tenant shall open or keep open the Premises for business upon 2 hours prior verbal notice from Landlord.*

2. The level of Tenant's Operating Staff shall include sufficient numbers (including cashiers, management and supervisory personnel) to fully service and meet the needs of customers at all times.

3. All Operating Staff and employees of Tenant must wear nametags identifying the store and the first name of the person at all times.*

4. All Operating Staff, employees and other representatives of Tenant must wear Authority issued security ID badges at all times whenever located in any sterile/secure area (e.g., beyond security checkpoints) of the Airport.* It is recommended that such security ID badge be worn at all time when on Airport property.

5. All Operating Staff and employees of Tenant shall be courteous, neat in appearance, appropriately attired and shall use skill and diligence in the conduct of business and shall not act in a loud, offensive or otherwise objectionable manner or in a manner detrimental to the best interests of Landlord or the Authority.*

6. All Operating Staff and employees of Tenant shall be knowledgeable about all products displayed and offered for sale and all services rendered and able to respond appropriately to questions from customers about products and services.*

7. All Operating Staff and employees shall have sufficient knowledge of the Terminal in which each is employed and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

8. Tenant must accept at least 2 nationally recognized credit cards for payment. Tenant must provide all customers with a receipt for all purchases made. Tenant shall offer shipping and gift wrap services (if appropriate for the type and size of the merchandise or product being offered) at cost. Tenant must provide, without charge, change making service at each cashier's location regardless of whether a purchase is made.*

9. All customers must be greeted in a friendly and timely manner and must thank the customer and provide a friendly goodbye by Tenant's Operating staff and employees.*

10. All Operating Staff and employees must regularly participate in Landlord's TOS training, classroom and in-store training.*

11. The layout of the Premises must be convenient for travelers with luggage, easy to navigate.

12. Tenant shall, within twenty-four (24) hours of receipt of any customer complaint by Tenant, forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint.*

13. Tenant's Store Manager or his or her designee, must be available, by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies.*

14. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

C. PREMISES CLEANLINESS AND APPEARANCE

1. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements (including walls, floors, etc.) and Operating Equipment (including POS systems, fixtures and furniture) shall be maintained in good condition and repair at all times.*

2. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises.*

3. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, spills, stains, offensive or unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord and in accordance with any and all laws, statutes, ordinances and regulations that may be promulgated from time to time by governmental agencies and authorities. Storefronts are to be kept clean and free from dirt, dust and debris.*

4. Exterior and interior signage are properly illuminated and all lighting fixtures are in good working order.*

5. All trash receptacles are adequate in number, not overflowing.*

6. Display cases shall be kept completely stocked with merchandise and attractive.

7. No merchandise shall be displayed outside of the Premises or on the floor at any time.*

8. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

FOR THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 21st day of August in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Lysa Scully, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Gail E. Mitchell
(notarial seal and stamp)

GAIL E. MITCHELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MI6026210
Qualified in Queens County
My Commission Expires June 14, 20 11

FOR WESTFIELD CONCESSION MANAGEMENT, LLC

STATE OF Missouri)
) ss.
COUNTY OF St. Charles)

On the 9 day of April in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Arnold L. Mayersohn, Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

E. DIANE LINDSEY
Notary Public-Notary Seal
State of Missouri, St Charles County
Commission # 05997728
My Commission Expires Jan 21, 2011
notarial seal and stamp

FOR OAKLEY SALES CORP.

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

SOPHIE BUNDALO

On the 7th day of AUGUST in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared ~~A. A. TIQUIA, NOTARY PUBLIC~~, 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~~), or the person upon behalf of which the individual(~~s~~) acted, executed the instrument.

(notarial seal and stamp)

A. A. TIQUIA
Commission # 1705618
Notary Public - California
Orange County
My Comm. Expires Nov 17, 2010

THIS AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. AYD-634
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of February 28, 2007 ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), **TIE RACK (U.S.), INC.** ("Sublessee"), a corporation organized and existing under the laws of the State of Delaware with an office and place of business at 145 Renfrew Drive, Unit 120, Markham, Ontario L3R 945, whose representative is Ms. Judy Paul, Vice President, Administration, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain

permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, dated as of February 28,2007, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to Paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; (e) or such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not

limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments

and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. (a) The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days' notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be

deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

(b) In the event the Port Authority exercises it right to revoke this Consent if the Sublessee shall fail to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Consent, the Sublessee shall be obligated to reimburse the Port Authority for any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. (a) If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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. Nothing in this paragraph 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 Consent, including, without limitation, the Port Authority's rights to revoke this Consent or (ii) any obligations of the Sublessee under this Consent.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of Paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and

replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the

obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the

Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease,

the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this Paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. Basic Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Permit for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(iii) With respect to this Consent, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent, which shall provide the Port Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline or the Permittee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

IN WITNESS WHEREOF, the Port Authority, the Permittee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Title) Assistant Director, CCCHS

(Seal)

~~ATTEST:~~ WITNESS:

Jane C. Herbert

~~Secretary~~

WESTFIELD CONCESSION MANAGEMENT, LLC

By Arnold L. Mayerson, Jr.

(Title) Assistant Vice President

(Corporate Seal)

ATTEST:

Veronik Cheung

Secretary

TIE RACK (U.S.), INC.

By Judy Paul

(Title) VICE President

(Corporate Seal)

ACCEPTED AND CONSENTED TO AS OF THE EFFECTIVE DATE OF THIS CONSENT AGREEMENT

AMERICAN AIRLINES, INC.

By _____

(Name): LAURA A. EINSPANIER

Vice President

Corporate Real Estate

(Title) President

(Corporate Seal)

APPROVED:
FORM TERMS
GWE

SUBLEASE

BETWEEN

WESTFIELD CONCESSION MANAGEMENT, LLC

LANDLORD

AND

TIE RACK (U.S.), INC.
TENANT

TUMI/NATURALLY CASHMERE/KNOT SHOP
TRADE NAME

SPACE NUMBER B6

CONCOURSE B

TERMINAL 8
JOHN F. KENNEDY INTERNATIONAL AIRPORT
JAMAICA, NEW YORK

TERMINAL 8 SUBLEASE
JOHN F. KENNEDY INTERNATIONAL AIRPORT
CONCOURSE B

THIS SUBLEASE ("**Sublease**") is made as of this 28th day of February, 2007, by and between **WESTFIELD CONCESSION MANAGEMENT, LLC**, a Delaware limited liability company, whose address is 11601 Wilshire Boulevard, 11th Floor, Los Angeles, California 90025 ("**Landlord**"), and **TIE RACK (U.S.), INC.**, a Delaware corporation, whose principal place of business is located at 145 Renfrew Drive, Unit 120, Markham, Ontario L3R 9R6 ("**Tenant**").

Subject to the terms and conditions contained herein, Landlord hereby leases to Tenant, and Tenant hereby accepts from Landlord, the premises identified on **Exhibit A-2** ("**Premises**"), which is in and part of Terminal 8 ("**Terminal**") at John F. Kennedy International Airport, Jamaica, New York ("**Airport**"). **Exhibit A-1** is a general site plan of the Airport including the location of the Terminal. **Exhibit A-3** is a site plan of the portion of the Terminal leased to Landlord as shown hatched on such **Exhibit A-3** ("**Concession Area**"). The Terminal consists of approximately 1,414,500 square feet leased by The Port Authority of New York and New Jersey ("**Authority**") to American Air Lines, Inc. ("**American**") and is anticipated to contain approximately 36 gates. The Premises is known as Space No. B6 containing approximately 1,338 square feet of Floor Area as shown on **Exhibit A-2**. Not included in the Premises is the roof, concrete slab floor, and all perimeter walls (except the inner surfaces thereof) and the perimeter doors and windows. The actual number of square feet of Floor Area may, at Landlord's option, be subject to adjustment based on field measurements as reasonably determined by Landlord; and all charges hereunder based on a per square foot amount shall be adjusted accordingly. The type of concession is:

☒ Specialty Retail	☐ Food & Beverage (☐ Food Court Location)	☐ Service
☒ In-Line	☐ Wall-Shop	☐ Kiosk

Landlord has the right to enter into this Sublease pursuant to the Master Retail Development, Management and Leasing Agreement between American and Landlord dated as of September 2, 2004 ("**Concession Area Lease**"). The Concession Area Lease is subject and subordinate to the Amended and Restated Lease No. AYB-085R between the Authority and American dated December 22, 2000 ("**Authority Lease**"). Tenant hereby acknowledges that a redacted copy of the Concession Area Lease (excluding only certain provisions considered to be confidential by Landlord and American) has been provided to Tenant. This Sublease is subject and subordinate to the Concession Area Lease and the Authority Lease, including all amendments and supplements thereto, whether entered into prior to or after the date hereof; and Tenant shall strictly comply with all applicable provisions of the Concession Area Lease, the Authority Lease, the Consent Agreement, the Authority's TAA Process and any and all other permits, documents and requirements required by the Authority (collectively, "**Authority Requirements**"). In the event of any inconsistency between the terms of this Sublease and the Concession Area Lease or the Authority Lease, then in each and every such instance, the Authority Lease or the Concession Area Lease, as the case may be, shall supersede and control. The terms, conditions and effectiveness of this Sublease are expressly conditioned upon the due execution and delivery by the Authority, American, Landlord and Tenant of an agreement in the form of **Exhibit B** hereto ("**Consent Agreement**") or as such Consent Agreement is otherwise required by the Authority. For definitional purposes, "**Tenant**" shall include Tenant, its agents, contractors, subcontractors, employees, franchisees, invitees, licensees, assignees, subtenants, concessionaires and others performing work and/or who are conducting operations in the Premises. Any capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Concession Area Lease. American and the Authority are express and intended third party beneficiaries of this Sublease.

DATA SHEET

The following references furnish data which is hereby incorporated into the specified sections hereof:

(1) **Section 1.02: Term:** (a) **Latest Rental Commencement Date:** May 9, 2007; provided, however, if new Concourse B has not opened to the public for **"Enplaned Passengers"** (as defined below) operations on or before May 9, 2007, then the Latest Rental Commencement Date shall be the date on which new Concourse B is first opened for such **"Enplaned Passengers"** operations. Notwithstanding the foregoing, if possession of the Premises is not delivered to Tenant on or before March 1, 2007, then the Latest Rental Commencement Date shall be extended on a day-for-day basis equal to the exact number of days past March 1, 2007, that delivery of possession of the Premises to Tenant was so delayed, and such delay was not caused by Tenant. (b) **Expiration Date:** April 30, 2012, or the fifth (5th) anniversary of the Latest Rental Commencement Date, whichever is the later to occur, as confirmed in a letter from Landlord to Tenant.

(2) **Section 2.01: Minimum Annual Guaranteed Rent:** per Lease Year, payable in equal consecutive monthly installments of Ex. 2.a. , subject to annual adjustments based upon the **"Percentage Change in Enplaned Passengers"**.

(3) **Section 2.02: Percentage Rent:** Ex. 2.a. of all Gross Receipts in excess of ("**Monthly Breakpoint**"). The initial annual total of the Monthly Breakpoint is **Annual Breakpoint**"). The Monthly Breakpoint and Annual Breakpoint are subject to adjustments in connection with the annual adjustments to the Minimum Annual Guaranteed Rent based upon the **"Percentage Change in Enplaned Passengers"**.

(4) **Section 2.06: Additional Rent:** Additional Rent shall include but not be limited to the following items: (a) **Section 2.03: Storage Premises Rent:** If applicable, Tenant shall pay Storage Premises Rent as referenced in Section 2.03; (b) **Section 2.04: Taxes:** If applicable, Tenant shall pay its proportionate share of Taxes as provided in Section 2.04; (c) **Section 2.05: Miscellaneous Charges:** Tenant shall pay miscellaneous charges for employee parking, security checks and identification badges and screening of goods, products, equipment and supplies as charged by Landlord, American, the Authority or applicable regulatory agencies from time to time, subject to adjustment; (d) **Section 8.04: Logistical Support and Public Area Maintenance Fee:** Tenant shall pay its proportionate share of the Logistical Support and Public Area Maintenance Fee; (e) **Section 12.01: Utilities:** If the Permitted Use provides for the offer and sale of food and beverage items, Tenant shall pay electricity consumed in the Premises; and (f) **Section 16.03: Joint Marketing Fund:** Tenant shall contribute to the Joint Marketing Fund, calculated on the basis of Ex. 2.a. of Gross Receipts per month, payable monthly, subject to adjustment as provided in Section 16.03. The initial joint marketing fund assessment of Ex. 2.a. shall be paid by Tenant to Landlord in one lump sum within 60 days prior to the Rental Commencement Date.

(5) **Section 7.01: Permitted Use:** For the operation of a retail concession providing for the sale at retail of: (a) Tumi – Tumi luggage, Tumi travel luggage bags, Tumi travel accessories, and other associated Tumi branded products which are typically sold in all other Tumi stores operating in large, urban airports or substantially all non-airport stores located in the United States; (b) Naturally Cashmere - the primary sale of items and products predominantly made of or contain an element of cashmere including, but not limited to, men's and women's sweaters, pashminas, shawls, scarves, gloves, hats, and the incidental sale of other associated and ancillary accessories (under such brand names as Pringle, Ballantyne, Malo, Johnston's and John Smedley) which are typically sold in all other Naturally Cashmere stores operating in large, urban airports located in the United States; and (c) ~~The~~ Knot Shop – the primary sale of men's and ladies

the incidental sale of related fashion accessories which are typically sold in all other Knot Shop stores , and for no other use or purpose.

(6) **Section 7.02: Hours of Operation:** Tenant shall be open for business seven (7) days a week, three hundred sixty-five (365) days a year, including all holidays. Tenant's minimum daily hours of operation shall be as follows: 6:00 A.M. to 10:00 P.M., local time, subject to other hours and adjustments as provided in Section 7.02.

(7) **Section 16.01: Trade Name:** "Tumi/Naturally Cashmere/Knot Shop".

(8) **Section 26.01: Performance Guaranty-Letter of Credit:** At Landlord's option: (i) twenty-five percent (25%) of the initial annual Guaranteed Rent in immediately available funds, payable to Landlord upon execution of this Sublease and in no event later than delivery of the Premises to Tenant; or (ii) an unconditional, irrevocable standby letter of credit in an amount not less than one hundred percent (100%) of the initial annual Guaranteed Rent in funds available immediately or same day funds in the City of New York, as security for the faithful observance, payment and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed, paid and performed ("**Performance Guaranty**"). Such letter of credit must be in form and content as set forth in **Exhibit H** for a term of not less than one (1) year with automatic extensions and issued by a commercial banking institution reasonably acceptable to Landlord and authorized to conduct business in the State of New York ("**Bank**"). The Performance Guaranty shall be delivered by Tenant and held by Landlord in accordance with the provisions of Article XXVI of this Sublease. No surety bonds shall be permitted.

(9) **Section 27.05: Notice Addresses:**

Landlord:
Westfield Concession Management, LLC
11601 Wilshire Blvd., 11th Floor
Los Angeles, California 90025
Attention: Office of Legal Counsel

With copies to:
Westfield Concession Management, LLC
Airport Division Management Office
2730 University Boulevard, Suite LL6
Wheaton, Maryland 20902

Westfield Concession Management, LLC
John F. Kennedy International Airport – Terminal 8
Jamaica, New York 11430
Attention: General Manager

Tenant:
Tie Rack (U.S.), Inc.
145 Renfrew Drive, Unit 120
Markham, Ontario L3R 9R6
Attention: Judy Paul

With a copy to:
Tie Rack Ltd.
Capital Interchange Way
Brentford, Middlesex TW8 0EX UK
Attention: Martin Morgan

Tenant's Billing Address:
Tie Rack (U.S.), Inc.
145 Renfrew Drive, Unit 120
Markham, Ontario L3R 9R6
Attention: Accounts Payable

Address for Rental Payments to Landlord: All Rentals payable to Landlord hereunder shall be made payable to "**Westfield Concession Management, LLC, Trustee for American Airlines, Inc. and the Port Authority of New York and New Jersey**" and remitted to: Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Los Angeles, California 90074-0429 (Via U.S. Mail) or Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Remittance Banking, Unit 5195, 1000 West Temple Street, Ground Floor, Los Angeles, CA 90012 (Via Overnight Delivery Service).

ARTICLE I. GRANT AND TERM

Section 1.01 **CONDITIONS OF GRANT OF PREMISES.** American and the Authority each have the right to make any alterations, replacements or modifications to the Terminal (including, but not limited to, the Concession Area) and/or the Airport, including actions which may change the shape, size, location, number and extent of the improvements generally shown on **Exhibits A-1, A-2 and A-3** and eliminate or add any improvements to any portion of the Terminal and/or the Airport at any time without Landlord's or Tenant's consent. Such rights shall include the right to place, install, maintain, use, repair and replace, in any manner, pipes, lines, conduits, ducts, flues, drains, sprinkler mains and valves, wires and wiring (and like improvements) and structural elements leading through the Premises or serving the Premises or any other parts of the Terminal. Tenant acknowledges that pursuant to the Concession Area Lease, American has agreed to use reasonable efforts to place any such items (other than existing items and/or necessary or desirable structural elements) in locations that do not materially interfere with Tenant's use of the Premises unless required to comply with American's obligations under the Authority Lease. Tenant may, upon approval by Landlord and subject to the Authority's TAA Process (as defined in Section 5.01), have the right to install utility lines and facilities which exclusively serve the Premises in the area between Tenant's finished ceiling and the roof above, but such installation shall be at Tenant's sole cost and expense. Wherever the term Airport or Terminal is used, it shall be deemed to include the areas shown as such on **Exhibit A-1**. If American or the Authority elects to enlarge or alter the Airport, the Terminal or the Concession Area, Landlord, at its sole and absolute discretion, may include any additional area in the respective definitions of Airport, Terminal and/or Concession Area for purposes of this Sublease.

Section 1.02 **COMMENCEMENT AND ENDING DATE OF TERM.** The term of this Sublease ("**Term**") shall commence as of the date reflected on the first page hereof ("**Commencement Date**"). Tenant's obligation to pay Guaranteed Rent, Percentage Rent and Additional Rent (collectively, "**Rentals**") shall commence upon the date ("**Rental Commencement Date**") which is the earlier to occur of (a) the date on which Tenant initially opens for business to the public, or (b) the Latest Rental Commencement Date specified in the Data Sheet. Any occupancy of the Premises by Tenant following the Commencement Date and prior to the Rental Commencement Date shall be subject to all terms and conditions hereof other than the payment of Rentals. The Term hereof shall end on the Expiration Date set forth in the Data Sheet, unless sooner terminated in accordance with this Sublease or if the Consent Agreement is terminated or otherwise revoked as provided therein. Tenant 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 lawful cause, or in the event either Landlord or American obtains possession of the Premises in any lawful manner. Such termination of the Sublease, as provided herein, and the removal, restoration and surrender obligations of Tenant, shall in no event give rise to any claims for incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises. The first "**Lease Year**" shall be the period commencing on the Rental Commencement Date and ending on the next December 31, and thereafter each "**Lease Year**" shall mean a fiscal year of twelve (12) consecutive calendar months ending on December 31.

Section 1.03 **LATE OPENING.** Landlord and Tenant agree that Tenant's failure to open the Premises on the Latest Rental Commencement Date will result in damages which are difficult to ascertain in light of operational, scheduling and public service factors. Therefore, subject to Force Majeure, if Tenant fails to open for business in the Premises by the Latest Rental Commencement Date and such failure shall be due to any fault of Tenant and not due to delays as specified in Section 5.01(c), Landlord may assess and Tenant shall pay as liquidated damages and not as a penalty, Two Hundred Fifty Dollars ($250.00) per day for each day Tenant is not open for business after and including the Latest Rental Commencement Date. If such failure shall continue for in excess of sixty (60) days, the amount of such liquidated damages may be increased up to a maximum of Five Hundred Dollars ($500.00) per day. This remedy shall be in addition to

any and all other remedies provided in this Sublease or by law to Landlord in the event of default by Tenant. Such liquidated damages shall be deemed to be in lieu of Percentage Rent only that might have been earned during the period of Tenant's failure to open.

Section 1.04 CONSENT. Tenant acknowledges that under the Concession Area Lease and the Authority Lease, American and the Authority may have the right to consent to or approve matters which are described herein as being subject to the consent or approval of Landlord. Tenant agrees that Landlord, its agents and employees, shall be deemed to have acted reasonably if they act, fail to act, withhold or delay any consent or approval hereunder and such consent or approval is being withheld or delayed by or at the direction of either American or the Authority, whether or not American or the Authority is acting reasonably in making or refusing to make such determination. Landlord, its agents and employees, shall not have any liability to Tenant for any reason whatsoever in failing to obtain any such consent or approval. If, as a result of any delay by American which would result in Tenant being assessed liquidated damages by Landlord under this Sublease, then Landlord agrees not to assess such liquidated damages when Tenant's failure to comply is a direct result of any such delays by American.

Section 1.05 DISCLAIMER. **TENANT ACKNOWLEDGES THAT NEITHER LANDLORD, AMERICAN, THE AUTHORITY NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, REPRESENTATIVES OR BROKERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION OR WARRANTY OF ANY KIND RESPECTING USE, OCCUPANCY OR OPERATION WITHIN THE TERMINAL AND/OR THE AIRPORT BY ANY AIRLINES, PERSONS OR ENTITIES INCLUDING, WITHOUT LIMITATION, ANY FORECASTED, ANTICIPATED OR ESTIMATED PASSENGER VOLUME (WHETHER ENPLANEMENTS OR DEPLANEMENTS) IN THE TERMINAL AND/OR THE AIRPORT OR SALES EXPECTED TO BE GENERATED AT OR FROM THE PREMISES. TENANT IRREVOCABLY WAIVES ANY CLAIM BASED UPON OR RELATED TO ANY SUCH CLAIMED REPRESENTATION BY LANDLORD, AMERICAN OR THE AUTHORITY. NO REPRESENTATIONS OR WARRANTIES AS TO THE ECONOMIC VIABILITY OF THE PREMISES OR THE AMOUNT OF PASSENGERS TO BE ENPLANED IN THE TERMINAL HAVE BEEN MADE. NO PROMISES TO ALTER, REMODEL OR IMPROVE, THE PREMISES, CONCESSION AREA OR THE TERMINAL HAVE BEEN MADE BY LANDLORD OR AMERICAN EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE CONCESSION AREA LEASE. PASSENGER COUNTS, PASSENGER FLOWS AND OTHER CUSTOMER TRAFFIC ARE IN THE MOST PART PRODUCTS OF AIRLINE SCHEDULES AND GATE UTILIZATION AND GOVERNMENTAL RULES AND REGULATIONS GOVERNING SECURITY AND EMERGENCY SITUATIONS AND MAY RESTRICT ACCESS TO THE TERMINAL. TENANT MAY NOT RELY ON ANY IMPLIED REPRESENTATIONS OR WARRANTIES (THE EXISTENCE OF WHICH ARE HEREBY DISCLAIMED), OR THE ACCURACY OF PROJECTIONS OR PROSPECTIVE INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE. TENANT REPRESENTS THAT TENANT HAS CONDUCTED AN INDEPENDENT AND EXPERT INVESTIGATION AND EVALUATION OF THE TERMINAL, THE PREMISES AND ALL INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE.**

ARTICLE II. RENTALS

Section 2.01 MINIMUM ANNUAL GUARANTEED RENT. Tenant shall pay to Landlord the Minimum Annual Guaranteed Rent (**"Guaranteed Rent"**) set forth in the Data Sheet in equal consecutive monthly installments in advance on or before the first day of each month, without prior demand or notice. Guaranteed Rent, Percentage Rent and Additional Rent shall be paid to Landlord in U.S. currency at the

address set forth in the Data Sheet, or such other place as Landlord may designate in writing, without any deductions or offsets whatsoever. Should the Rental Commencement Date occur on a day other than the first day of a calendar month or this Sublease expire or terminate on a day other than the last day of a calendar month, then Guaranteed Rent shall be prorated on the basis of a thirty (30) day month. Should any Lease Year contain less than twelve (12) calendar months, said Guaranteed Rent shall be prorated on the basis of a three hundred sixty-five (365) day year. Effective each January 1 (commencing January 1, 2008) following the Rental Commencement Date, Guaranteed Rent shall adjust (but in no event shall the Guaranteed Rent decrease below the amount set forth in the Data Sheet) by an amount equal to the then current Lease Year's Guaranteed Rent times the "**Percentage Change in Enplaned Passengers**". The "**Percentage Change in Enplaned Passengers**" shall mean an amount equal to the percentage change, whether an increase or a decrease, between the Terminal's reported "**Enplaned Passengers**" between two (2) consecutive calendar years for each Lease Year of the Term. For example, the initial calendar year for such measurement shall be the "**Enplaned Passengers**" in the Terminal during the 2006 calendar year and shall be compared to the "**Enplaned Passengers**" in the Terminal during the 2007 calendar year. Thereafter, calendar year periods used for the measurement comparison shall each roll forward by one (1) calendar year for subsequent determinations of the Percentage Change in Enplaned Passengers (e.g., the second comparison shall be the 2007 calendar year compared to the 2008 calendar year). For all purposes of this Sublease, the term "**Enplaned Passengers**" means any passenger determined by American to have boarded an aircraft at the Terminal, including passengers who may disembark and re-board the same aircraft as part of the same flight itinerary, but excluding passengers, such as international in-transit passengers, from international flights who are restricted from access to the Concession Area.

Section 2.02 PERCENTAGE RENT. (a) Tenant shall also pay for each month of the Term ("**Lease Month**"), Percentage Rent equal to the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts during such Lease Month exceeds the Monthly Breakpoint. Tenant shall pay Percentage Rent to Landlord monthly without prior notice or demand within fifteen (15) days after the expiration of each Lease Month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Lease Month which exceed the Monthly Breakpoint. Should the Rental Commencement Date occur on a day other than the first day of a Lease Month or this Sublease expire or terminate on a day other than the last day of a Lease Month, then Percentage Rent due for such partial Lease Month shall equal the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts exceed the product obtained by multiplying the Monthly Breakpoint by a fraction, the numerator of which is the number of days in any partial Lease Month and the denominator of which is thirty (30). Should any Lease Year be less than twelve (12) full calendar months then the annual Percentage Rent due for such partial Lease Year shall equal the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts exceed the product obtained by multiplying the Annual Breakpoint by a fraction, the numerator of which is the number of days in any partial Lease Year in which Tenant was open and operating and the denominator of which is three hundred sixty-five (365). Further, the Monthly Breakpoint and the Annual Breakpoint shall be adjusted accordingly effective each January 1 by an appropriate amount to maintain the same "natural" or "un-natural" breakpoint in comparison with Guaranteed Rent, such adjustment to be made proportionately in connection with the annual adjustments to Guaranteed Rent pursuant to Section 2.01.

(b) If, at the end of any Lease Year, the monthly installments of Percentage Rent are less than the annual Percentage Rent required to be paid, Tenant shall pay the amount of such deficiency on or before the time Tenant provides its Annual Statement together with "**Late Interest**" (as defined in Section 27.13) from the date any such amounts were originally due. If, at the end of any Lease Year, the monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid, Tenant shall receive a credit equivalent to such excess, which shall be credited by Landlord to the next monthly payment(s) of Rentals due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total monthly installments

of Percentage Rent paid exceeds the annual Percentage Rent required to be paid for such final Lease Year, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises at the conclusion of this Sublease, so long as the Premises are in the condition required by this Sublease, all of Tenant's obligations and liabilities have been performed to the satisfaction of Landlord and any other sums due Landlord from Tenant under this Sublease have been paid in full or Landlord shall be entitled to deduct such remaining sums due from any such excess. Percentage Rent is agreed to be a portion of the consideration for Landlord to enter into this Sublease and Landlord expects to supplement Guaranteed Rent and Additional Rent to provide a fair rental return. Except as otherwise specifically permitted by this Sublease, if Tenant fails to continuously operate its business or keep the required hours of operation or vacates the Premises prior to the expiration of the Term hereof, Landlord, American and the Authority will suffer damages not readily ascertainable. Landlord shall have the right to treat any of such events as a non-curable, material default and breach by Tenant and Landlord shall be entitled to all remedies provided hereunder or at law.

(c) The term "**Gross Receipts**" means and includes all monies paid or payable to Tenant, whether for cash, credit or otherwise, for sales made or services rendered at or from the Terminal or the Airport regardless of when or where the order therefor is received and outside the Terminal or Airport if the order is received at the Terminal or the Airport, retail display allowances and other promotional incentives (the gross amounts thereof, not net of expenses) received from vendors, suppliers or manufacturers and other revenues of any type arising out of or in connection with Tenant's operations at the Terminal or the Airport, including, without limitation, proceeds from: the sale of gift and merchandise certificates (but only when such certificates are treated as a sale from the Premises pursuant to Tenant's record keeping system); mail, catalogue (as further explained below), closed circuit television, computer, other electronic or telephone orders received or filled; deposits not refunded to purchasers; orders taken at the Premises (although such orders may be filled elsewhere); sales through vending machines or other devices; the spread earned on any exchange or foreign currency transactions whether as a currency exchange service or in connection with the sale of merchandise or services; and all insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage. Catalogue sales generated from catalogues distributed from the Premises will be included in the calculation of Gross Receipts. For this purpose, catalogues displayed in the Premises must include a tracking number unique to the Premises that allows for an auditable method for tracking such sales. A "sale" shall be treated as consummated for the purposes of this definition, and the entire amount of the sales price shall be included in Gross Receipts, and deemed received at the time of determination of the amount due for each transaction, whether for cash, credit or otherwise, and not at the time of billing or payment. No deduction shall be allowed for uncollected or uncollectible credit accounts or "bad" checks. Gross Receipts shall <u>not</u> include: (1) any sums collected for any federal, state, county and municipal sales taxes, so-called luxury taxes, use taxes, consumer excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed by law upon the sale of merchandise or services but only if separately stated from the sales price and only to the extent actually paid by Tenant to any duly constituted governmental/taxing authority; (2) the exchange of merchandise between the stores or warehouses owned by or affiliated with Tenant, if any, where such exchanges of goods or merchandise are made solely for the convenient operation of the business of Tenant and not for the purpose of consummating a sale which has theretofore been made at, in, from or upon the Premises or for the purpose of depriving Landlord, American or the Authority of the benefit of the sale which otherwise would be made at, in, from or upon the Premises; (3) the amount of any cash or credit refund made upon any sale where the merchandise sold, or some part thereof, is thereafter returned by a purchaser and accepted by Tenant; (4) the proceeds of sale of fixtures, equipment or other items of property which are not stock in trade and not in the ordinary course of Tenant's business; (5) any receipts of Tenant which arise from its operations at the Airport under any other agreement with Landlord, American or the Authority and are subject to a percentage fee or percentage rent under that agreement; (6) shipping, delivery and gift wrapping charges provided at Tenant's actual

cost by Tenant and documented separately by Tenant and such charges are merely an accommodation to customers; (7) receipts in the form of refunds from, or the value of merchandise, services, supplies or equipment returned to, vendors, shippers, suppliers or manufacturers, including volume discounts received from Tenant's vendors, suppliers or manufacturers; (8) income actually received by Tenant from manufacturers of goods (e.g., cosmetics, perfume) displayed for sale at the Premises if the conditions set forth below are fully and strictly satisfied with respect to such income; (9) customary discounts given by Tenant on sales of merchandise or services to its own employees, if separately stated, and limited in amount to not more than one percent (1%) of Gross Receipts per Lease Month; (10) mandatory discounts of not less than ten percent (10%) of Gross Receipts, if separately stated, which must be given by Tenant on sales of merchandise or services to all individuals employed at the Airport; (11) gratuities for services performed by employees of Tenant which are paid by Tenant or its customers to such employees, except to the extent Tenant may be entitled to receive a portion of such gratuities; (12) the sale or transfer in bulk of the inventory of Tenant to a purchaser of all or substantially all of the assets of Tenant in a transaction not in the ordinary course of Tenant's business; and/or (13) except with respect to insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage as provided above and/or insurance proceeds that may be payable to Landlord, American or the Authority under such coverage, receipts from all other insurance proceeds received as a result of a loss or casualty. The conditions with respect to Section 2.02(c)(8) above are as follows: (i) the manufacturer specifically identifies the time period to which the income relates, (ii) reimbursement from the manufacturer to Tenant occurs in connection with employees (1) who are on Tenant's payroll for the operations permitted under the Consent Agreement and (2) who are on such payroll during the time period to which the reimbursement relates, (iii) the manufacturer and Tenant have previously entered into a written agreement that sets forth the material terms of their arrangement with regard to the reimbursement that is the subject of 2.02(c)(8), and (iv) Tenant provides to Landlord written documents and records substantiating the matters listed in sub-clauses (i) through (iii). Without limiting the generality of the foregoing, any and all income that would otherwise qualify as being excludable from Gross Receipts for purposes of this Sublease shall be includable in Gross Receipts if and to the extent that the income from the manufacturer which is associated with an identified employee during a calendar year exceeds such identified employee's base salary for the same calendar year. Such determination shall be made separately with respect to each employee of Tenant and with respect to each calendar year.

Section 2.03 **STORAGE PREMISES AND RENT.** If and to the extent that Storage Premises exist and/or are available, commencing on the date of actual delivery of Storage Premises to Tenant, all of the terms, provisions and conditions of Tenant's use and occupancy of the Premises set forth herein shall apply fully to Tenant's use and occupancy of the Storage Premises and for all purposes of this Sublease, the Premises shall be deemed to include the Storage Premises. Tenant shall build out such Storage Premises at its sole cost and expense, or, if Landlord may build out such Storage Premises to Landlord's specifications in which case, Tenant shall reimburse Landlord for the reasonable and actual costs incurred to build-out the Storage Premises. Landlord has the right at any time, in its reasonable discretion, to designate comparable alternative Storage Premises. In the event of the relocation of Storage Premises, Tenant shall be solely responsible for all moving and other related costs thereto. Tenant shall pay to Landlord as rent for the Storage Premises ("**Storage Premises Rent**") in accordance with the terms of the separate Storage Premises Sublease. Storage Premises Rent shall be payable in equal consecutive monthly installments in advance on or before the first (1st) day each month, without prior demand or notice. If delivery of the Storage Premises occurs on a date other than the first (1st) day of a month, the Storage Premises Rent shall be prorated on a daily basis for any such partial month.

Section 2.04 **TAXES.** (a) From and after the Rental Commencement Date, Tenant shall pay to Landlord, as Additional Rent, its proportionate share of the Taxes payable by Landlord under the Concession Area Lease. "**Taxes**" means, collectively, any tax, fee, excise, levy, lien, duty, impost or

similar charge assessed or imposed, including, without limitation, payments under any taxing agreement between the Authority and/or American, and the City of New York, providing for taxes to be paid to the City of New York, and any interest, penalties and additions to a tax, by a governmental authority on, against or in connection with the lease, use, possession, equipping, operation or maintenance of the Concession Area, and any amounts paid or deemed paid in connection with the purchase, lease or use of goods and/or services at or for the Concession Area, including amounts paid or attributable to utilities generated, provided or consumed by or through Tenant, other tenants of the Concession Area, Landlord, American or the Authority for the benefit of the Concession Area. Taxes exclude payments in lieu of taxes and federal or state taxes based on or determined by net income, net worth or Landlord's or American's ongoing qualification to do business in general as a corporation (e.g., state franchise taxes). Should the State of New York or City of New York or any political subdivision thereof or any governmental, taxing or assessing authority, impose a tax of any kind or nature, regular or special, direct or indirect, upon, against or with respect to the Rentals or other amounts payable to Landlord by Tenant, or a franchise tax assessment, levy or charge measured by or based, in whole or in part, upon such Rentals or any other amounts payable hereunder, then all such taxes, assessments, levies or charges, or the part thereof so measured or based, shall be paid by Tenant and shall be deemed to be included within the term Taxes. The Taxes in respect of the year in which the Rental Commencement Date occurs and for the year in which the Term hereof ends shall be prorated on a daily basis.

(b) Tenant's proportionate share of Taxes shall be determined as follows: (1) if the Premises is the subject of a separate tax lot or lots created by the City of New York, Tenant shall pay Taxes that may become due and payable with respect to the Premises as so reflected on the tax statement during the Term directly to the City of New York, or Landlord, as directed by Landlord, and shall deliver to Landlord, not later than ten (10) days before the date any such Taxes become delinquent, official receipts of the appropriate taxing authority or other evidence satisfactory to Landlord evidencing payment thereof; or (2) if the Premises is not a separate tax lot or lots, the amount of Tenant's proportionate share thereof shall be reasonably calculated by Landlord based upon the type of Tax charged and how it is allocated to all or a portion of the Concession Area. Tenant's proportionate share thereof shall be determined by a formula, the numerator of which is the Floor Area of the Premises and the denominator of which is the total Floor Area of all leased and occupied concession facilities located in the Concession Area. Such proportionate share shall be paid to Landlord in advance, in monthly installments on or before the first (1st) day of each calendar month, either: (i) in an amount estimated by Landlord and billed to Tenant, but Landlord shall have the right to initially determine monthly estimates and to revise estimates from time to time, or (ii) within twenty (20) days of Tenant's receipt of a bill from Landlord for the payment of such Taxes, if any of such Taxes are not so estimated in advance. Tenant agrees to make payment within twenty (20) days after receipt of a bill from Landlord even if a statement showing the Taxes payable by Landlord is not provided by Landlord at the time of billing. Upon receipt of the abovementioned statement pertaining to Taxes payable by Landlord under the Concession Area Lease, Landlord shall furnish Tenant with a written statement of the actual amount of Tenant's proportionate share of Taxes for such tax fiscal year together with a copy of such statement. If the total amount paid by Tenant for any such period following the Rental Commencement Date shall be less than the actual amount due from Tenant for such period, as shown on the statement, Tenant shall pay to Landlord the difference between the amount previously paid by Tenant and the actual amount due together with Late Interest from when originally due within ten (10) days after Tenant's receipt of such statement. If the total amount paid by Tenant hereunder for any such period shall exceed the actual amount due from Tenant for such period, such excess shall be credited against the next payment for Taxes due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total amount paid by Tenant for such final Lease Year shall exceed the actual amount due from Tenant for such period, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises in good condition at the conclusion of this Sublease and all Rentals due Landlord from Tenant under this Sublease have been paid in full or Landlord may deduct such excess, if any, from any outstanding and unpaid Rentals

remaining to be paid by Tenant to Landlord.

(c) Landlord reserves the right to contest Taxes; and Tenant shall pay to Landlord that portion of all reasonable external costs and expenses incurred by Landlord in connection with such contests (including attorneys' fees, accountants, consultants and appraiser expenses, and reasonable administrative expenses) based on a formula, the numerator of which is the square footage of Floor Area in the Premises, and the denominator of which is the total square footage of Floor Area in the Concession Area. Notwithstanding any such contest, related negotiation or appeal, Tenant shall timely pay its proportionate share of Taxes. If Taxes shall be increased, Tenant's proportionate share of Taxes shall be computed on the amount of Taxes finally determined to be payable by Landlord including any of the reasonable external costs incurred therein. If Landlord's obligation to pay Taxes shall be decreased, Landlord's statement following such decrease shall include an appropriate adjustment for any prior fiscal tax years affected by such decrease reflecting the amount of such decrease; and Tenant's proportionate share of any such adjustment, less Tenant's proportionate share of the reasonable external costs incurred shall be treated as a credit against future Taxes payable by Tenant following the decrease or, if during the final Lease Year of the Term, refunded to Tenant as provided in Section 2.04 (b) above. If Taxes are separately-assessed against Tenant, Tenant may contest, in good faith for its own account and at Tenant's sole cost and expense, the validity or amount of any such separately assessed Tax, provided **Tenant shall indemnify Landlord against any resulting loss, cost or expense, and shall provide security reasonably satisfactory to Landlord with respect to Tenant's performance of such indemnification.** Under no circumstances shall Tenant permit any type of lien or encumbrance on the Premises or on the Terminal by reason of the failure to pay any Taxes or Tenant Taxes (as defined in Section 22.01).

(d) If Tenant should fail to pay any Taxes required to be paid by Tenant hereunder, in addition to any other remedies provided herein, Landlord may, if it so elects, pay such Taxes either with its own funds or by a draw-down of such amounts upon the Performance Guaranty. Any sums so paid by Landlord shall be due and payable by Tenant on demand, together with Late Interest thereon from the date paid by Landlord to the date of repayment by Tenant. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Taxes and proceedings described in this Section 2.04.** Tenant shall be liable for all Taxes levied or assessed directly against Tenant, including Taxes assessed on or in respect of "**Fixed Improvements**" and any "**Refurbishments**" (as both terms are defined in Section 5.01), or other fixtures, inventory or personal property of Tenant in the Concession Area. If any such Taxes are levied or assessed against Landlord, American or their property and Landlord pays the same or the assessed value of Landlord's or American's property is increased by inclusion of such personal property and fixtures, then, at Landlord's discretion, Tenant shall advance the corresponding Taxes to Landlord, or reimburse them upon demand if paid by Landlord.

Section 2.05 **MISCELLANEOUS CHARGES.** (a) Employee Parking. The Authority retains the right to institute a charge to Tenant for the privilege of using such employee designated parking facilities for Tenant's employees. Such charges shall be paid directly to the Authority and shall be promptly paid at such intervals as shall be demanded in accordance with parking rates established by the Authority as adjusted from time to time. (b) Identification Security Badges. All persons employed at the Terminal are required to obtain background checks, security clearances and identification security badges from American or the Authority; and American or the Authority has the right to institute a reasonable charge for processing, issuance, reviews and renewals. Such charges shall be paid directly to the issuing party and shall be promptly paid at such intervals as shall be demanded. All security badges must be properly accounted for by Tenant and promptly returned in accordance with American's, the Authority's and all other applicable rules, policies and regulations. (c) Screening. As may be required by local, state or federal law, including,

but not limited to, the Federal Aviation Administration's ("**FAA**"), the Transportation Security Administration's ("**TSA**"), American's, the Authority's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, products, equipment and supplies shall be paid by Tenant directly to Landlord or, if not billed directly, included within the Logistical Support and Public Area Maintenance Fee. (d) Subsequent Regulations. If in the future, American, the Authority or any agency with jurisdiction over the Airport requires Landlord to implement additional procedures related to airport facilities and/or the screening or badging of Tenant's employees, contractors, goods, products, equipment or supplies, Tenant agrees to pay the actual costs incurred by Landlord in the manner provided above. Each of the foregoing shall be collectively referred to as "**Miscellaneous Charges**".

Section 2.06 **ADDITIONAL RENT.** In addition to Guaranteed Rent and Percentage Rent hereunder, Tenant shall pay, as "**Additional Rent**", in a manner and at the place provided herein, all sums of money required to be paid by Tenant hereunder, including but not limited to: Miscellaneous Charges, Storage Premises Rent, if any, Taxes, Utilities for concessions which offer food and beverages, the Logistical Support and Public Area Maintenance Fees, and contributions to the Joint Marketing Fund. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next installment of Guaranteed Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All Rentals payable in a given month shall be deemed to comprise a single rental obligation of Tenant.

Section 2.07 **LATE PAYMENT CHARGE.** If any Rentals required to be paid to Landlord hereunder are not made when such Rentals are due, including as a result of any audit findings, Tenant shall pay interest on any such overdue amounts, compounded monthly at the rate specified in Section 27.13 commencing on the due date; provided, however, any such late charges shall be waived in the event any such late payments are in fact received by Landlord within five (5) days following the due date. If Landlord accepts such late payment charge or Tenant pays the late payment charge but fails to pay contemporaneously therewith all unpaid amounts of Rentals due, Landlord's acceptance of this late payment charge shall not constitute a waiver of Tenant's default nor prevent Landlord from exercising all other rights and remedies available to Landlord hereunder or at law. If Tenant is late more than twice during any consecutive twelve (12) month period, Landlord will no longer waive any such applicable late charges for the remainder of the Term.

Section 2.08 **APPLICATION OF PAYMENTS; ACCORD AND SATISFACTION.** Landlord may, at its sole discretion, apply any payments received from Tenant to any Rentals that are then due and payable. If Landlord shall not make any specific application of a payment received from Tenant, then any such payment received shall be applied first to the Rentals which have been overdue for the longest period of time. No designation of any payment by Tenant for application to a specific portion of Tenant's financial obligations hereunder shall be binding unless otherwise required under the laws of the State of New York nor shall it be deemed an accord and satisfaction of any debt or obligation of Tenant hereunder. Tenant covenants to pay all Rentals independent of any obligation of Landlord. No breach of this Sublease by Landlord shall relieve Tenant of its obligation and duty to pay all Rentals when due under the terms hereof. All Rentals shall be paid by Tenant to Landlord without set-off, deduction, demand or abatement. Tenant's obligations to pay Rentals shall be absolute and unconditional and shall not be subject to any right of recoupment or set-off and Tenant shall make all payments in full without deduction, setoff or counter-claims of any form or nature. Landlord reserves the right to accept any check or payment without prejudicing in any way Landlord's right to recover the balance of any and all Rentals due from Tenant after receipt of any such check or payment or to pursue any other remedy provided herein or by law. At any time that Tenant shall have delivered checks to Landlord for payments pursuant hereto which shall have on at least two (2) occasions during any Lease Year been returned by Landlord's bank for any reason, Landlord

shall not be obligated to accept any payment from Tenant unless such payment is made by cashier's check or in bank certified funds.

ARTICLE III. RECORDS AND REPORTS

Section 3.01 TENANT'S RECORDS. Tenant shall maintain in English and in accordance with accepted accounting practices consistently applied ("**AAP**"), full and complete records and books of account recording all transactions at, through or in any way connected with Tenant's operations at the Premises or elsewhere at the Terminal or the Airport and outside of the Airport if the order therefor is received at the Premises, and shall require and cause all of Tenant's Affiliates (as defined below) performing similar services within the Port of New York District (as defined in the Authority Lease) and its subtenants, concessionaires, licensees and/or assignees to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Tenant (collectively, "**Records**"). For all purposes of this Sublease, "**Affiliate**" or "**Affiliates**" means, with respect to any Person, any other Person, directly or indirectly, through one (1) or more intermediaries, who or which Controls, is Controlled By or is Under Common Control With such Person; "**Person**" means and includes an individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department, authority or agency thereof; and "**Control**" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise (including any entity in which a Person (including any general or limited partner, managing and non-managing member or shareholder of such Person) has an ownership interest); and the terms "**Controls**", "**Controlled By**" and "**Under Common Control With**" shall have the meanings correlative to the foregoing. The Records shall include, without limitation, true copies of all federal, state and local sales and use tax returns and reports, daily bank deposits and daily receipts from all sales (including those from catalogue, mail or telephone orders), duplicate bank deposit slips, invoices, journals, ledgers and other pertinent original sales records, and records of any other transactions conducted in or from the Premises by Tenant. The Records shall also include, without limitation, all corporate records and books of account which the Landlord, in its sole discretion, believes may be relevant for identification, determination or calculation of all fees, rentals and other amounts paid or payable to American and the Authority, all agreements, and all source documents. The Records shall be preserved and retained by Tenant within the Port of New York District and if not kept by Tenant within the Port of New York District, the Records shall be preserved and retained at Tenant's principal business office located in Toronto, Canada during the Term and for one (1) year after the expiration or earlier termination hereof, and for any further period extending until receipt of written permission from the Authority to do otherwise; provided, however, those Records pertaining to Gross Receipts shall be maintained for a period of five (5) years from the date of each sale, or, in the event of a claim by Landlord, American or the Authority, until such claim for payments hereunder shall have been resolved, fixed and paid. If such records are not kept by Tenant within the Port of New York District, Tenant shall make all of such records available within the Port of New York District within fifteen (15) days of a request therefor. All Records shall at all reasonable times, during Tenant's normal business hours after fifteen (15) days prior written notice, be open to the inspection of, and may be copied or extracted from, in whole or in part, by Landlord, American, the Authority or their respective representatives for the period hereinabove required. If the Records are not audited within such retention period, the Records shall be deemed adequate and closed; provided, however, in the case of fraud and/or willful errors, such retention period limitation shall not apply; and, provided, further, records relating to any litigation or settlement of claims arising under or relating to this Sublease shall be made available for during retention period after such litigation or claims have been completed and all time limits for appeals have expired.

Section 3.02 POINT OF SALE TERMINALS. Tenant shall install in the Premises, at its sole cost and expense, non-resettable cash register(s) and other point of sale terminals (each, a "**Point-of-Sale**

Terminal") for recording orders taken, or services rendered, as may be appropriate to Tenant's business and necessary or desirable to keep accurate records of Gross Receipts and to register therein every transaction made in, on, about or from the Premises, including every type of Gross Receipts. Each such Point-of-Sale Terminal shall provide an historical record of all transactions which occur at the Premises for accounting, terminal-wide merchandising and auditing purposes. Landlord, American and the Authority shall have the right to inspect any Point-of-Sale Terminal or audit Tenant at any time. In order to provide an accurate record and to provide a high level of service to customers, all Point-of-Sale Terminals or cash registers used shall have, as a minimum, the following features: (a) not less than sixty (60) segregated category addresses (if applicable for the types of products or services that maybe offered by Tenant); (b) the input devices may either be a key, scanner or both; (c) the patron fee display shall be of sufficient size and legibility to be readily observed by the patron during the processing of a transaction; and (d) the register of each Point-of-Sale Terminal shall: (1) record transactions by sequential control number to the audit tape or computer files; (2) be capable of printing a transaction history to tape or file by hour (time of day), day, month and year; (3) print a customer receipt showing the amount due, amount tendered, and the amount due to the customer together with the time and date of the transaction; and (4) the register or data collection device shall have a secure transaction audit tape or an ASCII transaction file on an IBM compatible data disk. The tape of each Point-of-Sale Terminal shall be accessible to, and subject to inspection by, Landlord, American and the Authority. Each Point-of-Sale Terminal shall accept at least two (2) major credit cards and, wherever commercially reasonable, provide a so-called "swipe and go" credit card service to its customers. Upon request, Tenant shall make available to Landlord weekly sales data ("**Point of Sale Data**"), reflecting the amount of each sales transaction, the number of transactions, items sold per transaction, time and date of each transaction, and specifying the sales category applicable to each item sold.

Section 3.03 **REPORTS BY TENANT.** Tenant shall furnish to Landlord as soon as practicable after the end of each Lease Month, but in no event later than fifteen (15) days after the expiration of each Lease Month, a complete statement (substantially in the form of **Exhibit C**), certified by a authorized officer or equivalent representative of Tenant, of the amount of Gross Receipts during such period and the amount of Percentage Rent paid ("**Monthly Statement**"). Tenant shall furnish to Landlord, within sixty (60) days after the expiration of each Lease Year, a complete statement (substantially in the form of **Exhibit C**), prepared and certified by an authorized officer of Tenant and certified by an independent certified public accountant (who shall be subject to Landlord's reasonable approval), showing in reasonable detail for the preceding Lease Year the amount of Gross Receipts and the payments of Guaranteed Rent, Percentage Rent and Additional Rent ("**Annual Statement**"). Tenant shall certify in its Monthly Statements and Annual Statements that (1) such statements have been prepared in accordance with the terms of this Sublease, (2) that all revenues which are required to be included in Gross Receipts under the terms of this Sublease and in accordance with AAP have been so included, (3) that all payments of Guaranteed Rent, Percentage Rent and Additional Rent have been made in accordance with the terms of this Sublease, and (4) all of the foregoing statements are true, accurate and complete in all material aspects. The certification and opinion of the independent certified public accountant shall state that total Gross Receipts, Guaranteed Rent, Percentage Rent and Additional Rent were calculated and reflected by Tenant in its Annual Statement in accordance with the terms of this Sublease and that the Annual Statement was prepared in accordance with AAP. Landlord may make reasonable changes to the form of the Monthly Statement or Annual Statement from time to time upon thirty (30) days prior notice to Tenant. Monthly Statements and Annual Statements shall be accompanied with supporting documentation as may be required by Landlord. If Tenant fails to furnish to Landlord any Monthly Statement or Annual Statement within the time required by this Section 3.03, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of Fifty Dollars ($50.00) per statement per day until such statement is properly delivered to Landlord for the first (1st) such failure to furnish a statement, One Hundred Twenty-Five ($125.00) per statement per day until such statement is delivered to Landlord for the

second (2nd) such failure to furnish a statement, and Two Hundred Fifty Dollars ($250.00) per statement per day until such statement is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a statement. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

Section 3.04 **BUSINESS STATISTICS REPORTS.** Tenant shall furnish to Landlord, within fifteen (15) days after the close of each calendar quarter during the Term, the following report ("**Business Statistics Report**") containing trends for the operation of the Premises, as follows: (a) average weekly sales by category, if applicable; (b) rolling twelve (12) month sales by category, if applicable; (c) sales per Enplaned Passenger, by category, if applicable, on a monthly, quarterly and rolling twelve (12) month basis; (d) average sales per transaction on an annual basis; (e) sales per square foot of Floor Area in the Premises and by category, if applicable, on a rolling twelve (12) month basis; (f) occupancy report, listing Rentals as a percentage of Gross Receipts; and (g) where applicable, comparisons to historical data for the same time frames. If Tenant fails to furnish to Landlord any Business Statistics Report within the time required by this Section 3.04, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of Fifty Dollars ($50.00) per report per day until such report is properly delivered to Landlord for the first (1st) such failure to furnish a report, One Hundred Twenty-Five Dollars ($125.00) per report per day until such report is delivered to Landlord for the second (2nd) such failure to furnish a report, and Two Hundred Fifty Dollars ($250.00) per report per day until such report is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a report. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

ARTICLE IV. EXAMINATION AND AUDIT

Section 4.01 **RIGHT TO EXAMINE BOOKS.** Landlord, American and the Authority each shall have the right to examine all Records. Tenant shall make available to the requesting party within fifteen (15) days following such written request for the same at a designated location within the Port of New York District for the purpose of examination, extracting and/or copying all books, source documents, accounts, records and sales tax reports filed with applicable government agencies of Tenant and any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, in order to verify the amount of Gross Receipts and the amount of all Rentals. Should such records not be made available at the designated location within the Port of New York District within such fifteen (15) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

Section 4.02 **AUDIT.** During the Term hereof and for one (1) year thereafter, Landlord, American and the Authority may, each at any time upon fifteen (15) days prior written notice to Tenant, cause a complete audit to be made by an auditor or accountant of their selection (who may be a certified public accountant), of the records and operations of Tenant and/or any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, relating to the Premises, for the period covered by any statement issued or required to be issued by Tenant, its Affiliates subtenants, licensees, concessionaires, and/or assignees. Tenant shall make available to the auditor or accountant, at a location within the Port of New York District within fifteen (15) days following written notice requiring such audit, all of the Records that such auditor or accountant deems necessary or desirable for the purpose of making such audit. If such audit discloses that Gross Receipts as previously reported for the period audited were understated, Tenant shall immediately pay to Landlord the additional Percentage Rent due for the period audited together with Late Interest from the date such amounts were originally due. Further, if such understatement was in excess of two percent (2%) of actual Gross Receipts as disclosed by such audit, Tenant shall immediately pay to Landlord the reasonable and actual cost of such audit upon Tenant's receipt of an invoice therefor, plus

Late Interest; and, if such understatement was in excess of ten percent (10%) of Gross Receipts as disclosed by such audit due to Tenant's intentional, willful or fraudulent act or omission, Landlord may declare this Sublease terminated and the Term ended, in which event this Sublease shall cease and terminate on the date specified in such notice with the same force and effect as though the date set forth in such notice were the date set forth in this Sublease for expiration of the Term, and Tenant shall vacate and surrender the Premises on or before such date in the condition required by this Sublease for surrender upon the expiration of the Term. If upon examination or audit the auditor or accountant reasonably determines that sufficient documentation is not maintained, retained, recorded, or available in accordance with AAP to verify Gross Receipts, Tenant shall pay for the reasonable and actual cost of such audit; and, in addition, should the party who requested the audit deem it necessary, Tenant shall reconstruct, at its sole cost and expense, all records for the determination of Gross Receipts for any period being audited. Should such records not be made available at the designated location within the Port of New York District within such fifteen (15) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

ARTICLE V. CONSTRUCTION OF PREMISES

Section 5.01 **CONSTRUCTION OF PREMISES.** (a) All improvements to the Premises shall be made as set forth in **Exhibit D**, the Tenant Construction Review Manual (as defined herein), the Design Guidelines (as defined herein) and otherwise in compliance with the Tenant Construction and Alteration Application Authority Form 531, as the same may be amended or modified, from time to time ("**Alteration Application**"), the Authority Requirements and any other reasonable requirements of Landlord and American. Tenant shall install the Fixed Improvements (as herein defined) and Operating Equipment (as herein defined) on or before the Latest Rental Commencement Date so that the Premises will provide attractive, well-designed facilities that promote the display and sale of merchandise, products and/or services and present a positive image to the public. Each of the parties hereto shall perform the obligations imposed upon such party in **Exhibit D** at the times and in the manner provided. It is understood and agreed by Tenant that any non-material changes from any plans and specifications covering American's Work (if any), as described in **Exhibit D**, shall not affect or invalidate this Sublease. The term "**Fixed Improvements**" shall mean the permanent improvements, structures and fixtures (other than the work ("**Base Building Work**") American is obligated to perform under the Authority Lease and the Concession Area Lease to deliver the Premises in "shell" condition as set forth in **Exhibit D**) initially installed by Tenant in the Premises to prepare the Premises for issuance of an occupancy permit and otherwise to complete it for the operations of Tenant and any Refurbishments which may be made subsequently to the Premises in accordance with this Sublease. "**Refurbishments**" shall mean the repair, replacement or upgrade of Fixed Improvements as required and approved under Section 5.03(b). Fixed Improvements may include, but are not limited to, finish-out work on floors, ceilings, demising walls and store facades, storefront signage, the panel box for and hook-ups to utility wires and conduits infrastructure, decorations, shelves, counters, lighting and interior design and construction work necessary in general to accommodate the operation of a Tenant. The Fixed Improvements shall be satisfactory to Landlord and American in all respects and shall be installed in a timely manner in accordance with this Article V. The term "**Operating Equipment**" means any trade furniture, trade furnishings, trade equipment, signs, trade appliances and trade fixtures that are fabricated, furnished, installed and used by Tenant in the Premises. The term "**Tenant Construction Review Manual**" means the Tenant Construction Review Manual, Port Authority Design Guidelines and other construction manuals promulgated by the Authority, as may be amended or modified from time to time. The term "**Design Guidelines**" means Landlord's Tenant Design Handbook and American's Design Guidelines as may be amended or modified from time to time.

(b) Tenant shall furnish conceptual drawings and plans ("**Conceptual Plans**") and final drawings and

specifications ("**Final Drawings**") for the Premises as follows: Tenant shall submit Conceptual Plans to Landlord and American for approval no later than twenty (20) days after execution of this Sublease. Landlord shall promptly review the Conceptual Plans, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Conceptual Plans. Following Tenant's receipt thereof, Tenant shall submit Final Drawings strictly conformed to the approvals or comments received within twenty (20) days (or such shorter period of time in order for Tenant to complete installation of the Fixed Improvements and Operating Equipment, stock the Premises and open for business to the public by the Latest Rental Commencement Date) to Landlord and American for prior written approval. Landlord shall promptly review such Final Drawings, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Final Drawings. In the event of disapproval, Tenant shall immediately revise the Final Drawings and promptly resubmit them for approval until such approval is obtained. Following approval of the Final Drawings, Tenant shall immediately prepare so that American can immediately file the Tenant Alteration Application as soon as possible thereafter (and in no event more than ten (10) days thereafter) with the Authority pursuant to the Authority's Tenant Alteration Application Process ("**TAA Process**"). It is anticipated that the Authority will provide its comments, approval and/or disapproval no later than thirty (30) days after submission of the Alteration Application and to issue all required construction permits within such time period. Obtaining all approvals required by the Authority's Requirements is the sole responsibility of Tenant. The failure of Landlord to provide comments and/or approvals within the time periods set forth herein for Conceptual Plans and Final Drawings shall extend the Latest Rental Commencement Date on a day-for-day basis for each day so delayed; provided, however, no such extension shall be granted to Tenant unless the Conceptual Plans and Final Drawings are submitted strictly in accordance with all of the requirements of the Tenant Construction Review Manual, the Design Guidelines, **Exhibit D** and the Alteration Application. Tenant's failure to furnish or revise the Conceptual Plans and Final Drawings within the time frames and in the form required herein, or failure to perform any other obligation under this Section, shall constitute a material default by Tenant hereunder, which shall entitle Landlord to all remedies set forth in Article XIX. If Landlord reasonably determines that the parties are unable to agree upon the Conceptual Plans and/or the Final Drawings or if Tenant fails to timely provide the Preliminary Plans and Final Drawings, including any revisions required thereto within ten (10) days from the dates required, Landlord may terminate this Sublease upon twenty-four (24) hours written notice to Tenant, in which event this Sublease shall terminate on the date specified in such notice and thereafter neither party shall have any further obligations to the other party. No deviation from the Final Drawings, once approved pursuant to the TAA Process (and once so approved they are incorporated by reference herein), shall be made by Tenant without Landlord's, American's and the Authority's prior written consent. Approval of Conceptual Plans and Final Drawings by Landlord, American or the Authority shall not constitute any representation or warranty or the assumption of any responsibility or any liability by Landlord, American or the Authority for their accuracy, efficacy or sufficiency and Tenant shall be solely responsible for such items. Storefront barricades, reasonably acceptable to Landlord, attractively screening the Premises from view during construction shall be erected and maintained by Tenant at all times prior to Tenant's opening for business and shall be removed and properly disposed of by Tenant prior to such opening, all at Tenant's sole cost and expense. If Landlord originally erects such storefront barricades or if Tenant fails to construct, erect, maintain, remove and dispose any such storefront barricades, Tenant shall reimburse Landlord for all reasonable and actual costs incurred by Landlord in performing any of the same.

(c) Tenant expressly acknowledges that it is familiar with the TAA Process and its design and construction guidelines. Delays in obtaining Authority approvals in regard to these processes shall not be considered an excusable delay or Force Majeure (as defined in Section 27.04) except, and only to the extent, that the Authority fails to respond at all to a conforming Alteration Application for more than thirty (30) days after delivery of such application. In the latter case, the Latest Rental Commencement Date will be extended one (1) day for each day beyond the 30th day that the Authority has failed to

respond to an Alteration Application. No work may commence until an Alteration Application has been approved by the Authority, pre-construction meetings, as scheduled and directed by the Authority, are concluded and the Authority has issued a construction permit, permitting the work to be performed, if applicable. Within one hundred twenty (120) days of the completion of construction, Tenant shall submit "as-built" drawings and specifications of the construction work and installation of equipment and trade fixtures; and Tenant shall keep such drawings current showing therein any changes or modifications made during the Term. **Tenant shall also factor in any length of time required to obtain all security clearances, identification badges, pre-construction coordination meetings, permitted times in which construction activities shall be allowed in the Terminal and all other Authority Requirements in order to ensure that Tenant shall be open for business no later than the Latest Rental Commencement Date.**

(d) Tenant shall spend and invest, in a manner previously approved by Landlord and American, an amount not less than Two Hundred Dollars ($200.00) per square foot of the Floor Area in the Premises (as the minimum capital expenditure and investment) for the construction and installation of Fixed Improvements ("**Construction Cost**"), which sum shall be comprised of the types of any investments that qualify as Eligible Costs (as defined below).

(e) Within ninety (90) days of completion of the Fixed Improvements or any Refurbishments, Tenant's construction manager and/or architect shall duly execute and deliver to Landlord, as evidence of the completion of such work, a certificate to the effect that: (1) the design, construction, and equipping of the Fixed Improvements have been substantially completed in strict accordance with the Final Drawings and the time schedule to complete if not fully complete (which in no event shall exceed thirty (30) days); (2) all costs and expenses for labor, services, materials, and supplies used in designing, constructing, and equipping the Fixed Improvements for which payment is due have been paid in full (specifying, in reasonable detail, the Construction Cost expended in the completion of the Fixed Improvements which are to be applied toward the minimum investment requirement established in Section 5.01(d)) together with executed copies of all mechanics' lien waivers and/or releases or other lien waivers and/or releases on account of Tenant's Work, notarized and unconditional, in such reasonable form as Landlord shall have reasonably approved; (3) a certificate of occupancy, a consent to occupy or a permit to use or occupy, as applicable, and all other necessary licenses, permits and other required documents for operation of Premises affected by the Fixed Improvements have been issued by the appropriate governmental agency; and (4) final and complete set of "as-built" Final Drawings on the most recent version of AutoCad (which version shall not predate Version 12.0), duly certified by a registered architect or registered engineer licensed in the State of New York. Tenant shall not begin sales to the public until all the requirements regarding inspection and certification by Landlord, American and/or the Authority have been fulfilled pursuant to the TAA Process. If Tenant shall fail to provide any of the foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Five Hundred Dollars ($500.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

(f) Within ninety (90) days of completion of the Fixed Improvements or any Refurbishments, Tenant shall duly execute and deliver to Landlord and American, as evidence of the cost of such work, a certificate issued by the chief executive officer, chief financial officer or equivalent representative of Tenant, detailing the Eligible Costs actually incurred in connection with the installation of the Fixed Improvements together with a Depreciation Schedule (as hereinafter defined) for each Fixed Improvement. Tenant shall provide to Landlord copies of invoices and canceled checks or other

reasonable evidence of expenditures for labor and materials covering all Eligible Costs; and Landlord and American shall have the right to audit such records. If there is a discrepancy of five percent (5%) or more, Tenant shall pay, as Additional Rent, the cost of the audit. If Tenant shall fail to provide any of the foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Five Hundred Dollars ($500.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

"**Eligible Costs**" means, with respect to any investment in Fixed Improvements or Refurbishments, the following: (1) directly contracted construction costs, (2) architectural and engineering fees, construction management fees and the cost to obtain the applicable permits, which amounts under this clause (2) shall not exceed fifteen percent (15%) of the contracted construction costs, unless otherwise approved by Landlord in writing, and (3) permanent fixtures, including any furniture and equipment and custom-built "trade fixtures" which constitute fixtures under applicable law, installed for direct use in the Premises. Notwithstanding the foregoing, Eligible Costs shall not include: (1) costs for Base Building Work incurred by Landlord or American, (2) costs in excess of one hundred thirty-five percent (135%) of the estimated costs for Fixed Improvements provided by Tenant in the letter of intent or proposal term sheet for this Sublease unless otherwise specifically approved by Landlord in writing, (3) any overhead, financing costs (e.g., loan origination fees or interest, legal fees or any non-construction-related costs), or (4) amounts paid to any Affiliate of Tenant. In addition, to qualify as Eligible Costs, disbursements must be supported by the certificate referenced in Section 5.01(e) and the documentary evidence of payment as described in this Section 5.01(f).

"**Depreciation Schedule**" means a schedule reflecting the monthly amortization of the Eligible Costs for Fixed Improvements, which schedule must be approved by Landlord and American and shall reflect amortization on a straight-line basis during the lesser period of either: (1) the useful life of such Fixed Improvement, calculated in accordance with "GAAP"; or (2) the length of time remaining in this Sublease from the date such Fixed Improvement is completed and begins to be depreciated. "**GAAP**" means generally accepted accounting principles in the United States of America, as set forth in the opinions and pronouncements of the American Institute of Certified Public Accountants' Accounting Principles Board and Financial Accounting Standards Board or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, to the extent such principles are applicable to the facts and circumstances on the date of determination. Any schedule submitted by Tenant for this purpose shall not be deemed a Depreciation Schedule until such schedule is approved by Landlord and American in writing, which approval shall not be unreasonably withheld, delayed or conditioned. If Landlord does not respond at all within ninety (90) days of the submission of a Depreciation Schedule, the schedule shall be deemed accepted and approved by Landlord.

Tenants who fail to properly and timely submit the certificates and documentary evidence of Eligible Costs and the Depreciation Schedule to Landlord and American for approval within one hundred eighty (180) days after the completion of the Fixed Improvements or Refurbishments shall forever waive and release Landlord and American for reimbursement of any portion of Tenant's Eligible Costs in the event of a relocation and/or early termination of this Sublease.

(g) Subject in all events to the Authority Lease and the Authority's lease with the City of New York, all alterations, additions, improvements and fixtures (including, without limitation, all floor, wall and/or ceiling coverings and any Tenant-installed heating and air conditioning equipment, but excluding Tenant's readily movable decorations, trade fixtures, furniture and office equipment) that are installed by

any party in the Premises shall remain upon and be surrendered with the Premises and become the property of American, if permitted under the Authority Lease, or the City of New York, as the same or any part thereof is erected, constructed or installed.

(h) All contracts for the construction or installation of Fixed Improvements shall require: (1) that all contractors and subcontractors provide labor that can work in cooperation with other elements of labor employed or to be employed at the Airport; (2) insurance coverage and suretyship reasonably satisfactory to Landlord, the Authority and American for the protection of their employees, laborers, suppliers, contractors, subcontractors, agents, invitees and the public; (3) that all contractors and subcontractors comply with all provisions of this Sublease applicable to them; and (4) performance bonds and payment bonds from Tenant or Tenant's general contractor, in form and substance satisfactory to Landlord, each of which shall name Landlord, the Authority and American, as additional obligees and/or loss payees and which shall be in a sum equal to the amount of the applicable construction contracts. Tenant shall designate a full-time qualified construction project manager with experience in projects of similar size and scope ("**Tenant's Project Manager**") reasonably acceptable to Landlord to coordinate construction of the Fixed Improvements with Landlord pursuant to the Authority's TAA Process. Landlord reserves the right to require Tenant to provide its list of selected architects, interior designers and construction managers for prior written approval, which approval shall not be unreasonably withheld by Landlord.

(i) During the performance of Tenant's Work, the Premises shall, at Tenant's sole cost and expense, be kept free and clear of all trash and debris and shall be broom swept daily. No work which Tenant is permitted to do or which Tenant is obligated to perform pursuant to this Sublease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord, American or the Authority. Tenant has no authority, express or implied, to, and shall not, create, place or permit the placement of any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord, American or the Authority in the Concession Area, the Terminal or the Airport, or to assign or encumber either the Rentals or any other payment obligations for any claim in favor of any Person including, without limitation, those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will promptly pay or promptly cause to be paid all sums legally due and payable by Tenant on account of any labor performed or materials furnished in connection with any work performed in, under, on and upon the Premises, by or on behalf of Tenant. **Tenant will indemnify and hold Landlord, American, the Authority, the City of New York and the commissioners, employees, officers, agents and representatives of Landlord, American, the Authority and the City of New York harmless from any and all losses, costs and expenses of any asserted claims or liens against the respective rights, title and interests of Landlord, American, the Authority and the City of New York in the Airport, and any part thereof, or under the terms of this Sublease based on or arising out a breach of the covenants of this Section 5.01.** Tenant agrees to give Landlord immediate written notice of the placing of any lien or encumbrance against the Concession Area or the Terminal.

(j) Tenant's failure to complete the Fixed Improvements and install its Operating Equipment in a timely manner will result in damages that are difficult to ascertain in light of operations, scheduling and public service factors at the Terminal. **Therefore, if the Fixed Improvements are not completed and the Operating Equipment not installed by the Latest Rental Commencement Date, Tenant shall pay to Landlord as liquidated damages the sum of Two Hundred Fifty Dollars ($250.00) for each day that the Fixed Improvements are not completed and the Operating Equipment not installed beyond such Latest Rental Commencement Date.**

Section 5.02 **CONDITION OF PREMISES.** Except as otherwise specifically provided herein, Tenant hereby agrees that upon delivery of possession of the Premises to Tenant, Tenant shall accept such delivery

of possession of the Premises in its then existing **"AS IS" "shell condition"** (as described in **Exhibit D**)and Tenant acknowledges: (a) that Tenant shall have inspected the Premises and shall be fully aware of the condition of the Premises as of delivery of possession and the suitability thereof for Tenant's permitted use or the conduct of Tenant's business; (b) that Landlord shall have no obligation to improve or alter the Premises for the benefit of Tenant; (c) that, Tenant shall assume all risks in connection therewith without representation or warranty by Landlord, American or the Authority, express or implied, in fact or by law, on the part of Landlord, American and the Authority and without recourse to Landlord, American and the Authority. Tenant irrevocably waives any claim based upon or related to any such claimed representation by Landlord or any claimed representation by Landlord as to public traffic to be expected at the Premises or sales to be expected at the Premises. Tenant's taking possession of the Premises shall constitute Tenant's formal acceptance of the same and acknowledgment that the Premises are in the condition required hereunder. Tenant waives any right to rescind or terminate this Sublease, whether under Section 223-a of the New York Real Property Law or any successor statute of similar import then in force or otherwise, and further waives the right to recover any damages or obtain any other compensation from Landlord which may result from Landlord's failure to deliver possession of the Premises on the date set forth in the Data Sheet and/or in the condition provided herein.

Section 5.03 **ALTERATIONS AND REFURBISHMENTS TO THE PREMISES.** (a) In the event Tenant desires to make any future modifications to the Premises or the Fixed Improvements during the Term, Tenant shall not make such modifications without first obtaining the prior written consent of Landlord, American and the Authority, and otherwise complying with the terms and conditions outlined in this Article V for the initial Fixed Improvements.

(b) If the Term of this Sublease will exceed seven (7) years, whether under the original term or any extension thereof, Tenant agrees that by no later than seven (7) years after the date of beneficial occupancy of its Premises, Tenant will spend and invest as a mid-term reinvestment (in each case with the manner and source of such expenditure and investment being subject to the same procedures applicable to initial Fixed Improvements, including the prior approval of Landlord and American) a minimum of One Hundred Fifty Dollars ($150.00) per square foot for each food and beverage concession and Seventy-Five Dollars ($75.00) per square foot of each other type of concession (e.g., retail or service) for such Refurbishments or other upgrades to the Fixed Improvements. Tenant shall provide to Landlord and American such back-up data as Landlord and American may reasonably request to confirm that such Refurbishment and upgrade to the Fixed Improvements has been made.

ARTICLE VI. RESERVATION OF RIGHTS TO RELOCATE, CONTRACT, TERMINATE, SURRENDER AND WAIVER OF CLAIMS

Section 6.01 **RESERVATION OF RIGHTS.** (a) Tenant acknowledges that American has the right, at any time and from time to time during the Term, in the interest of the efficient operation of the Terminal, to close, move or alter any common corridor, passageway, walkway or common area, including, without limitation, entrances, exits, passages, halls, corridors, aisles, stairways, elevators and escalators, or to restrict or change the traffic on or through any such common corridor, passageway, walkway or common area, with due regard to not unreasonably restricting the use and occupancy of the Premises by Tenant. Tenant shall not have any claim against Landlord, American or the Authority for such action, nor shall such action by American release Tenant from any of its obligations under this Sublease, the Consent Agreement or any other agreement in connection herewith.

(b) Landlord, American and the Authority, and their respective directors, officers, employees, agents, representatives, contractors, and furnishers of utilities and other services, have the right from time to time, at their own cost and expense, for their own benefit or for the benefit of others at the Terminal and/or

Airport: (1) to construct and maintain existing and future utility and other systems throughout the Premises; (2) to enter the Premises at all reasonable times and upon reasonable notice (provided no notice shall be required during any real or threatened emergency) to inspect any part of the Premises, Fixed Improvements and Operating Equipment and to make such repairs, replacements or alterations thereto as may, in the opinion of Landlord, American or the Authority, be necessary or advisable (and, if Tenant is otherwise obligated under this Sublease to perform such work and/or take such action, the cost thereof shall be due and payable by Tenant on demand, as Additional Rent, along with an additional charge in an amount equal to fifteen percent (15%) of the cost thereof); (3) to construct or install facilities over, in or under parts of the Premises otherwise not conveniently accessible; and (4) to install, operate, maintain, recover and repair the property used in connection with their respective rights to the Premises provided, in each case in the exercise of such rights of access, maintenance, repair, replacement, alteration or new construction, Landlord shall use reasonable efforts not to unreasonably interfere with the use and occupancy of the Premises by Tenant.

(c) In the event that any movable property of Tenant shall obstruct the access of Landlord, American and/or the Authority, their employees, agents and/or contractors to any of the existing or future utility, mechanical, electrical and/or other systems and thus shall interfere with the inspection, maintenance or repair of any such system, Tenant shall move such property, as directed by Landlord, American or the Authority, in order that access may be had to the system or part thereof for its inspection, maintenance and/or repair; and, if Tenant shall fail to so move such property after direction from Landlord, American or the Authority to do so, Landlord, American or the Authority may move it; and Tenant shall pay the cost of such moving upon demand. In the case of Fixed Improvements installed by or on behalf of Tenant that were approved by Landlord, American and/or the Authority, and thereafter are required to be moved for the reasons provided above, Landlord or American, at their cost, may move the same and, upon completion of the inspection, maintenance and/or repair; and, to the extent American is obligated pursuant to the Concession Area Lease, Landlord or American shall restore such permanent Fixed Improvements and repair any damage caused by such removal and restoration to the same condition as existed immediately prior to such removal.

Section 6.02 **RELOCATION, CONTRACTION OR TERMINATION.** (a) Tenant acknowledges that, pursuant to the Concession Area Lease, American may require Landlord to relocate or reduce the size of the Concession Area and American may exercise its rights by giving not less than one hundred twenty (120) days prior written notice to Landlord or at least as much notice as reasonably possible for reasons and timing which are not within American's control. If American shall exercise such right, Landlord shall have the right to relocate or reduce the size of the Premises, and, if relocated or reduced, the portion of the Premises eliminated shall cease to be leased to Tenant and shall no longer be subject to the terms of this Sublease, and, if relocated, the relocated space, shall automatically be subject to the terms of this Sublease. Pursuant to the Concession Area Lease, if American desires to relocate all or a portion of the Premises to other space within the Terminal, such relocated space shall be reasonably comparable to the Premises in terms of passenger traffic, size and potential for generation of Gross Receipts and any Base Building Work required to make the new space suitable for concession operations is the responsibility of American. If Tenant is unable to operate its business in the Premises as a result of the exercise of any of such rights, Tenant's payment of Rentals shall be abated during the period which Tenant is unable to operate. Further, if the net contraction of the Premises exceeds fifteen percent (15%), and Tenant demonstrates that such contraction is having a materially adverse impact on its Gross Receipts that is distinct from other conditions that may be adversely affecting Tenant's business operations, then, at Tenant's request, Landlord will engage in good faith negotiations with Tenant for up to ninety (90) days regarding a possible equitable reduction of the Guaranteed Rent and corresponding adjustments to the Percentage Rent Breakpoints. Any such equitable reductions/adjustments are subject to American's and the Authority's approval, determined in their respective sole and absolute discretion.

(b) If Landlord desires to relocate Tenant to a substitute area as provided in Section 6.02(a), Tenant shall have the right, in its sole discretion, to terminate this Sublease within thirty (30) days after receipt of Landlord's relocation notice, provided, however, Landlord can negate Tenant's election to terminate within twenty (20) days after receipt of Tenant's termination notice by revoking Landlord's election to relocate the Premises and thereafter this Sublease shall continue to remain in full force and effect in accordance with its terms. If Tenant elects to so terminate this Sublease due to the proposed relocation of the Premises, this Sublease shall terminate on the effective date thereof as reasonably specified by Landlord and Tenant shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Tenant under this Sublease up to and including the effective date of such termination. **Under no circumstances shall Landlord or any other third party including American or the Authority have any obligation to Tenant, nor shall Tenant be entitled to any payment from either Landlord or any other third party including American and the Authority for Tenant's Eligible Costs (as defined below) or any other sums if Tenant so elects to terminate this Sublease.**

(c) If American exercises its right to cause a contraction or relocation of the Premises (not including carts, kiosks, and other portable or temporary facilities) from one (1) location to another after the Premises have been constructed and opened for business: (1) the Concession Area Lease provides that American shall in the case of a relocation, reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days for reasonable and actual moving costs, and for reasonable and actual costs incurred to construct Fixed Improvements in the new space according to Final Drawings approved by Landlord and American; and (2) if Tenant does not relocate to other space or if this Sublease is terminated by American or the Authority without cause under Section 6.03 and Tenant, in either case, does not have any outstanding uncured material defaults under this Sublease beyond applicable notice and cure periods, the Concession Area Lease provides that American shall reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days after the effective date thereof, an amount equal to the then unamortized portion of Tenant's Eligible Costs (based upon the Depreciation Schedule previously submitted by Tenant and approved by Landlord and American) detailing such investment in Tenant's Fixed Improvements or Refurbishments, if applicable. Within ten (10) days after request by Landlord, and in any event not later than the effective date of such contraction or termination, Tenant shall provide Landlord with its calculations in reasonable detail, together with appropriate back-up or confirmatory data, of the amount which Tenant claims to be due pursuant to this Section 6.02 based upon the approved Depreciation Schedule. **If Tenant fails to provide such information within the time frame provided herein, Tenant shall have forever waived its right to any such reimbursement from Landlord and American and forever released Landlord and American from any obligations under this Section 6.02.**

Section 6.03 **TERMINATION BY AMERICAN OR THE AUTHORITY.** (a) Tenant acknowledges that this Sublease may be terminated, without cause for any reason and at any time, by the Authority upon thirty (30) days notice by means of revocation of the Consent Agreement, or by American upon one hundred eighty (180) days notice; and in neither event shall the Authority be responsible, directly or indirectly, for any portion of Tenant's investment (amortized or un-amortized) in, at or to the Premises. It is hereby acknowledged by Tenant that the Authority shall have no obligation or liability to Tenant with respect to such termination, including without limitation any reimbursements, credits, offsets or otherwise for investments in the Fixed Improvements. In such event, Tenant shall be reimbursed for the unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

(b) If Landlord's leasehold interest under the Concession Area Lease is terminated by either American or the Authority in accordance with their respective rights under the Concession Area Lease and Landlord's

Operator Permit with the Authority, then, in such event, at the option of American determined in accordance with the applicable provisions of the Concession Area Lease: (1) this Sublease shall be assigned by Landlord to and assumed by American (or its designee) and this Sublease shall remain in full force and effect and Tenant shall not have any approval or rejection rights with respect to any such assignment/assumption and, in the event of such an assignment/assumption, Tenant shall attorn to American or its designee and recognize American or its designee as landlord for all purposes hereunder; or (2) this Sublease shall immediately terminate upon termination of the Concession Area Lease without direct recourse of any kind against Landlord, American or the Authority and thereafter neither party shall have any further obligations or liabilities to the other party except for any accrued obligations or liabilities of Tenant, whether monetary or non-monetary, which have arisen prior to the effective date of such termination and have not yet been fully performed and/or paid by Tenant or which are expressly stated to survive the expiration or earlier termination of this Sublease. Within sixty (60) days following the date that Tenant shall have vacated and surrendered the Premises in the condition required under this Sublease, paid all Rentals and performed all of its other accrued obligations under this Sublease through the effective date of such termination, Tenant may be reimbursed by Landlord for any unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

Section 6.04 **SURRENDER OF PREMISES.** Tenant shall quit and deliver peaceably to Landlord possession of the Premises, and Tenant shall release and not attempt to retain any interest in the Fixed Improvements and Refurbishments, on the date that the Term expires, whether by early termination, expiration, or otherwise. Prior to the expiration of the Term or earlier termination of this Sublease, Tenant shall, at its sole expense, remove signs and trade fixtures (other than trade fixtures and other property which it is otherwise prohibited from removing under the Authority Lease) from the Premises and shall surrender the Premises and appurtenances thereto in broom-clean and sightly condition and in good repair, except for reasonable wear and tear arising from use of the Premises to the extent permitted elsewhere in this Sublease. Tenant shall deliver to Landlord all keys to the Premises. Any personal property of the Tenant placed on or kept at the Premises as to which the letting pursuant to this Sublease has ceased shall be removed as soon as practical but in no event later than the expiration or earlier termination of this Sublease. If Tenant shall fail to so remove its personal property at the end of the Term or any earlier termination, Landlord may at its option, and at the risk and expense of the Tenant, remove such property to a public warehouse, or may retain the same in its own possession, and, in either event, after the expiration of thirty (30) days, may sell the same at public auction or, at Landlord's or American's discretion, the personal property will be deemed abandoned and ownership thereof will be vested in American; the proceeds of any such sale shall be applied first to the expenses of removal, sale and storage, second to any sums owed by Tenant to Landlord, American or the Authority; and any balance remaining shall be paid to the Tenant.

Section 6.05 **WAIVER OF CLAIMS BY TENANT. Tenant specifically acknowledges that the relocation, contraction and termination provisions are a material inducement to Landlord in entering into this Sublease with Tenant. Except as specifically provided in this Article VI, such termination and the removal and surrender obligations of Tenant, shall in no event give rise to any claims, causes of actions, suits, or damages that Tenant may have or rights to payment to Tenant by either Landlord, American or the Authority including, without limitation: (a) any and all awards in the nature of land damages under all applicable laws; and (b) any and all rights under the terms of this Sublease; and (c) incidental, consequential, special or severance damages as a result of Tenant's use and occupancy of the Premises. Tenant hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and claims for relocation and termination benefits under any Federal, state or local law, ordinance or regulation or otherwise.**

ARTICLE VII. CONDUCT OF BUSINESS BY TENANT

Section 7.01 PERMITTED USE. Tenant shall use the Premises only for the purpose of conducting the business specifically set forth in the Data Sheet ("**Permitted Use**") and for no other use or purpose. Notwithstanding anything to the contrary contained herein, including Tenant's Permitted Use, if Landlord, American or the Authority reasonably determine that any item displayed, offered for sale or sold by Tenant is objectionable or inappropriate for display or sale at the Terminal, Tenant shall, upon delivery of Landlord's written notice to the Premises, immediately remove such item from display and its inventory (if the objectionable item and/or service displayed, offered for sale or sold shall be deemed to be potentially dangerous to the public or violate any security regulations, as determined by Landlord, American or the Authority from time to time, Tenant shall remove such potentially dangerous item and/or service or violation immediately upon verbal notice from Landlord) and Tenant shall not thereafter display, offer for sale or sell any such item or service. If Tenant shall fail to remove any such item from display or cease providing such service as may be required from time to time as provided herein, then Tenant shall pay as liquidated damages and not as a penalty the amount of Fifty Dollars ($50.00) per day for the first (1st) violation in any twelve (12) month period and the amount of One Hundred Twenty-Five Dollars ($125.00) per day for the second (2nd) and any subsequent violations in any twelve (12) month period until such time as Tenant has complied. Further, Landlord shall be entitled to remove such item without any liability. This remedy shall be in addition to any and all other remedies provided in this Sublease or by law to Landlord, including, but not limited to the graduated fines listed in **Exhibit K**. Tenant represents and warrants to Landlord that it holds all certificates, meets all Authority Requirements, licenses and other entitlements required by federal, state and local, laws, rules and regulations in order to enable Tenant to conduct its operations and to engage in its Permitted Use and that such certificates, Authority Requirements, licenses or other entitlements are and shall be kept current, valid and complete at all times during the Term. Tenant shall submit any/or all of the foregoing for inspection by Landlord from time to time. Tenant, at Tenant's expense, shall at all times comply with the requirements of each such certificate, permit, license and other entitlement. Tenant shall not conduct or permit operations in the Premises that in the reasonable judgment of Landlord or American or the judgment of the Authority that (a) interfere or might interfere with the reasonable use by others of common facilities at the Terminal or the Airport, (b) hinder or might hinder police, firefighters or other emergency personnel in the discharge of their duties, (c) would or would be likely to constitute a hazardous condition at the Airport, (d) would increase the premium for insurance policies maintained by Landlord, American or the Authority, unless such operations are not otherwise prohibited hereunder and Tenant pays the increase in insurance premiums occasioned by such operations, (e) would involve any illegal purposes, or (f) are not in accordance with the commitment of Tenant to operate first-class concessions in the Concession Area. Prohibited uses which are expressly agreed to include all "**American Reserved Uses**" and "**Port Authority Reserved Uses**" as such terms are defined in the Concession Area Lease.

Section 7.02 OPERATION OF BUSINESS. (a) General. Tenant and its Operating Staff (as defined below) agree to actively and diligently conduct business at all times in a first-class, professional and business-like reputable manner, using best efforts so as to maximize revenues in accordance with best industry practices and standards observed generally by first-class business enterprises of local, regional and national scope which operate at other major US airports, provide superior customer satisfaction and maintain at all times a complete stock of high-quality merchandise and products. Tenant agrees not to divert or allow or cause to be diverted any business from the Terminal and/or Airport. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements and Operating Equipment shall be maintained in good condition and repair. Tenant shall accept at least two (2) nationally recognized credit cards for payment, shall offer all of its customers shipping, delivery and gift wrap services (if appropriate for the type and size of merchandise or product being requested) at cost and shall provide, without charge, change making service at each

cashier's location in the Premises, regardless of whether a purchase is made. At all times from and after the Rental Commencement Date, Tenant covenants that it shall continuously and uninterruptedly occupy and use the Premises for the Permitted Use and shall keep the Premises open for business during all required Terminal concession hours unless otherwise agreed to by Landlord and American or prevented by Force Majeure (as defined in Section 27.04). Tenant shall install and maintain at all times a display of non-perishable merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises. Tenant shall not permit the installation or operation of any coin or credit/debit-card operated vending machines or pay telephones in the Premises, including, but not limited to, the rental of cellular phones, facsimile machine services, other public communication devices, sales of entertainment event tickets, lottery tickets and reservations for ground transportation, hotels or other lodging and the sale of pre-paid telephone calling cards without the prior written consent of the Authority. Tenant shall not sell or display any items except within the areas outlined in the Design Guidelines unless such sale or display shall be expressly approved on the Final Drawings or otherwise approved by Landlord, in writing and in accordance with the TAA Process except that Tenant shall be permitted to display merchandise in the display windows, if any. Tenant shall not use the areas adjacent to or outside the Premises for business purposes or any other purposes, including the display or sale of merchandise, products or services in any areas outside the Premises without Landlord's advance written approval, which approval may be withheld in Landlord's sole discretion. Tenant shall not store anything in service or exit corridors. All receiving and delivery of items for the Premises, and all removal of supplies, equipment, trash and debris and all storage of trash and debris from the Premises shall be made only by way of, or in, the areas provided therefor. No trash, trash containers, hand trucks, carts, racks or movable fixtures designed for the movement of products and/or trash within the Premises or to or from the Premises may be left unattended in the storefront, corridors or other public areas; nor may such items or devices in non-public areas be visible from public areas of either the Premises or the Terminal. Tenant shall be solely responsible for prompt disposal within the Premises, or in such areas as may be provided by Landlord, of all trash and debris from the Premises. Tenant shall not install any radio, television, communication dish or other similar device or related equipment exterior to the Premises, shall not cause or make any penetration of the roof of the Premises or the building in which the Premises is located and shall not erect any aerial or antenna on the roof or exterior walls of any building within the Terminal without the prior written approval of Landlord, American and the Authority, determined in their discretion. Tenant shall not abandon or permanently vacate the Premises without the prior, advance written approval of Landlord. For the purposes of this Sublease "abandonment" shall mean closing the Premises to customers for two (2) or more consecutive days, unless such closing is permitted by other provisions of this Sublease. Notwithstanding the requirements set forth herein, Landlord shall have the right to make reasonable objections to the number or quality of staff used by Tenant, the prices for merchandise or products sold or services rendered, the number or quality of items sold, the character of the service offered to the public, responses to customer complaints and the appearance and condition of the Premises. Tenant agrees to take reasonable steps to promptly comply with Landlord's reasonable objections.

(b) Continuous Operations and Service Hours. Tenant agrees to be open for business during the hours of operation specified in the Data Sheet and such other hours as may be required hereunder and to continuously and uninterruptedly operate in all of the Premises during the entire Term. The Airport is open for business every day, three hundred sixty-five (365) days per year and is busy during non-traditional working and shopping hours. Accordingly, service hours shall include the hours the Terminal's concession program shall be open as directed by Landlord from time to time, including without limitation, the hours necessary to provide service for the earliest daily incoming and outgoing flights (including the provision of service to passengers who arrive in advance of same) and the latest daily incoming and outgoing flights, including non-scheduled activity by charter airlines as Landlord may notify Tenant verbally from time to

time. To that end, Tenant shall open and operate its business in the Premises during hours directed by Landlord; provided that, if passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the opinion of Landlord or as Landlord is directed by American, the Terminal's concession program, including the Premises, shall be open at times not then scheduled. The following are the minimum operating hours: (1) for newsstand concessions, a minimum of sixteen (16) hours per day, each day of the year, with the opening for business each day at least one (1) hour prior to the first scheduled flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (2) for all food and beverage concessions, at a minimum, opening at 5:30 a.m. and closing at 10:00 p.m., each day of the year, or at least one (1) hour prior to the first flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (3) for duty-free and foreign currency exchange concessions, at a minimum, opening at 7:00 a.m. and closing at 10:00 p.m., each day of the year, or other hours necessary to service the earliest scheduled international flight departure and the latest scheduled international flight departure from the Terminal on the respective day, whichever constitutes the earlier opening and later closing; and (4) for all other concessions, 7:00 a.m. to 10:00 p.m., each day of the year. Landlord reserves the right to direct Tenant to change or adjust the service hours at any time, and Tenant agrees and covenants to adequately staff the Premises and be open for business during the hours directed by Landlord. In addition, in an emergency, as determined by Landlord or American, Tenant shall open or keep open the Premises upon two (2) hours prior verbal notice. Tenant expressly acknowledges the need for flexibility in the service hours from time to time. Any modifications to the required operating hours that may be requested from time to time by Tenant shall be subject to Landlord's prior written approval determined in its discretion. Tenant agrees to otherwise abide by all service hours of operation as set by Landlord. Tenant acknowledges that the concession program and its business operations are essential services at the Terminal and Tenant's failure to cause continuous operation of its business in the Premises will result in damages to Landlord, American and the Authority that are difficult to quantify in light of airport operational and customer service factors. Therefore, in addition to any other remedies set forth herein, including, but not limited to the graduated fines listed in **Exhibit K**, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the amount One Hundred Twenty-Five Dollars ($125.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the first (1st) violation in any twelve (12) month period, and the amount of Two Hundred Fifty Dollars ($250.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the second (2nd) and any subsequent violations in any twelve (12) month period. Failure by Tenant to be open for business and to operate shall entitle Landlord, in addition to other remedies provided in this Sublease or by law, including, but limited to, a mandatory injunctive relief if awarded by a court of competent jurisdiction.

(c) Staffing/Personnel. Tenant shall employ a full-time professional staff ("**Operating Staff**") at all times during the Term of sufficient size, expertise, ability, suitability, and experience in sales and customer service to carry out all of its obligations under this Sublease. Tenant shall maintain a sufficient number of Operating Staff on site at the Premises (including, without limitation, on-site sales, cashiers, management and supervisory personnel) to provide good, friendly, prompt and efficient service adequate to fully meet the demands of all customers at all times and shall furnish said service on a fair, equal and nondiscriminatory basis to all users thereof and shall increase such number of Operating Staff, upon the reasonable request of Landlord, to provide outstanding customer service and satisfaction. All such personnel shall be knowledgeable, helpful to the public, courteous, efficient, neat in appearance and appropriately attired and shall not act in a loud, offensive or otherwise objectionable manner. Tenant's employees shall wear appropriate uniforms and name tags and security identification badges at all times. Tenant shall not employ at or about the Premises any person who shall use offensive language, makes persistent announcements of its merchandise and products and/or services over loud speakers or whose conduct is loud or offensive or otherwise detrimental to the best interests of the Terminal and/or Airport. Tenant's Operating Staff shall be available by telephone and such other communication device as Landlord may require during the

operating hours. Tenant's Operating Staff and employees shall have sufficient knowledge of the Terminal and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

(d) Store Manager/Emergency Contact. In order to assure compliance with the terms, covenants and conditions of this Sublease, Tenant shall retain a qualified, competent manager suitably experienced to provide on-site management of Tenant's business on a full-time basis to manage all of Tenant's obligations and responsibilities under this Sublease ("**Store Manager**"). Tenant shall notify Landlord of the identity of its Store Manager and of any changes in such identity. Tenant shall assure that the Store Manager or his or her designee, is available on-site during all required operating hours and by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies. Tenant shall notify Landlord of the name and telephone number or such representatives and shall update such information as necessary. The Store Manager or his or her designee must be able to arrive by car at the Airport within two (2) hours of being called in an emergency situation.

(e) Customer Complaints. Tenant agrees that it will reasonably and promptly respond to all customer complaints regarding unsatisfactory service and/or unsatisfactory quality of merchandise, products and/or service, including all refunds as appropriately requested from time to time by any customer. In the event that Tenant receives any written complaint concerning its operations, Tenant shall within twenty-four (24) hours of receipt of such complaint by Tenant forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint. Tenant shall submit a copy of the response to complaint to Landlord upon issuance of said response. If Landlord receives a written complaint regarding Tenant, it shall forward a copy of the same and Tenant shall respond as set forth herein. Tenant shall provide copies of the complaints and answers to American and the Authority not less than one (1) time during any calendar month.

(f) Compliance with Laws. Tenant, at its expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations ("**Legal Requirements**"), applicable business licenses and requirements of Landlord, American, the Authority and all governmental authorities having jurisdiction over the Premises or the cleanliness, safety, occupancy and use of the same, whether or not any such law, ordinance, order, rule, regulation or requirement is foreseen or unforeseen, ordinary or extraordinary, necessitates changes or improvements (other than structural changes or structural improvements) and/or interferes with the use and/or enjoyment of the Premises. Tenant shall promptly correct any deficiencies reported by Landlord, American, or any other governmental authorities having the aforesaid jurisdiction. Tenant shall not do or permit anything to be done in or about the Premises, nor bring anything therein, which will in any way conflict with any such Legal Requirements or requirement affecting the occupancy or use of the Premises or the Terminal which has been or may hereafter be enacted or promulgated by Landlord, American, the Authority or any governmental authorities, or in any way obstruct or interfere with the rights of others; nor shall Tenant use or allow the Premises to be used for any improper, immoral or objectionable purposes or do any act tending to injure the reputation of the Terminal and/or Airport. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive and unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord, American, and the Authority and in accordance with any and all Legal Requirements that may be promulgated from time to time by governmental agencies or authorities. All apparatus, utensils, devices, cooking equipment, machines and piping used by Tenant shall be constructed so as to facilitate the cleaning

and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and/or serving of all food and/or beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. If Landlord or American does not contract for pest control service for all concessions in the Terminal, then Tenant, at its sole cost and expense, shall contract directly with a pest control service reasonably acceptable to Landlord at such reasonable intervals as Landlord may require.

(g) Street Pricing. Tenant shall not charge prices to its customers in excess of Street Prices (as hereinafter defined) and shall conspicuously display notices, in form and substance satisfactory Landlord in the Premises, to the effect that the Tenant adheres to the Authority's Street Prices policy. The term "**Street Prices**" means: (1) if Tenant conducts a similar business in off-airport location(s) in the Greater New York City – Northern New Jersey Metropolitan Area ("**Metro Area**"), the price regularly charged by Tenant for the same or similar item or service in those off-airport locations; (2) if Tenant does not conduct a similar business in off-airport location(s) in the Metro Area, the average price regularly charged in the Metro Area by similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar items or service; (3) if neither Tenant nor any other similar retailers sell a particular item or provide a similar service in the Metro Area, the price regularly charged by Tenant or similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar item or service in any other geographic area with a reasonable adjustment for any cost-of-living variance between such area and the Metro Area; and (4) if Tenant is in the business of selling duty-free goods, the price regularly charged by Tenant or other similar retailer (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar duty-free item or service at other major airports serving large urban areas in the northeast region of the United States, including, without limitation, the Airport. Tenant agrees to adjust its prices to ensure that they meet the Street Prices without any further notice or immediately upon written notice from Landlord if Tenant is not in compliance therewith. Prior to opening for business, Tenant agrees to supply to Landlord a detailed list of all merchandise, products and services to be offered at the Premises and the prices to be charged therefor. Tenant agrees to continue to provide this data on a quarterly basis throughout the Term hereof. Tenant shall, at all times, observe and comply with the pricing policy as set forth in **Exhibit E**. Further, for the benefit of the users of the Terminal, Landlord has the obligation to promote a "free market" competitive environment within the Terminal and, to the extent possible, Landlord may cluster concession operators with similar products and services in groups to help stimulate competition, provide superior service and competitive pricing.

(h) Coordination of Operational Matters with Landlord and Performance Standards. Tenant shall: (1) cooperate in the testing of pressure, water-flow, and other appropriate tests of the fire-extinguishing system and apparatus located within the Premises (and elsewhere in the Concession Area to the extent Tenant's cooperation is required for such testing) from time to time and as often as reasonably required by Landlord, American or the Authority, and if requested by Landlord, furnish Landlord with copies of written reports of such tests; (2) keep in proper functioning-order all fire-fighting equipment in the Premises and at all times maintain in the Premises adequate stocks of fresh, suitable chemicals for use in such system and apparatus; and (3) notify Landlord prior to conducting such tests. Tenant agrees that, after it has taken delivery of the Premises, it will contact Landlord on all operational matters pertaining to its occupancy including but not limited to the following areas (1) hours of operation, (2) employee parking and security requirements, (3) customer inquiries and complaints, (4) facility maintenance issues, (5) utility

services, and (6) staffing issues. To ensure that Tenant is in compliance with the quality of products, pricing and service standards set forth in this Section 7.02 and in the Service and Operating Performance Standards ("**Performance Standards**") attached hereto as **Exhibit K**, and that Landlord's, American's and the Authority's objectives are met, Landlord or an agent shall perform service audits, such as surprise shopper programs and inspections, of the conduct of Tenant's operation of its business in the Premises at any time during the Term of this Sublease. The results of such service audits performed on behalf of Landlord may be employed by Landlord to enforce Tenant's obligations under this Sublease. The Performance Standards address three (3) main categories of performance: product and service quality/price, customer service/personnel, and Premises cleanliness and maintenance (collectively, the "**Performance Categories**"), among other matters and includes a set of minimum performance standards ("**Minimum Performance Standards**") for each of the Performance Categories. Tenant acknowledges the desires of Landlord and American, as part of their obligation to ensure the highest level of public service, to provide the public and passengers with the level and quality of service as described herein. Pursuant to the Concession Area Lease, American may monitor, test or inspect the requirements imposed on tenants for applicable business operations standards at any time and to consult with Landlord to correct any deficiencies in standards required hereunder.

(j) Liquidated Damages and Fines. If Tenant fails to comply with any of the provisions of this Section 7.02 or any of the provisions of the Performance Standards, Tenant shall pay as liquidated damages and not as a penalty, or as a series of graduated fines on a daily basis for such failure in the correction of deficiencies of the Performance Standards, the amounts set forth in **Exhibit K** until such time as Tenant is in compliance with any such requirements. The liquidated damages and fines set forth in **Exhibit K**, are in addition to the liquidated damages for failure to provide continuous operations during all Terminal concession service hours as set forth in Section 7.02(b) above. This remedy shall be in addition to any and all other remedies provided herein or by law to Landlord. The provisions of this Section 7.02 shall survive the expiration or earlier termination of this Sublease.

(k) Tenant acknowledges that although it is subleasing the Premises directly from Landlord (1) American and the Authority control the Terminal, (2) the Authority controls the overall operations at the Airport, and (3) pursuant to the Authority Lease and the Concession Area Lease, as well as the Consent Agreement and state and federal laws and regulations, including the Authority's rules and regulations, American and the Authority have the right to regulate and control certain aspects of the operations at the Premises including but not limited to the matters listed in this Section 7.02. In the event any question or dispute arises as to the sale of any specific item or category of items in the Concession Area and whether such sale violates the Street Prices policy or does not comply with the Performance Standards, Tenant may submit a request in writing to Landlord and American asking that the matter be reviewed. American is obligated under the Concession Area Lease to render a decision in writing, after consultation with the Port Authority, within fifteen (15) days after such submission and such determination shall be considered final. Tenant shall, as of the date of the decision, immediately abide by and conform to the decision of American.

Section 7.03 **HAZARDOUS MATERIALS.** (a) As used herein, the term "**Toxic or Hazardous Materials**" means hazardous or toxic chemicals or any supplies, materials and wastes containing hazardous or toxic chemicals or substances at levels or content which cause such materials to be classified as hazardous or toxic as then prescribed by the highest industry standards or as set from time to time by the United States Environmental Protection Agency ("**EPA**") or the United States Occupational Safety and Health Administration ("**OSHA**") or as defined under 29 CFR 1910 or 29 CFR 1925 or other applicable governmental laws, rules or regulations in any way applicable to Toxic or Hazardous Materials (collectively, "**Environmental Laws**"). Tenant shall never incorporate into, or dispose of, at, on or under the Terminal or elsewhere at the Premises or at the Airport, or any portion thereof, any Toxic or Hazardous Materials. Tenant agrees not to use at, place on, or store at the Premises or at the Airport any

Toxic or Hazardous Materials, except for those Toxic or Hazardous Materials that are either (1) office supplies, or (2) cleaning materials that are generally considered to be a household cleaner and are purchased in a container not larger than one (1) gallon, and then only if: (i) all such Toxic or Hazardous Materials arising therefrom, are properly labeled and contained; (ii) all such Toxic or Hazardous Materials arising therefrom, are stored, handled, transported and disposed of in accordance with highest accepted industry standards and all Environmental Laws; and (iii) if a material safety data sheet or other reporting or registration document is required under applicable Environmental Laws to accompany the Toxic or Hazardous Materials, supplies or materials or wastes or to be filed with any federal, state or local authority, a copy of such current material safety data sheet or other reporting or registration document shall be provided to Landlord. If there is a spill or other discharge of a Toxic or Hazardous Materials in the Premises which spill or discharge is required to be reported to any federal, state or local authority by applicable Environmental Laws, Tenant shall immediately notify Landlord and American of the method, time and procedure for any clean-up and removal of such Toxic or Hazardous Materials; and Landlord and American shall have the right to require reasonable changes in such method, time or procedure (provided that such changes may not contradict applicable law). Tenant shall further notify Landlord and American if any such spill or other discharge, whether reportable or otherwise, would in any way endanger or pose a threat to any employees, Terminal maintenance or custodial personnel or the general public. In the event there is a spill or other discharge of any Toxic or Hazardous Materials outside the Premises, which spill or discharge is required to be reported to any federal, state or local authority by applicable laws, rules or regulations, and upon being so notified American is required under the Concession Area Lease to undertake to clean-up, remove and abate the condition at its cost initially, reserving the right to seek indemnification of its costs for failure of Tenant to abide by the requirements of this section. In the event Tenant fails to comply with this Section 7.03 in respect of any contamination within the Premises, or in the event of a contamination of any other part of the Terminal and/or Airport caused by Tenant, in addition to any other consequences thereof, Tenant shall pay or reimburse to Landlord and/or American, as the case may be, all of such party's costs for the removal, abatement and clean-up of the involved Toxic or Hazardous Materials. Similarly, if a contamination was caused by Landlord or American in the Premises, Landlord (or American as required under the Concession Area Lease), as the case may be, shall reimburse all costs incurred by Tenant for the removal, abatement and/or clean-up of the involved Toxic or Hazardous Materials.

(b) If a lien is filed against Tenant's leasehold interest, the Premises, the Terminal or the Airport relating to Tenant's violation of any Environmental Laws, then Tenant shall, within ten (10) days or such shorter period as may be required under any Environmental Laws, or such even shorter period as is prior to a governmental authority commencing steps to cause any of the foregoing to be sold pursuant to such lien, either: (1) immediately pay the claim and remove the lien; or (2) immediately furnish a cash deposit, bond or such other security as is satisfactory in all respects to Landlord and legally sufficient to effect a complete discharge of such lien.

(c) Landlord at its cost, reserves the right to conduct annually an environmental audit of the Premises and Tenant's operations, equipment, facilities and fixtures thereon. It shall be a material default and breach hereunder if the resulting audit report reveals non-compliance or violations by Tenant of any Environmental Laws. American shall have the same rights as Landlord under this sub-section (c).

(d) Except with respect to Landlord's, American's or the Authority's direct violation of Environmental Laws (and, in such case, such exception only applies to the party that is in direct violation) Tenant hereby agrees to indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York),

their respective Affiliates, parent corporations, subsidiaries, partners, management companies, and the agents, employees, officers, commissioners, directors and contractors of any and all of them from and against any and all losses, claims, demands, penalties, causes of action, fines, settlements, damages, costs and expenses of whatever kind or nature (including reasonable attorneys' and consultants' fees and expenses, investigation and laboratory fees and expenses, court costs and litigation expenses) arising directly or indirectly out of or in any way related to: (1) any default by Tenant of this Section 7.03; (2) any violation or failure to comply by Tenant with any of the Environmental Laws; (3) any personal injury (including death) or property damage as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (4) any litigation brought or threatened by any governmental authority as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (5) the presence of Toxic or Hazardous Materials at, above, in and/or the Premises; and (6) the use of Toxic or Hazardous Materials by Tenant. As used herein "costs and expenses" shall also include, in addition to those set forth above, costs associated with administrative and judicial proceedings, costs arising from any lien, costs of any remedial actions and business interruption resulting from any remediation, or any executive, administrative or judicial order. This indemnification shall constitute the personal recourse undertaking, obligation and liability of Tenant. The obligations set forth in this Section 7.03 shall survive the expiration or earlier termination of this Sublease.

ARTICLE VIII. USE OF TERMINAL, PUBLIC AREAS, LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE

Section 8.01 OPERATION AND MAINTENANCE OF TERMINAL. Tenant acknowledges that American is required to cause to be operated and maintained during the Term all public areas to the extent required in the Concession Area Lease and the Authority Lease. The manner in which such public areas and facilities are operated and maintained, and the expenditures therefor, are at American's sole discretion. Accordingly, the use of such public areas and facilities is subject to reasonable rules and regulations, including security directives as American, the Authority or authorized regulatory agencies may make from time to time.

Section 8.02 USE OF PUBLIC AREAS IN TERMINAL. The term "**public areas**" as used herein shall mean all improved areas within the Terminal which are not devoted to the exclusive use by any airline, tenant or other occupant occupying space in the Terminal including, without limitation, public transportation, loading and unloading facilities, pedestrian walkways and horizontal pedestrian movers, delivery areas, landscaped areas, community rooms, elevators, escalators, stairs and ramps, public restrooms and comfort stations, service areas, service and fire exit corridors, passageways and those areas adjacent to the Terminal containing parking facilities, if any. Tenant shall have as appurtenant to the Premises the right to the non-exclusive use in common with others of all public areas and facilities in the Terminal as designated as such by Landlord from time to time, and such reasonable access, during Tenant's normal operating hours, to the Premises. Landlord, the Authority and American each shall have the right, but not the obligation, from time to time, to modify the public areas, remove portions of the public areas from common use, permit entertainment events, advertising displays, educational displays and other displays in the public areas and lease retail merchandising units or temporary pushcarts or carts ("**RMUs**"). If Landlord determines in its discretion to place RMUs in the public areas near the Premises, such placement shall not be within fifteen (15) feet of Tenant's storefront entrance and shall not materially interfere with ingress or egress to the Premises by the public. Tenant shall not be entitled to any credit for income earned by Landlord with respect to the public areas. Tenant and its employees shall not park their cars or any other vehicles in the parking facilities except in the areas specifically designated by Landlord for employee

parking. There is no free parking at the Airport for Tenant or any of Tenant's employees, contractors or customers. Tenant and its agents, employees, contractors and subcontractors shall comply with the rules and regulations with respect to parking as the same may be amended or modified from time to time and will be subject to any enforcement action (including towing) pursued by the Authority's airport police without any notice thereof. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York and their employees, agents, and representatives from and against any and all claims of the employee and/or owner of any vehicle so towed.** Landlord, American or the Authority may at any time close any public areas to make repairs or changes, to prevent the acquisition of public rights in such area, to use areas for attendant or valet parking, and to do such other acts in and to the public areas as in its judgment may be desirable.

Section 8.03 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE.** (a) All deliveries of equipment, supplies, materials, inventory, merchandise or products required to support the operations of Tenant shall be made to the designated loading dock areas of the Terminal. American has developed food courts and public seating areas in various locations in the Terminal which are intended to benefit all Tenants, their patrons and the public. For purposes of this Sublease "**public seating areas**" means a non-exclusive, common public seating area for patrons of both retail and food service concession facilities and for the traveling public. All sanitation, cleaning, maintenance and trash removal services for such food courts and public seating areas shall be controlled by Landlord. Such responsibilities shall include, but not be limited to, cleaning including floors, trash removal, trash receptacles, food court trays (operating food court tray washing equipment and well as retrieval and distribution of food court trays to food court concession facilities), public seating area tables and chairs, related public seating area furniture and fixtures, if any, and repair, maintenance and/or replacement thereof. No deliveries of any items shall be made by any Person directly to the Premises without the prior written authorization of Landlord; and, if given by Landlord, Landlord shall have the right to revoke any such authorization at any time and for any reason. Tenant shall be advised by Landlord of all shipments for all items received at the loading dock area and Tenant shall be responsible, at its sole cost and expense, for promptly transporting all such items from the loading dock area to the Premises or to any related Storage Premises leased by Tenant. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of Landlord for such items which may include, but not limited to, the transporting of equipment, supplies, materials, inventory, merchandise or products in the Terminal, pest control extermination services, trash removal, refuse, recycling and compactor services, grease trap maintenance and cleaning (including waste grease removal) to the extent not required to be performed by Tenant, repair and maintenance of food courts and public seating areas furniture, fixtures and equipment maintenance and cleaning (including exhaust hood, duct and roof top maintenance and cleaning and exhaust hood fire suppression equipment inspection and maintenance to the extent not required to be performed by Tenant), all of which shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances including, but not limited to, FAA and TSA rules and regulations as well as all Airport rules and regulations promulgated from time to time by Landlord, American or the Authority. Tenant shall comply with all rules, regulations and directives of Landlord, American the Authority, the FAA, the TSA or any other federal or state agency of competent jurisdiction with respect to deliveries which may include, but not be limited to: (1) restrictions on delivery times (days and hours) and the time in which any vehicle may remain in the loading dock areas; (2) methods of delivering equipment, supplies, materials, inventory, merchandise or products from the loading dock areas to the Premises such as rolling carts, wheels, pallet or plastic wrap requirements; (3) delivery escort guidelines, badging, background checks, rules, instructions and training if so required which must be complied with by Tenant and all transportation companies and vendors delivering any such items to the loading dock areas; and (4) security screening of equipment, supplies, materials, inventory, merchandise or products. Landlord, American and the Authority may deny access or require any vehicle to be removed for failure to follow any such rules, regulations, directives and guidelines that may be established by Landlord, the Authority or applicable governmental agencies from time to time. The foregoing is in

addition to the requirements of Section 27.24.

(b) Tenant shall have the non-exclusive use, in common with other tenants and users of the Terminal, to the loading dock areas as provided in this Section 8.03 and to the food courts, public seating areas and other designated common areas of the Concession Area subject to the control and management thereof at all times by Landlord, provided that Landlord and American, at their sole cost, each reserves the right to make any changes which they deem appropriate to the loading dock areas and the food courts, public seating areas and other designated common areas of the Concession Area, including relocating and/or eliminating all or any part thereof to assure public safety and convenience or to assure efficient operation of the Concession Area or the Terminal.

(c) Pursuant to the Concession Area Lease, (1) American is generally responsible for all structural maintenance, repair and/or replacement of the Base Building Work in the Concession Area and the Terminal, and (2) Landlord is otherwise generally responsible for the maintenance, upkeep and repair of the Concession Area to the extent not the obligation of the tenants of the Concession Area.

Section 8.04 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE FEE.** (a) Tenant and all of Landlord's other subtenants, shall use and share the prorated cost of common logistical support and common operation maintenance service providers provided by various independent contractors selected and contracted with in the sole discretion of Landlord. Tenant shall pay to Landlord, as Additional Rent, a fee (the "**Logistical Support and Maintenance Fee**") equal to Tenant's proportionate share (as described in Section 8.04(b) below) of Landlord's actual and commercially reasonable out-of-pocket costs and expenses incurred in order to manage the loading dock areas and maintain and service the food courts, public seating areas and other designated common areas of the Concession Area ("**Operating Costs and Expenses**"). These expenses include, without limitation: all costs and expenses of every kind and nature, foreseeable or unforeseeable, paid or incurred by Landlord for any service providers with respect to the food courts, public seating areas, purchase of tray wash equipment; floor cleaning (sweeping and mopping) and storefront cleaning services and cleaning of food court amenities, furnishings and equipment; food tray retrieval, washing and distribution; management of the loading dock areas for Tenant deliveries and distribution and delivery vehicle escort services; trash removal; repair and replacement of tray wash equipment and food court chairs, tables, and food trays. By way of example, Operating Costs and Expenses shall include, but not be limited to, the full cost of all labor costs (including both on-site and independent third party off-site supervisory personnel) as well as the cost of uniforms and identification badges for all such personnel employed to: (1) provide centralized trash, refuse and recycling material removal services in the Terminal for all concession facilities, and in loading dock areas and storefront façade cleaning services for all concession facilities; (2) manage, operate, maintain, repair, clean and replace the loading dock areas and equipment and the areas surrounding the trash dumpsters; (3) operate the vehicle escort delivery service across the airfield and to maintain, repair and/or replace the escort delivery service equipment; (4) assist in the delivery of equipment, supplies, goods, inventory, merchandise and products (which may need to include a central commissary system); (5) to the extent not otherwise charged directly to subtenants, provide security screening services for equipment, supplies, goods, inventory, merchandise and products; (6) operate, maintain and clean the food courts and public seating areas, cleaning and maintenance of the grease trap system, waste grease removal, cleaning and maintenance of exhaust hood, duct and roof top systems and inspection and maintenance of exhaust hood fire suppression equipment; (7) provide pest extermination services for all concession facilities; (8) the cost of all supplies and equipment utilized to clean the food courts and public seating areas; (9) cost of all trash removal receptacles and equipment for the food courts and public seating areas; (10) the cost to purchase, maintain, repair and/or replace all public seating areas tables, chairs, trash removal receptacles and equipment, furniture and fixtures; (11) the cost to purchase, clean, maintain, repair and/or replace the food trays used by patrons and to operate, maintain, repair and/or replace the food tray washing facilities and equipment; (12) any and all other direct costs and expenses

which Landlord deems reasonably necessary or desirable in order to properly maintain and provide such services described herein in an efficient and acceptable manner. The preceding is for definitional purposes only and shall not impose any obligation upon Landlord to incur such expenses or provide such services. Tenant shall comply in all respects with such procedures and the policies established by Landlord with respect to common logistical support and common operation maintenance services.

(b) The proportionate share to be paid by Tenant shall be that portion of Operating Costs and Expenses which the Floor Area in the Premises bears to the total Floor Area in the Concession Area which has been leased to subtenants who are in occupancy and contributing to the Logistical Support and Maintenance Fee; provided, however, any Floor Area in the Concession Area which is excluded from the foregoing calculation shall not exceed Ex. 2.a. of the gross leaseable Floor Area of all concession facilities in the Concession Area but such restriction shall not be applicable until Landlord has completed the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Annual increases in Tenant's proportionate share shall not exceed Ex. 2.a. other than extraordinary costs imposed by local, state or federal regulations or as may otherwise be requested by Tenant from time to time as compared to the immediately preceding Lease Year following completion of the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal.

(c) The Logistical Support and Maintenance Fee following the Rental Commencement Date shall be paid to Landlord as Additional Rent in equal, consecutive monthly installments on or before the first (1st) day of each calendar month, in advance, in an amount estimated by Landlord from time to time. All sums not received within five (5) days after written notice from Landlord shall be delinquent and shall be a default as defined in Article XIX. Subsequent to the end of each Lease Year, Landlord shall furnish Tenant with a detailed statement of Tenant's proportionate share of such Operating Costs and Expenses for such period showing the general method of computing such proportionate share. Tenant shall not have any inspection or audit rights of any of Landlord's books and records pertaining to Operating Costs and Expenses and the Logistical Support and Maintenance Fee. Tenant hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on Landlord's statement, Tenant shall pay the difference between the amount paid and the actual amount due within thirty (30) days after the furnishing of each such statement. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Tenant to Landlord for Operating Costs and Expenses under this Sublease. If at the end of the Term of this Sublease, the total amount paid by Tenant under this Section 8.04 for such final Lease Year shall exceed the actual amount due for such final Lease Year, such excess shall be refunded to Tenant within sixty (60) days after Tenant has vacated the Premises in the condition required at the conclusion of this Sublease and after all Rentals and other sums due Landlord from Tenant under this Sublease have been paid in full; or Landlord shall be entitled to deduct any such remaining sums due from any such excess. Landlord may estimate the annual budget and charge the same to Tenant on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Operating Costs and Expenses for the Logistical Support and Maintenance Fee.

(d) If Tenant suffers damages to equipment, materials, supplies, inventory, merchandise and products or any injuries to persons as a result of the activities of the various independent contractor service providers, Tenant shall only look to the independent contractor service provider who caused such damage or injuries for any recovery. Landlord, American and the Authority (including their members, shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits arising out of or relating to the activities of the various service providers, except to the extent that any such

damage is due solely to the gross negligence or willful misconduct of Landlord or American.

ARTICLE IX. SIGNS

Section 9.01 TENANT'S SIGNS. The design, construction, location, use and maintenance of Tenant's signs (whether blade or band signs) are subject to the provisions of the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall affix a sign to the exterior surface of the storefront of the Premises subject to the advance approval of Landlord, American and the Authority in compliance with the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall pay all costs of fabricating, constructing, operating and maintaining such exterior storefront sign(s). Tenant shall keep said sign(s) well lit during such hours as Landlord shall designate and shall maintain said sign(s) in good condition and repair during the entire Term hereof. Said sign(s) shall conform to the criteria for signs contained in the Tenant Construction Review Manual, the Design Guidelines; and the size, content, design and location thereof shall be subject to the prior written approval of Landlord, American and the Authority pursuant to the TAA Process. Except as hereinabove mentioned, Tenant shall not place or cause to be placed, erected or maintained on any exterior door, wall, window or the roof of the Premises, or on the interior or exterior surface of the glass of any window or door of the Premises, or on any sidewalk or other location outside the Premises, or within any display window space in the Premises, or within one (1) foot of the front of the storefront leaseline, whether or not there is display window space in the Premises, or within any entrance to the Premises, any sign (flashing, moving, hanging, handwritten, or otherwise), decal, placard, decoration, flashing, moving or hanging lights, lettering, or any other advertising matter of any kind or description; provided, that subject to the prior written approval of Landlord with respect to design and placement, Tenant may place decals relating to charge cards accepted and alarm system used for safety purposes on glass storefronts where warranted. No symbol, design, name, mark or insignia adopted by either Landlord, American or the Authority for the Terminal or the Airport shall be used without their prior written consent. Notwithstanding the foregoing, if Landlord or American, in their reasonable business judgment, determines that any such materials are unacceptable, improper or inappropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter without any liability. Tenant, upon obtaining Landlord's prior consent not to be unreasonably withheld, may utilize its customary interior signs, placards and decorations provided they are professionally prepared and in good taste and are utilized in a manner substantially similar to the manner which Tenant employs in its first-class stores located in large, urban airports and regional shopping centers in the United States, and, further, so long as the same comply with American's and the Authority's requirements and the Authority's TAA Process. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.01 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Dollars ($100.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

Section 9.02 TENANT'S INTERIOR ADVERTISING AND DISPLAY WINDOWS. Tenant acknowledges and agrees that the condition and appearance of its interior advertising and display windows facing into or in any manner visible from the Terminal property including exterior glass windows (if any) is important to Landlord, American and the Authority. If Tenant installs such interior advertising displays or window displays or any signs in the window display facing into or in any manner visible from the public areas of the Terminal which any of Landlord, American or the Authority reasonably determines to be objectionable to the general character and appearance of the Terminal, Tenant agrees to remove the stanchions, window display and/or signs within forty-eight (48) hours after notice. If Tenant fails or refuses to remove such advertising, window displays or signs, Tenant hereby grants Landlord the right to remove the objectionable advertising, displays or signs at Tenant's expense. Tenant agrees that its interior

advertising displays and window displays will be designed and printed in a professional manner and will contain only first class products. Tenant shall not display any advertising, promotional or informational pamphlets, circulars, brochures or similar materials outside the Premises without the prior written consent of Landlord and American. No temporary signs or displays will be used by Tenant including any employment opportunity signs, except for temporary holiday decorations, which shall also be designed and printed in a professional manner. Notwithstanding the foregoing, if Landlord or American determine that any such materials are not appropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter, at Tenant's expense. At a minimum, Tenant shall refresh and change the interior advertising items and signs in the display windows on a quarterly basis during each Lease Year. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.02 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Dollars ($100.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

ARTICLE X. MAINTENANCE AND REPAIRS

Section 10.01 **TENANT'S OBLIGATIONS FOR MAINTENANCE.** (a) Except for American's obligations pursuant to the Authority Lease and the Concession Area Lease for structural maintenance, repair and/or replacement of the Base Building Work in the Premises, Tenant, at Tenant's sole cost and expense, shall keep and maintain in a first-class appearance, in a "like new" condition equal to or better than that which existed when Tenant initially opened the Premises for business, reasonable wear and tear excepted, and in a safe, clean, neat, sanitary and lawful order, good condition and repair (including replacement of parts and equipment, if necessary), the Premises and every part thereof and any and all appurtenances thereto wherever located, including, without limitation, surfaces of all walls, windows and window casings and sills (both interior and exterior), the interior and exterior portion of all doors, door frames and door checks, other entrances, plate glass (except outside surfaces of windows, window casings and sills located on the exterior of the Terminal building, if any), storefronts, wall coverings, floor coverings, ceilings, relamping and/or replacement of light fixtures, trade fixtures, Fixed Improvements, Operating Equipment, HVAC (as defined in Section 12.01(d)) and electrical and other utility systems and utility branch lines exclusively serving the Premises (whether or not located within the Premises), sprinkler systems and sprinkler heads exclusively serving the Premises (whether or not located within the Premises), and all other repairs, replacements, renewals, restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen that relate to all work by or on behalf of Tenant pursuant to Article V, **Exhibit D** and the Design Guidelines. For the purposes of this Article, the installation, maintenance, repair and replacement of a sprinkler system, fire alarm system, communication system or any repairs or work involving asbestos or other hazardous materials or involving compliance with Local Laws #5 of 1973, #16 of 1984, #58 of 1987 and the Americans With Disabilities Act and any successor laws of like import shall be deemed to (a) be non-structural maintenance, repairs and/or replacements, and (b) not involve the Base Building Work.

(b) Tenant's maintenance and repair of the Premises is an obligation which runs directly to Landlord, American and the Authority and includes all of the following duties:

(1) Tenant, at its own expense, shall install and maintain fire extinguishers, fire hoses and other fire protection devices as may be required by Landlord, American, the Authority, the applicable fire marshall official, any agency having jurisdiction over the Premises or by the insurance underwriter insuring the Terminal.

(2) Tenant shall obtain Landlord's prior written approval of the materials used in any plate glass or

window glass installation, repair or replacement and of the contractor performing any such repair or replacement (the foregoing is subject to Landlord's sole discretion).

(3) Tenant, at all times and at its sole cost and expense, shall use the Premises with care. Maintenance, repairs and replacements shall be accomplished as necessary to maintain the Fixed Improvements and Operating Equipment and trade fixtures in a first-class "like-new" condition. Tenant shall repaint, retile, recarpet or replace wall coverings, floor coverings and ceiling coverings as reasonably necessary; and high traffic areas shall be repainted, retiled, recarpeted on a regular basis or as otherwise reasonably directed by Landlord to maintain a high quality, first-class appearance; and all furniture and furnishings that become worn or torn shall be promptly replaced.

(4) Tenant, at its own expense, shall provide complete and adequate arrangements for the sanitary handling and disposal of all trash, garbage, recycling materials and other refuse generated in the Premises, including suitable receptacles situated in locations determined by Landlord. Such shall be removed at times and in a manner which will cause minimum interference with the use of the Terminal by the public and other authorized persons. Tenant shall be required to participate in American's recycling program, if any, as appropriate. Tenant shall also furnish, at its own expense, custodial services for the Premises. The piling of boxes, cartons, containers or other similar items in the public areas or in the Premises is not permitted.

(5) With respect to utility systems and lines servicing the Premises, (a) in areas where such utility systems and lines serve other areas in the Terminal in addition to the Premises, Tenant, at its own expense, shall only be responsible for the maintenance of the utility branch systems and utility branch lines located within or exclusively serving the Premises, (b) where utility systems and lines are installed by Tenant and solely for its use, Tenant shall have the sole responsibility, at its own expense, for the maintenance, repair and replacement thereof from the Premises up to the American-maintained main utility systems or lines or to the shut-off valves located in the Terminal, as appropriate, (c) Tenant shall have sole responsibility, at its own expense, for the maintenance, repair and replacement, as necessary, of all electrical, telephone, data transmission and other communication cables, conduits, wiring, fire alarm systems and protection devices, wiring panels and associated equipment located within or exclusively serving the Premises. American reserves the right to maintain, repair or replace any such utility systems and lines.

(6) Tenant shall prepare a comprehensive preventive maintenance program for all equipment and lines for which it is responsible to maintain and submit the same to Landlord and shall maintain such program on a current basis. Tenant shall report all malfunctions to all systems, lines, devices and equipment installed or located within the Premises to Landlord as promptly as possible after discovery and shall provide timely notice to Landlord as required by this Sublease with respect to maintenance issues.

(7) All repairs, replacements and maintenance by Tenant hereunder shall comply with all of the applicable provisions of the TAA Process, as the same may be amended from time to time by the Authority in their sole discretion, shall be performed in accordance therewith and with the applicable provisions of the Design Guidelines and shall be subject to the Landlord's prior written approval, such approval to be determined in Landlord's sole discretion. All such maintenance, repairs and replacements shall be of a quality equal to the original in materials and workmanship; Landlord shall have the right to disapprove any improvements, replacements or alterations which, in its judgment, are of a design, quality, condition or in any color or in any other way deemed to be inconsistent with the Design Guidelines, the TAA Process or the general character and design of the Terminal.

(8) Landlord, American and the Authority each reserves the right to interrupt temporarily the heating, air conditioning, plumbing, fire sprinkler, electrical services and any and all other utility services when necessary to make repairs, alterations, replacements or improvements thereto; and no such party shall have any responsibility or liability to Tenant (including consequential damages and lost profits) for failure to

supply heat, air conditioning, any other utilities or plumbing or, when prevented from doing so by laws, orders or regulations of any federal, state or local agency or as a result of strikes, accidents, force majeure or by any other cause whatsoever beyond their control. Landlord shall provide Tenant with as much advance notice as reasonably possible and under the circumstances shall use reasonable efforts to avoid interrupting Tenant's business operations except as deemed necessary by Landlord, American or the Authority.

(c) In no event shall Landlord be liable for consequential damages or Tenant's lost profits claimed to be caused by any failure of maintenance or repair. If Tenant does not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then Landlord, American or the Authority, in addition to any other remedy which may be available to them, may enter the Premises and perform such maintenance or repair, as they determine, in their sole and absolute discretion, is required. **Tenant shall indemnify and save harmless Landlord, American, the Authority and the City of New York from all injury, loss or damage to any Person or property occasioned by Landlord's, American's or the Authority's completion of such maintenance or repair, except to the extent such loss or damage is solely the result of the gross negligence or willful misconduct of Landlord, American, or their respective employees, agents or contractors.** Tenant shall reimburse Landlord for any and all reasonable costs incurred in completing such maintenance or repair (including without limitation an administrative fee equal to fifteen percent (15%) of such costs), together with Late Interest from the date Landlord, American or the Authority incurred such costs. Landlord, without prior notice to Tenant, may enter the Premises and make inspections as often as it considers necessary, to determine the proper maintenance of the Premises by Tenant. The provisions of this Section 10.01 shall survive the expiration or earlier termination of this Sublease.

ARTICLE XI. INSURANCE AND INDEMNITY

Section 11.01 TENANT'S INSURANCE. (a) Tenant, at its sole cost and expense, shall, during the entire Term hereof, procure and maintain the following insurance in not less than the following amounts: (1) commercial general liability insurance with respect to the Premises and the operations in, on or about the Premises, in which the combined limits shall be not less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, insuring for bodily injury, death and property damage and including, without limitation, premises operations, products-completed operations, explosion, collapse, underground property damage and independent contractors coverage, with such commercial general liability insurance containing a contractual liability endorsement covering the obligations assumed by Tenant under Sections 7.03, 11.03 and all other of Tenant's indemnification obligations under this Sublease, such insurance not to contain any care, custody or control exclusions which would conflict with or in any way impair coverage under the contractual liability endorsement and business automobile liability insurance covering all owned, hired and non-owned vehicles, in which the limits for landside vehicle/mobile equipment operation shall be not less than Two Million Dollars ($2,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage and in which the limits for airside vehicle/mobile equipment operation, if applicable, shall be not less than Twenty-Five Million Dollars ($25,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage; (2) all risk property insurance, including plate glass coverage, against fire, extended coverage, vandalism, malicious mischief, water damage, which does not exclude backup from sewers or drains or sprinkler leakage, and such other additional perils including flood as now are or hereafter may be included in a standard extended coverage "ISO Special Form" policy or its equivalent from time to time in general use in the county in which the Terminal is located, insuring Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property of Tenant located on or in the Premises or the Terminal in an amount equal to the full replacement cost thereof; (3) statutory workers' compensation coverage as required by

the State of New York from time to time and including Employer's Liability Insurance in the amount of One Million Dollars ($1,000,000.00) for each accident, One Million Dollars ($1,000,000.00) for each employee, by disease, One Million Dollars ($1,000,000.00) policy aggregate by disease; (4) builder's risk (ALL RISK) insurance covering construction and installation of the Fixed Improvements and Refurbishments and Operating Equipment during the performance thereof, including, without limitation material delivered to the site but not attached to the realty as more particularly described in **Exhibit D**, naming Landlord, American, the Authority, the City of New York, Tenant and their respective contractors and subcontractors as additional insureds or as loss payees (as applicable to the type of insurance provided) and provide that the loss shall be adjusted with and payable to Tenant and used for the repair, restoration or rebuilding of the Fixed Improvements and Refurbishments and Operating Equipment, as necessary; (5) business interruption insurance in amounts at least sufficient to cover, and applicable to, all Rentals, fees, charges and other payments that are payable by Tenant to Landlord under this Sublease for a period of not less than twelve (12) months for any business interruption losses in business revenue that occur when the Premises or any portion thereof is unusable or is out of operations due to fire or any other risks or hazards that are normally covered under a standard form of "ISO Special Form" policy or its equivalent or for any other reason; (6) the insurance required under the Authority's TAA Process; (7) such other insurance as may be required by Landlord, American or the Authority from time to time after suitable notice thereof based upon circumstances in the Terminal and imposed upon other concession operators in the Terminal; and (8) if the Permitted Use permits the sale of alcoholic beverages, Tenant shall also procure and keep in force liquor law liability insurance (on an occurrence basis), in which the limits shall not be less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, which shall insure against all claims, demands and actions for injury to, and/or death to, one (1) or more persons in one (1) or more accidents, and for property damage, as well as for damages due to time loss and means of support; so that at all times Landlord, American and the Authority will be fully and completely protected against any claims that may arise by the dispensing of beer, wine and/or other spirited or alcoholic beverages in the Premises; provided, however, that Landlord and Tenant acknowledge and agree that commercially available liquor law liability insurance coverage contains specific exclusions. **Tenant agrees to indemnify and hold harmless Landlord, American, the Authority and the City of New York, their respective Affiliates, parent corporations, subsidiaries, directors, officers, partners, shareholders, representatives, members, management companies, agents and employees, from and against any loss or claim arising under such exclusions.** Notwithstanding the foregoing, Tenant specifically understands and agrees that Landlord and American have the right, on their own initiative or as requested by the Authority, to require Tenant to make reasonable additions, deletions, amendments or modifications to the above minimum insurance requirements or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as American may deem reasonably necessary or as the Authority may deem necessary. Landlord will not increase the above-required coverage amounts or limits in excess of five percent (5%) in any Lease Year during the Term, unless such increase is required for reasons beyond Landlord's control, and Tenant shall so adjust the amounts or limits of the insurance carried by Tenant hereunder and shall provide Landlord with Certificates indicating the adjusted amounts or limits as provided in this Section 11.01. All policies of insurance required to be carried by Tenant pursuant to this Sublease shall be written by insurance companies of adequate financial capacity (having a A.M. Best's rating and Financial Size Category of not less than A-VII or better) and qualified to do business in the State of New York. Any such insurance required of Tenant hereunder may be furnished by Tenant under any blanket policy carried by it, with any amendments or endorsements that may be necessary to conform to the requirements of this Article XI or under a new or separate policy therefor. An insurance certificate or certificates (and endorsements where same become necessary) from Tenant's insurer, certifying that such policy has been issued, provides the coverage required by this Section 11.01 and contains all of the provisions specified in this Section 11.01 (including, without limitation, naming of additional insured and/or loss payee entities as required by Section 11.01(b) below), shall be delivered to Landlord prior to the commencement of the Term hereof, and certificates in connection with all renewals (if any), not less than

thirty (30) days prior to the expiration of the term of each such policy. In addition, if requested by American, Tenant shall promptly deliver to Landlord a certified copy of each policy bearing the endorsement of or accompanied by evidence of payment of the premium thereof. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant and certificates delivered to Landlord prior to any such expiration or termination.

(b) Each policy evidencing insurance required to be carried by Tenant pursuant to this Section 11.01 shall contain the following clauses and provisions: (1) a provision that such policy and the coverage evidenced thereby shall be primary and noncontributing with respect to any policies carried by Landlord, American or the Authority and that any coverage carried by Landlord, American or the Authority be excess insurance; (2) except for workers' compensation and employers' liability coverage, a provision including the parties set forth on **Exhibit F** and any other parties designated in writing by Landlord from time to time as additional insured and/or loss payee entities, as applicable; (3) a waiver by the insurer of any right to subrogation against Landlord, American and the Authority and other additional insured and/or loss payee entities, their respective agents, commissioners, directors, employees, insurance carriers, officers and representatives which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, American or the Authority, their respective agents, commissioners, directors, employees, insurance carriers, officers or representatives; (4) a severability of interest clause or endorsement; (5) a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving Landlord, American and the Authority at least thirty (30) days prior written notice; (6) a provision that such policy is an occurrence-form policy; and (7) a provision or endorsement that the insurer shall not, without obtaining the express advance written permission from the Authority's General Counsel, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Authority, the immunity of the Authority, its commissioners, officers, agents and employees, the governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority. Such liability policies shall also provide or contain an endorsement providing that the protections afforded Tenant thereunder with respect to any claims or actions against Landlord by a third Person shall pertain and apply with like effect with respect to any claim or action against Tenant by Landlord, American or the Authority, and that such protections shall also pertain and apply with respect to any claim or action against Landlord, American or the Authority, including by Tenant, but such endorsement shall not limit, vary or affect the protections afforded Landlord, American and the Authority thereunder or other named insureds as an additional insured. The "All Risk" property insurance coverage shall name Landlord, American and the Authority as additional loss payees to the extent of their respective interests and shall provide that any loss shall be adjusted with and payable to Tenant, Landlord and American (to the extent of Landlord's or American's loss) and to the extent Landlord or American receives insurance proceeds from such policies or otherwise participates in the adjustment of claims thereunder, Landlord shall (and American is obligated under the Concession Area Lease to) cooperate with Tenant and shall make all of such proceeds available to Tenant to cover the cost of restoration of such Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property.

(c) In the event that Tenant fails to procure and to maintain, at the times and for the duration specified in this Section 11.01, any insurance required by this Section 11.01, or fails to carry insurance required by law or governmental regulation, Landlord may (but shall not be required to) at any time and from time to time, and upon five (5) days notice to Tenant, procure such insurance and pay the premiums therefor; and the cost of same shall be deemed Additional Rent and shall be payable by Tenant within ten (10) days after receipt of Landlord's written demand. Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's, American's, the Authority's or the Airport's policies of hazard or liability insurance or which will prevent Landlord, American or the Authority from procuring such policies in companies acceptable to Landlord, American and the Authority.

(d) If at any time any of Tenant's insurance policies shall be or become unsatisfactory to Landlord, American or the Authority, in their reasonable judgment, as to form or substance, of if any of the Tenant's insurers issuing such policies shall not maintain the minimum rating required above, Tenant shall promptly obtain a new and satisfactory policy in replacement.

Section 11.02 LANDLORD'S AND AMERICAN'S INSURANCE. Landlord has the obligation to carry the insurance set forth in the Concession Area Lease but only to protect the interests of Landlord, American and the Authority. Landlord, by virtue of this Sublease or otherwise, has no obligation to protect the interests of Tenant or to name Tenant as an additional insured under any of its insurance covering the Terminal. American is obligated to maintain the types of insurance required under the Authority Lease.

Section 11.03 INDEMNIFICATION. **(a) Tenant shall defend, indemnify and hold harmless Landlord, American, the Authority and the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York) and their respective directors, officers, employees, agents, commissioners, representatives and Affiliates (collectively, the "Indemnitees") from and against any and all claims, demands, actions, causes of action, suits, fines or judgments asserted, imposed or obtained by third parties, and the costs (including reimbursement of Indemnitees' reasonable costs and expenses of any related legal proceedings or attorneys' fees), expenses, losses, liabilities (including, without limitation, claims and demands for death or personal injuries, or for property damages) and damages of all kinds related to such third party claims, arising out of the construction of Fixed Improvements or Refurbishments or the improper use or occupancy of the Premises by Tenant or out of any other acts or omissions of, or any breaches or defaults under the terms or conditions of this Sublease by Tenant, its directors, officers, employees, representatives, contractors, guests and/or invitees in the Premises or other areas in the Terminal and/or elsewhere at the Airport including, without limitation, claims and demands of any of the occupants in the Concession Area or of the City of New York, from which the Authority derives its rights in the Airport (collectively, the "Claims"). The foregoing indemnification shall not apply to a particular Indemnitee, other than the Authority, to the extent that a Claim is caused or contributed to by the negligence or willful misconduct of such Indemnitee other than the Authority. As a condition to the foregoing indemnification with respect to Claims and demands for indemnification made by Landlord: (1) Landlord or the Indemnitee shall give Tenant prompt written notice specifying with reasonable particularity any Claim that Landlord or the Indemnitee reasonably believes may become the basis for indemnification pursuant to this Section 11.03; (2) Landlord, the Indemnitee and their directors, officers, employees and representatives shall cooperate fully in the defense of such Claim; (3) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the right to contest, defend or litigate, and to retain counsel of its choice in connection with any proceeding or litigation which would give rise to a claim for indemnification under this Section 11.03; and (4) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the sole and exclusive right to settle any proceeding or litigation which could give rise to a claim for indemnification under this Section 11.03 (provided such settlement would not result in any loss, cost, harm, expense, damage or liability to any of the Indemnitees). A failure by Landlord or an Indemnitee to timely notify Tenant of any Claim shall excuse Tenant's obligations hereunder only to the extent the defense of such Claim is prejudiced thereby.**

(b) Tenant represents that it is the owner of or fully authorized to use or sell any and all intellectual property used or sold by it in its activities under or in any way connected with this Sublease. **Without in any way limiting its obligations hereunder, Tenant agrees to indemnify, defend and hold harmless**

the Indemnitees of and from any loss, liability, expense, suit or judgment in connection with any actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the activities of Tenant under or in any way connected with this Sublease. With respect to claims or demands against Indemnitees for actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or for actual or alleged unfair competition or other similar theories arising out of the operations of Tenant, Tenant shall pay or reimburse Indemnitees all actual and reasonable attorneys' fees and costs of defense that Indemnitees may incur in defending any such intellectual property or unfair competition claims or demands.

(c) Tenant agrees to include in all franchise or license agreements and construction contracts and other agreements involving Tenant, a provision by which such franchisee, licensee or contractor agrees to defend, indemnify and hold harmless the Indemnitees, on at least the same basis and to the same extent as required of Tenant under this Section 11.03. The obligations set forth in this Section 11.03 shall survive the expiration or earlier termination of this Sublease.

Section 11.04 INJURY CAUSED BY THIRD PARTIES. Tenant covenants and agrees that Landlord, American and the Authority (including their respective agents, employees, officers, directors, commissioners, members and shareholders) shall not be responsible or liable to Tenant, or any entity or person claiming by, through or under Tenant, for any injury, death or damage to persons or property resulting from any latent defect in the Premises, the Terminal, the Airport or appurtenant areas; or from any acts or omissions of entities, persons, tenants or other occupants occupying adjoining premises in the Terminal or any other part of the Airport or the agents, servants, employees, contractors or invitees of such entities, persons, tenants or occupants; or from fire, electricity, water, snow or leaks from any part of the Terminal or Terminal systems or Airport, including sprinkler systems; or from any other cause of whatever nature, unless caused by or due to the direct gross negligence or direct willful misconduct of Landlord (or as American, as obligated under the Concession Area Lease), its agents and employees, in which case only the party that acted grossly negligent or with willful misconduct shall be responsible or liable.

ARTICLE XII. UTILITIES

Section 12.01 UTILITY SERVICES AND CHARGES. (a) Pursuant to the Concession Area Lease, American is obligated to provide access to reasonable and normal amounts (as determined by Landlord and American) of electric, heat, air conditioning, domestic cold water (if applicable), high temperature hot water (if applicable), gas (if applicable) and sewage (if applicable) services to the Premises for use by Tenant provided by utility systems, connections and related equipment existing as of the Commencement Date; but neither Landlord nor American have any obligation to provide telephone or data transmission and communication services to the Premises. The types, capacities and amounts of the various utilities which are being provided by American to the Concession Area, including the Premises, are set forth on the Utilities Matrix, which is included as an exhibit to the Concession Area Lease. All of such utilities, except for electricity for all food & beverage concession locations, and telephone and data communication services, are to be provided without charge by American in accordance with the Concession Area Lease. Should Tenant require access to utility services over and above those provided by American as set forth on such Utilities Matrix, Tenant shall pay directly for the costs of extending those additional utilities to the Premises, if available. Tenant shall be solely responsible for all fees, deposits and charges, including use or connection fees, hook-up fees, standby fees, and the like, for fire alarm, burglar alarm, telephone, data transmission and communication and cable television used in or upon or furnished to the Premises, including, without limitation, any services to be supplied by American, irrespective of whether any of the foregoing are initially paid in advance by American, Landlord or otherwise.

(b) Tenants who operate a food & beverage concession facility shall be solely responsible for, and shall promptly pay for the construction and installation of, electric check meters required for all electricity to be consumed within the Premises. Any such check meters required for the conduct of business operations in the Premises shall be installed by Tenant, at its sole cost and expense, in locations approved by Landlord, American and/or the appropriate public utility service provider. If the Permitted Use provides for display and sale of food and beverages, Tenant shall pay to Landlord American's actual cost of purchasing the electricity consumed as measured by a separate check meter to be installed by Tenant pursuant to the Final Drawings. Any such charges shall be billed to Tenant in arrears and shall be paid, as Additional Rent, to Landlord with the next monthly installment of Guaranteed Rent following Tenant's receipt of the invoice therefor from Landlord.

(c) Landlord, American or the Authority shall not be liable for damages, loss of business, loss of profits or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, services from a central utility plant or any other utility or other service, or if either the quantity, quality or character thereof is changed or is no longer available for Tenant's requirements, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character will not excuse or relieve Tenant from its obligations hereunder, including but not limited to the payment of Rentals or all other sums, damages, fees, costs and expenses payable under this Sublease. Except as otherwise provided by applicable law, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character shall not constitute or be deemed to constitute actual or constructive eviction of Tenant. Any obligation of American to furnish utilities is conditioned upon the availability of adequate energy sources. American has the right to reduce heating, cooling and lighting within the Premises and the public areas as required by any mandatory or voluntary fuel or energy saving allocation, or similar statute, regulation, order or program. No such interruptions, reductions, disruptions, curtailments or failures shall entitle Tenant to any abatement of Rentals or relieve Tenant from fulfillment of any covenant or agreement set forth in this Sublease, except specifically provided in this Section 12.01(c). Notwithstanding the foregoing, if Tenant is prevented from opening to the public for more than three (3) days during any Lease Year by an interruption in utility services due to the negligence of Landlord or American, including, without limitation, electricity, gas, water, plumbing, sewage, telephone communications, heating, ventilation, or air conditioning, but American's operations and the flow of Enplaned Passengers nevertheless continue normally through such interruption of utility services in the Premises, Guaranteed Rent that would otherwise apply during such period will be reduced by the proportion that three hundred sixty-five (365) days bears to the actual number of days Tenant was able to operate during such calendar year.

(d) If applicable, Tenant shall operate its additional heating, ventilating and air conditioning system(s) ("**HVAC**") serving the Premises so as to maintain comfortable conditions during its hours of operation. Temperatures in the Premises shall be compatible with temperatures in the Terminal. Tenant's obligation to connect to the services supplied by American, as set forth in this Section 12.01 and **Exhibit D**, as well as Tenant's operation and maintenance of its HVAC system(s) within the Premises, shall be as set forth herein, in **Exhibit D** and in any related document(s), such as the Design Guidelines or approved Final Drawings. If Tenant desires to install any equipment which shall exceed the capacity of any utility facilities or which shall require additional utility facilities, Tenant shall not have the right to do so without Landlord's and American's prior written approval of Tenant's plans and specifications therefor. If such installation is approved by Landlord and American, and if such additional facilities are provided to accommodate Tenant's installation, Tenant agrees to pay Landlord, on demand, the cost of providing such additional utility facilities or utility facilities of greater capacity. Tenant shall in no event use any of the utility facilities in any way which shall overload or overburden the utility systems at the Terminal and the Airport. Landlord and American shall have the right to impose reasonable restrictions and to require Tenant to comply with any and all state and local regulations and measures adopted from time to time with respect to conservation of

any utilities, including water usage.

ARTICLE XIII. ATTORNMENT AND SUBORDINATION

Section 13.01 ATTORNMENT. Landlord shall be permitted to assign this Sublease to American or its designee; and, in the event of such assignment, Tenant shall attorn to American or its designee and recognize American or its designee as the landlord for all purposes hereunder.

Section 13.02 SUBORDINATION. Tenant further agrees that this Sublease shall be subordinate to the Concession Area Lease, the Authority Lease and to any and all mortgages, deeds of trust and ground leases that may now exist or at any time hereafter constituting a lien or charge upon the Concession Area or the Terminal or other improvements that constitute a part of the Concession Area and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacement and extensions thereof. Tenant, within no more than fifteen (15) days after written request, shall execute any and all instruments, releases and other documents that may be required by each and every mortgagee, trustee and holder thereof for the purpose of subjecting and subordinating this Sublease to the lien of any such mortgage or deed of trust.

Section 13.03 ESTOPPEL STATEMENT. Within twenty (20) days after request therefor by Landlord, Tenant shall execute, in recordable form, and deliver to Landlord a statement, in writing, certifying (a) that this Sublease is in full force and effect, (b) the Rental Commencement Date and the Expiration Date hereof, (c) that Rentals and all other charges hereunder are paid currently without any offset or defense thereto, (d) the amount of Rentals and all other charges hereunder, if any, paid in advance, (e) whether this Sublease has been modified and, if so, identifying the modifications, (f) that, to the best of its knowledge, there are no uncured defaults by Landlord or stating in reasonable detail those claimed by Tenant, and (g) such other matters as may be reasonably requested by Landlord.

ARTICLE XIV. ASSIGNMENT AND SUBLETTING

Section 14.01 RESTRICTIONS, PROCEDURES AND OTHER ASPECTS GOVERNING TENANT. (a) Tenant shall not transfer or assign this Sublease or Tenant's interest in or to the Premises or any part thereof without having first obtained the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion; provided, however, the transfer of Tenant's securities in connection with Tenant becoming a publicly held company or issuing securities in connection with an additional public offering of securities shall not constitute a transfer or assignment of this Sublease. The public trading of Tenant's securities on a nationally recognized stock exchange or on the NASDAQ market shall not constitute or be considered to result in any such transfer or assignment of this Sublease. Each transfer, assignment or subletting to which there has been consent shall be by instrument in writing, in form satisfactory to Landlord, and shall be executed by the transferee, assignee or subtenant who shall agree in writing for the benefit of Landlord to be bound by and to perform the terms, covenants and conditions of this Sublease. Failure to first obtain in writing Landlord's consent, or failure to comply with the provisions herein contained shall operate to prevent any such transfer, assignment or subletting from becoming effective. The receipt by Landlord of rent from an assignee, transferee, subtenant or any other occupant of the Premises shall not be deemed a waiver of the covenant in this Sublease against assignment, transfers and subletting or an acceptance of the assignee, transferee, subtenant or any other occupant as a tenant or a release of the Tenant from further observance or performance by Tenant of the covenants contained in this Sublease.

(b) Notwithstanding the foregoing provisions of this Article 14, Tenant shall have the right to transfer or assign this Sublease, with Landlord's consent, such consent not to be unreasonably withheld, to: (1) a

subsidiary of Tenant or its parent entity or to an entity that is an Affiliate of Tenant or its parent entity; (2) any entity with which Tenant shall merge, reorganize or consolidate; or (3) any entity acquiring all or substantially all of the assets of, or equity interests in, Tenant or which may succeed to a controlling interest in the business of Tenant; provided that in the case of any and each such transfer or assignment under clauses (2) and (3) above which is permitted hereunder, Landlord shall have the discretionary right to withhold its consent unless: (i) such transferee or assignee shall have a net worth equal to or greater than Tenant (or its guarantor, if any) as of the effective date of any proposed transfer or assignment; (ii) such transferee or assignee shall have proven airport concession operating experience and the ability to efficiently and effectively operate the business in the Premises consistent with at least as high a standard as then exists in the Premises; (iii) the business conducted in the Premises by such transferee or assignee shall be conducted under the same Permitted Use and under a trade name required to be used by Tenant hereunder; (iv) Tenant shall not be in default after the applicable notice and cure periods under any of the terms and provisions hereof; (v) the use of the Premises by such transferee or assignee shall not violate any agreements affecting the Premises, Landlord or other tenants or occupants in the Airport and shall not disrupt the concession mix within the Terminal as determined in the sole and absolute discretion of Landlord; (vi) if Tenant is a certified M/W/DBE or if Tenant's certified M/W/DBE participant is a member/partner of a limited liability company/general partnership or joint venturer of a joint venture with Tenant, any such transfer or assignment of this Sublease shall not effect, modify or otherwise jeopardize the required M/W/DBE participation interest under this Sublease; (vii) except as may otherwise be prohibited under federal securities laws, notice of any proposed transfer or assignment shall be given to Landlord at least thirty (30) days prior to its proposed effective date, and there shall be delivered to Landlord instruments evidencing such proposed transfer or assignment and the agreement of such transferee or assignee to assume and be bound by all the terms, conditions and covenants hereof, all in form reasonably acceptable to Landlord; and (viii) Tenant and its guarantor, if any, shall continue to remain fully liable for the payment of all sums due and the performance of all the terms and conditions hereof.

(c) Tenant shall not sublet the Premises or any part thereof without having first obtained the prior written consent of Landlord. In the event Tenant requests permission to sublease, the request shall be submitted to Landlord prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the subtenant, the area or space to be subleased, the rental to be charged, the type of business to be conducted, recent audited financial statements and history and all other information requested by Landlord shall be specified. In the event of an assignment or sublease where the rental per square foot established in the sublease exceeds the rental per square foot established in this Sublease, Tenant shall pay to Landlord as Additional Rent the excess of the rental received from the transferee or subtenant over that specified to be paid by Tenant herein per square foot. Should any method of computation of rental to be paid by a transferee or subtenant, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Premises by Tenant exceeds the rental paid to Landlord for said proportionate area of the Premises.

(d) If Tenant is a corporation, limited liability company, association or partnership which, under the current laws, rules or guidelines promulgated by the governmental body or agency having jurisdiction and authority to promulgate the same, is not deemed a public corporation, or is an unincorporated association or partnership, the transfer, assignment or hypothecation, in the aggregate of more than a controlling interest of the total outstanding voting stock or voting interests in such corporation, limited liability company, association or partnership shall be deemed an assignment and transfer within the meaning and provisions hereof.

(e) Notwithstanding anything to the contrary set forth in this Article XIV and regardless of any Landlord approval noted herein, any and all proposed assignments, transfers and subletting and/or any other

arrangement pursuant to which Tenant authorizes any other Person to use and occupy the Premises shall also be subject to the written consent of American and the Authority determined in their sole and absolute discretion and not be effective until any such required consents of American and the Authority have been obtained.

ARTICLE XV. WASTE OR NUISANCE

Section 15.01 **WASTE OR NUISANCE.** Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, invitees, subtenants or agents to, injure, deface or otherwise harm the Premises, Concession Area, Terminal or the Airport, nor commit any waste upon the Premises, Concession Area, Terminal or the Airport, and shall not place a load upon the floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry. Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, subtenants or agents to, commit any nuisance or other act or thing which may constitute a menace or which may affect either American's operation of the Terminal, Landlord's operation of the Concession Area or the Authority's operation of the Airport or which may disturb the quiet enjoyment of any other occupant or tenant of the Airport. Tenant shall not use or permit to be used any medium that might constitute a nuisance, such as loudspeakers, sound amplifiers, tape decks, compact disc players, radios, televisions, or any other sound-producing or other device which will carry sound or objectionable odors outside the Premises except as may otherwise be approved in advance in writing by Landlord and, upon notice from Landlord to Tenant's business representative at the Premises, Tenant shall cause any such noise or odors to cease immediately. Tenant shall not allow any use of the Premises or any other portion of the Concession, Area, Terminal and/or the Airport in a manner which is a source of annoyance, disturbance or embarrassment to Landlord, American and/or the Authority, or to the other tenants and occupants of the Concession Area, Terminal and/or the Airport or which is deemed by Landlord or American, in their sole discretion, as not in keeping with the character of the Concession Area, Terminal and/or Airport. The Premises shall not be used for any unlawful or immoral purpose or which will invalidate or increase the premiums on any of the Landlord's, American's or the Authority's insurance.

ARTICLE XVI. TRADE NAME, TRADEMARKS AND THE JOINT MARKETING FUND

Section 16.01 **TRADE NAME.** Tenant shall operate its business in the Premises under the name specifically set forth in the Data Sheet ("Trade Name") and shall not change the Trade Name or character of the business operated in the Premises, including, without limitation, Tenant's Permitted Use, without the prior written approval of Landlord, which may be withheld in Landlord's absolute discretion.

Section 16.02 **TRADEMARKS.** "**Trademarks**" means the trademarks, trade names, logos, service marks, trade styles, trade dress and other proprietary marks of American and its Affiliates, including American Eagle, Inc. Tenant acknowledges that the Trademarks are and will remain at all times the exclusive property of American and its Affiliates. No interest in, license or other right to use the Trademarks is granted or may be deemed to granted to Tenant under this Sublease or otherwise. Tenant may not make any use of the Trademarks, or any colorable imitation or abbreviation thereof, including any reference by advertising or otherwise to the names "American Airlines", "American Airlines, Inc.", unless such use or reference has been specifically approved in writing by American in advance.

Section 16.03 **JOINT MARKETING FUND.** Landlord shall cause to be provided a central marketing and promotional program which, in Landlord's sole judgment, will serve to generally market and promote the overall concession operations at the Terminal or on any item that may enhance the overall passenger experience at the Terminal. Tenant, along with other concession facility operators, will contribute to the

fund for this program which shall be known as the "**Joint Marketing Fund**". Tenant shall contribute during each month, as Tenant's share to the Joint Marketing Fund, and pay to Landlord as Additional Rent, an amount equal to one-half percent (1/2%) of Tenant's monthly Gross Receipts. This amount is payable to Landlord and must be paid no later than the fifteenth (15th) day following the end of each Lease Month. If Tenant is unable to calculate actual Gross Receipts in time to make the required monthly payment to the Joint Marketing Fund, the payment may be based on an estimate of monthly Gross Receipts. Any and all such estimated payments must be adjusted at the end of each 6-month period of each Lease Year. Within thirty (30) days after the end of each such 6-month period, Tenant must submit a report to Landlord reconciling estimated and actual Gross Receipts and showing any under or overpayments to the Joint Marketing Fund. A check for any underpayments must accompany the reconciliation. All overpayments will be credited to the next payment(s) due from Tenant for its contributions to the Joint Marketing Fund; or, if the Sublease has expired or has been terminated for any reason other than a default by Tenant, overpayments shall be refunded, without interest, to Tenant within sixty (60) days of the Sublease termination date by Landlord. Landlord shall not be obligated to expend more for marketing and promotional programs than is actually collected from Tenant and other concession facility operators in the Terminal. Any services and personnel so provided shall be under the exclusive control and supervision of Landlord, who shall have the sole authority to employ and discharge personnel, retain third-party independent contractors and to establish all budgets with respect to the Joint Marketing Fund. The primary purpose, but in no way a limitation, of the Joint Marketing Fund, will be to fund intra-Terminal promotional and advertising programs such as permanent directories, graphics, take-one directory pamphlets and establishing customer service and training programs with respect to the operations of the concession facilities in the Terminal, such as customer surveys, "secret shopper" programs and sales technique seminars, sales/service incentive awards for Tenant and other concession operators' employees or on any other items that may enhance the user's overall experience in the Terminal. Landlord shall conduct quarterly meetings to discuss the promotional and advertising programs and customer service and training programs. In the event the Premises is located within an expansion of or a new area within the Terminal where a grand opening date or grand opening events shall be set by Landlord, then Tenant shall also pay an initial Joint Marketing Fund assessment in the amount set forth in the Data Sheet in addition to Tenant's monthly contributions to the Joint Marketing Fund, such initial assessment to be payable in one lump sum within sixty (60) days prior to the Rental Commencement Date. Landlord reserves the right at any time to terminate the Joint Marketing Fund and, in such event, shall notify Tenant in writing. Thereafter, in the event of such termination, Tenant shall no longer be obligated to make any further contributions to the Joint Marketing Fund and any remaining funds previously contributed to the Joint Marketing Fund shall be used by Landlord to promote the overall concession program and facilities within the Terminal. Landlord, following any such termination, also reserves the right to reinstate the Joint Marketing Fund and, in such event, shall notify Tenant in writing and thereafter, Tenant, upon any such reinstatement, shall immediately recommence contributions to the Joint Marketing Fund in accordance with this Section 16.03. Upon the expiration or earlier termination of the Concession Area Lease, Landlord is required to remit any unused monies in the Joint Marketing Fund in equal shares to American and the Authority.

ARTICLE XVII. DAMAGE AND DESTRUCTION

Section 17.01 **PARTIAL DESTRUCTION.** (a) Landlord and American shall not be required to make reparation for any injury or damage by fire or other cause, or to make any restoration or replacement of any Fixed Improvements, Refurbishments, or any other real or movable property located or installed in the Premises or in the Concession Area by or on behalf of Tenant, except as otherwise provided herein.

(b) In the event the Fixed Improvements or Refurbishments are damaged by any casualty covered under an insurance policy required to be maintained by Tenant pursuant to this Sublease, then Tenant shall repair the same as soon as reasonably possible (following any repair of Base Building Work by American

that may be necessary to permit Tenant repairs to proceed) and this Sublease shall continue in full force and effect. In the event the Fixed Improvements or Refurbishments are damaged by any casualty not covered under any insurance policy required to be maintained by Tenant pursuant to this Sublease, then Landlord may, at Landlord's option (1) repair such damage at Landlord's expense and continue this Sublease in full force and effect, or (2) give written notice to Tenant within ninety (90) days after the date of occurrence of such damage of Landlord's intention to terminate this Sublease as of the date of the damage; provided, however, that if such damage is caused by an act or omission to act of Tenant, then Tenant shall repair such damage, promptly at its sole cost and expense. Any repair or restoration of the Premises by Landlord after the termination of this Sublease shall not be deemed to reinstate this Sublease or give Tenant any right to have this Sublease reinstated. In the event Landlord elects to terminate this Sublease under this section, Tenant shall have the right, within thirty (30) days after receipt of the notice from Landlord, to notify Landlord in writing of Tenant's intention to repair such damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible. If Tenant does not give such notice within the above thirty (30) day period, this Sublease shall be terminated as of the date specified by Landlord in its notice to Tenant.

Section 17.02 **TOTAL DESTRUCTION.** If the Concession Area or the Premises are totally destroyed during the Term by any cause whether or not covered by the insurance required under this Sublease (including, without limitation, any destruction required by any authorized public authority), and the Concession Area or the Premises cannot be repaired or replaced within sixty (60) days of such total destruction, this Sublease shall terminate as of the date of such total destruction at the option of American, Landlord or the Authority with a total abatement of Rental obligations as of such date, but without affecting any of Tenant's obligations which may have accrued or other rights or remedies of American, Landlord or Tenant which may have arisen as a result of such termination, including insurance claims based on the destruction.

Section 17.03 **DAMAGE OR DESTRUCTION OF THE TERMINAL.** If fifty percent (50%) or more of the Terminal shall be damaged or destroyed by an insured risk, or if twenty-five percent (25%) or more of the Terminal shall be damaged or destroyed by an uninsured casualty, notwithstanding that the use and occupancy of the Premises is not materially affected thereby, and if as a result of any such damage or destruction American's flight operations at the Terminal are suspended or more than fifty percent (50%) curtailed for a period of sixty (60) days or more, Landlord or Tenant shall have the right to terminate this Sublease within ninety (90) days from the date of such damage or destruction. In such event, this Sublease shall terminate upon a mutually agreeable date (or, in the absence of a mutually agreed upon date, on the date reasonably specified by Landlord or American which shall be within one hundred eighty (180) days from the date of such damage or destruction) and Tenant, upon such termination, shall surrender the Premises to Landlord. American shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Terminal; and Landlord shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Concession Area or the Premises; provided, however, Tenant shall not be obligated to repair any damage or destruction to its Fixed Improvements or Refurbishments pursuant to Section 17.01 or 17.04 to the extent and for so long as any damage or destruction to the Terminal precludes such repairs to the Concession Area, the Premises, Fixed Improvements or Refurbishments.

Section 17.04 **DAMAGE OR DESTRUCTION NEAR END OF TERM.** If, during the last Lease Year of the Term, more than twenty-five percent (25%) of the Premises is partially destroyed or damaged, either party may at its option terminate this Sublease as of the date of occurrence of such destruction or damage by giving written notice to the other of its election to do so within twenty-five (25) days after the date of occurrence of such destruction or damage; provided, however, if Landlord elects to terminate this

Sublease pursuant hereto, Tenant shall have the right within fifteen (15) days after receipt of the required notice to notify Landlord in writing of Tenant's intention to repair such destruction or damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible.

Section 17.05 **ABATEMENT OF RENTALS, REMEDIES.** If twenty-five percent (25%) or more of the Premises is destroyed or damaged, and such destruction or damage materially and adversely impairs or interferes with Tenant's use and occupancy of the Premises as reasonably determined by Landlord and will be repaired pursuant to this Sublease, then in addition to any other remedies which may apply under this Sublease, Landlord and Tenant shall negotiate in good faith to reach a mutually satisfactory agreement on an equitable abatement, for the period during which such damage and repair continues, of the amounts which may be due and owing as Rentals, which abatement shall be based on any projected resulting reduction in Tenant's Gross Receipts. Except for abatement of Rentals (if any), Tenant shall have no claim against Landlord or American for any damage suffered by reason of any such damage, destruction, repair or restoration unless said damage is caused by the gross negligence or willful misconduct of Landlord or American, nor shall Tenant have any claim against the Authority for any such damage regardless of its cause. It is understood that, in the application of the foregoing Sections in this Article XVII, American's and Landlord's obligations shall be limited to repair and restoration of the Base Building Work for the Premises to, as nearly as possible, a condition and quality as existed at the commencement of Tenant's Work hereunder. In no event shall Landlord or American be responsible to repair or restore any portion of the Premises relating to Tenant's Work and/or installed by Tenant in the Premises including, but not limited to, Tenant's Fixed Improvements, Refurbishments, Operating Equipment, personal property, products and inventory.

Section 17.06 **WAIVER.** Tenant hereby expressly waives the provisions of Section 227 of the New York Real Property Law, and of any successor law of like import then in force; and Tenant agrees that the provisions of this Sublease shall govern and control in lieu thereof.

ARTICLE XVIII. CONDEMNATION

Section 18.01 **CONDEMNATION.** (a) If more than thirty percent (30%) of the Floor Area of the Premises shall be taken or condemned for any public or quasi-public use under any governmental law, ordinance or regulation or by the right of eminent domain or in the event of a private conveyance, by purchase, sale or otherwise, in lieu thereof ("**Taking**"), this Sublease shall terminate as of the date of such Taking; and the Term hereof shall cease as such date of Taking and all Rentals shall be abated during the unexpired portion of this Sublease, effective on the date physical possession is commenced by the taking or condemning authority.

(b) If thirty percent (30%) or less of the Floor Area of the Premises should be taken or condemned as aforesaid, this Sublease shall not terminate; rather, the amounts which may be due and owing as Rentals during the unexpired portion of the Term (or for such shorter period during which such Taking or condemnation shall continue) shall be reduced proportionally based on the projected reduction, if any, in Tenant's Gross Receipts as mutually agreed to by Landlord and Tenant (and, if unable to agree, Landlord's reasonable decision with respect thereto shall be conclusive and binding) effective on the date physical possession is commenced by the taking or condemning authority, such reduction to end on the date (if such date falls during the Term) that the Premises is returned to Tenant in a condition which reasonably allows for the commencement of business; provided, however, that in all events any reduction under this section in the Authority's allocated share of Rentals shall require the prior written approval of the Authority. If the taking or condemning authority does not specify the actual portions of floor area of the Premises to be taken or condemned as aforesaid, then Landlord, Tenant and American shall endeavor

to agree on such actual portions (and, if they are unable to so agree, American's reasonable decision with respect thereto shall be conclusive and binding).

(c) A voluntary sale or transfer of interest of all or any part of the Premises or the public areas in the Terminal by Landlord or American to any public or quasi-public body, agency, person or other entity having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a Taking under the power of eminent domain for the purposes of Article XVIII. Tenant hereby waives the provisions of any statute or other law that may be in effect at the time of the occurrence of any such Taking under which a lease/sublease is automatically terminated or pursuant to which a tenant is given the right to terminate a lease/sublease by reason of such a Taking.

Section 18.02 **AWARD.** All compensation awarded for any Taking or condemnation (or, in either case, the proceeds of a private sale in lieu thereof) of the Premises shall be the property of the party entitled to any such compensatory award under the Authority Lease and to the extent Tenant is not entitled to any such compensatory award under the Authority Lease, Tenant hereby assigns its interest in any such award to American. The distribution of any such compensatory awards shall be made to the Authority, American, Landlord, if any, and Tenant, if any, as set forth in the Authority Lease.

ARTICLE XIX. DEFAULTS, REMEDIES AND DAMAGES

Section 19.01 **EVENTS OF DEFAULT.** The occurrence, at any time prior to or during the Term, of any one (1) or more of the following events (referred to herein, singly, as an "**Event of Default**" and collectively as "**Events of Default**") shall be an Event of Default by Tenant under this Sublease:

(a) Tenant fails to pay any Rentals or any other charges or sums whatsoever due hereunder (including without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure so to perform) for more than five (5) days after written notice from Landlord to Tenant that such Rentals or any other charges or sums whatsoever due hereunder were not received on the date required for payment pursuant to this Sublease together with all Late Interest accrued from the due date, provided, that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws and, provided, however, if Landlord gives such written notice once during a twelve (12) month period and the delinquent payment has not been fully cured (including Late Interest), no further written notice of default shall be required with respect to that payment or any other payment during such twelve (12) month period to establish a payment default and, thereafter, during such twelve (12) month period an Event of Default shall be deemed to have occurred if any payment under this Sublease is not made when due and such failure continues for a period of five (5) days after such payment was due; or

(b) Tenant fails to perform any other of the terms, conditions, or covenants of this Sublease to be observed or performed by Tenant for more than twenty (20) days after written notice from Landlord to Tenant of such default (unless such default cannot be cured within said twenty (20) days, in which event Tenant shall not be deemed to be in default hereunder if Tenant shall have commenced to cure said default promptly within said twenty (20) days and shall thereafter proceed to prosecute such cure to completion with all reasonable dispatch and diligence, provided that in no event shall such cure period extend beyond seventy-five (75) days or such longer period of time as is approved by Landlord in writing, and if Tenant's cure period is so extended, Tenant must, within five (5) days after the written extension notice, provide a written plan to Landlord outlining all steps Tenant is taking to cure the default and when the cure shall be completed), provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws; or

(c) Tenant fails to submit any statement or report required on or before the date required by this Sublease, including without limitation the statements and reports required by Article III, and such failure continues for five (5) days after written notice by Landlord, provided such notice shall not be required if Landlord has previously given two (2) notices of such a failure during the preceding twelve (12) month period; or

(d) Tenant fails to commence construction of Tenant's Work within twenty (20) days of the Authority's approval of the TAA for such Tenant's Work and such failure is not occasioned by reason of Force Majeure; or

(e) Tenant fails to complete Tenant's Work, move into and merchandise/stock the Premises with high-quality goods, products or services and to initially open for business on or before the Latest Rental Commencement Date and such failure is not occasioned by reason of Force Majeure; or

(f) Tenant fails to operate continuously in the manner and during the hours established by Landlord pursuant to Section 7.02 hereof or for the Permitted Use or discontinues its business operations in the Premises for a period in excess of forty-eight (48) consecutive hours; or

(g) Tenant's abandonment of the Premises, or permitting this Sublease to be taken under any writ of execution or similar writ or order; or

(h) Tenant fails to comply with any obligation as a result of any inspection or audit and such failure continues for ten (10) days after written notice from Landlord to Tenant of such failure; or

(i) If applicable, the failure of Tenant to obtain and maintain continuously throughout the Term, its eligibility and certification from the Authority of its M/W/DBE status and/or to renew such eligibility and certification as may be required by the Authority from time to time and such failure shall continue for a period of twenty (20) days; or

(j) Tenant fails comply with any of the other operational requirements set forth in Section 7.02 or any of the exhibits referenced therein (such as compliance with staffing/personnel, street pricing or fails to achieve the Minimum Performance Standards, for example); or

(k) Tenant shall fail to carry insurance as required under this Sublease on the date of such failure or to comply with any applicable law, rule or regulation concerning security, and such failure continues for forty-eight (48) hours after written notice from Landlord thereof; or

(l) A governmental authority, board, agency or officer with competent jurisdiction terminates or suspends any certificate, license, permit or authority held by Tenant without which Tenant shall not be lawfully empowered to conduct its business operations in the Premises; or

(m) Except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within sixty (60) days after it is begun, or if Tenant shall file or consent to a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment

of substantially all or general payment of debts; and/or

(n) Any act or omission to act by Tenant which, directly or indirectly, puts Landlord in default of its obligations to American under the Concession Area Lease or puts Landlord in default of its obligations to the Authority under the Operator Permit;

then, during such time as such Event(s) of Default is/are continuing, Landlord may at any time, at Landlord's option, give to Tenant five (5) days' notice of termination of this Sublease (which shall be in lieu of any notice required under New York law) and, in the event such notice is given, this Sublease and the Term shall come to an end and expire (whether or not said Term shall have commenced) upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date, but Tenant shall remain liable for damages and all other sums payable pursuant to the provisions of Section 19.03.

Section 19.02 REMEDIES. (a) If Tenant shall default in the payment when due of any installment of Rentals or if Tenant shall default in the performance of any of the other terms, provisions, conditions or covenants of this Sublease, or if this Sublease and the Term shall expire and come to an end as provided in Section 19.01: (1) Landlord and its agents and servants may immediately, or at any time after such default or after the date upon which this Sublease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or by force or otherwise (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and dispossess Tenant and any other Person from the Premises and remove any and all of their property and effects from the Premises; and/or (2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises, from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Sublease or otherwise to affect any such liability; Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Sublease or otherwise affecting any such liability.

(b) Tenant hereby waives the service of any notice of intention to re-enter or to institute legal proceedings to that end which may otherwise be required to be given under any present or future law. Tenant, on its own behalf and on behalf of all Persons claiming through or under Tenant, including all creditors, does further hereby waive any and all rights which Tenant and all such persons might otherwise have under any present or future law to redeem the Premises, or to re-enter or repossess the Premises, or to restore the operation of this Sublease, after (1) Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or (2) any re-entry by Landlord, or (3) any expiration or termination of this Sublease and the Term, whether such dispossess, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Sublease. The words "re-enter", "re-entry" and "re-entered" as used in this Sublease shall not be deemed to be restricted to their technical legal meanings. In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord shall have the right to enjoin such breach and the right to invoke any other remedy allowed by law or in equity as if re-entry, summary proceedings and other special remedies were not provided in this Sublease for such breach. The right to

invoke the remedies hereinbefore set forth in this Sublease is cumulative and shall not preclude Landlord from invoking any other remedy allowed by law or in equity.

(c) No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Sublease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Sublease for such previous breach and shall have the remedies provided herein.

(d) In the event of re-entry by Landlord, Landlord may remove all Persons and property from the Premises; and such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, with notice but without resort to legal process and without Landlord being deemed guilty of trespass, conversion or becoming liable for any loss or damage which may be occasioned thereby. In the event Tenant shall not remove its property from the Premises within five (5) days after Tenant has vacated the Premises, then such property shall be deemed abandoned by Tenant; and Landlord may dispose of the same without liability to Tenant subject to the rights of the City of New York, the Authority, American and their designees to such property. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rental then due, then, after the property has been stored for a period of thirty (30) days or more, Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in this subsection 19.02(d).

(e) Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any successor law of like import then in force, in connection with any holdover summary proceedings which Landlord may institute to enforce the foregoing provisions of this Sublease.

Section 19.03 DAMAGES. (a) If this Sublease and the Term shall expire and come to an end as provided in Section 19.01, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 19.02(a), or by or under any summary proceeding or any other action or proceeding, then, in any of such events:

(1) Tenant shall pay to Landlord, American and the Authority all Rentals and other charges payable under this Sublease by Tenant to Landlord to the date upon which this Sublease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be; and

(2) Tenant shall also be liable for and shall pay to Landlord, as damages, any deficiency ("**Deficiency**") between the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 19.02(a) for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Sublease or Landlord's re-entry upon the Premises and with such reletting including, but not limited to, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and other expenses of preparing the Premises for such reletting). Any such Deficiency shall be paid in

monthly installments by Tenant on the days specified in this Sublease for payment of installments of Guaranteed Rent, Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding. Solely for the purposes of this Section 19.03(a)(2), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have terminated or expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted, from time to time, to reflect any increases which would have been payable pursuant to any of the provisions of this Sublease including, but not limited to, the provisions of the Data Sheet and Section 2.01 of this Sublease if the Term hereof had not been terminated; and

(3) At any time after the Term shall have expired and come to an end or Landlord shall have re-entered upon the Premises, as the case may be, whether or not Landlord shall have collected any monthly Deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, as and for liquidated and agreed final damages, a sum equal to the amount by which the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of four percent (4%) per annum. If, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting. Solely for the purposes of this Section 19.03(a)(3), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted to reflect any increases preceding such event pursuant to the provisions of the Data Sheet and Section 2.01.

(b) If the Premises, or any part thereof, shall be relet together with other space in the Concession Area, the rents collected or reserved under any such reletting and the expenses of any such reletting shall be equitably apportioned for the purposes of this Section 19.03. Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Guaranteed Rent reserved in this Sublease. Nothing contained in Sections 19.01, 19.02 or this Section 19.03 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in Section 19.03(a).

Section 19.04. LANDLORD'S RIGHT TO CURE TENANT'S DEFAULT. If Tenant shall default in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord, at any time thereafter and without notice (except as notice may otherwise be required to be given to Tenant pursuant to any specific term or provision of this Sublease) may remedy such default for Tenant's account and at Tenant's expense, without thereby waiving any other rights or remedies of Landlord with respect to such default.

ARTICLE XX. BANKRUPTCY OR INSOLVENCY

Section 20.01 TENANT'S INTEREST NOT TRANSFERABLE. Neither Tenant's interest in this Sublease, nor any estate hereby created in Tenant, nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the United States Bankruptcy Code, as amended (the "**Code**").

Section 20.02 **ELECTION TO ASSUME SUBLEASE.** Even though this Sublease is a sublease of real property in an airport, the parties contractually agree that this Sublease shall be construed to be a lease of real property in a shopping center within the meaning of Section 365(b)(3) of the Code. If Tenant becomes a Debtor under Chapters 7, 11 or 13 of the Code, and the Trustee (as defined in the Code) or Tenant, as Debtor-In-Possession (as defined in the Code), elects to assume this Sublease for the purpose of assignment to a third party or otherwise, such election and assignment, if any, may only be made if all the terms and conditions of the applicable provisions of the Code are satisfied. If the Trustee or Tenant, as Debtor-In-Possession, fails to elect to assume or reject this Sublease by the 60th day after the entry of the Order for Relief in a case under Chapters 7, 11 or 13 of the Code, this Sublease shall thereafter be deemed rejected and terminated in accordance with Section 365 of the Code. The Trustee or Tenant, as Debtor-In-Possession, shall thereupon immediately surrender possession of the Premises to Landlord, and Landlord shall have no further obligation to Tenant or Trustee hereunder. The acceptance of Rentals by Landlord after the 60th day shall not be deemed a waiver of Landlord's rights herein and under Section 365 of the Code, and Landlord's right to be compensated for damages in such bankruptcy case shall survive.

Section 20.03 **OCCUPANCY CHARGES.** When, pursuant to the Code, the Trustee or Tenant, as Debtor-In-Possession, shall be obligated to pay reasonable use and occupancy charges for the use of the Premises or any portion thereof, such charge shall not be less than the Guaranteed Rent and Percentage Rent and all other monetary obligations of Tenant for the payment of Additional Rent.

Section 20.04 **OTHER LAWS.** The provisions of this Article 20 concerning the rights of Landlord and the obligations of Trustee, Tenant, Debtor (as defined in the Code), Receiver (as defined in the Code), Debtor-In-Possession and each and every permitted assignee are in addition to such rights and obligations provided by law, including applicable provisions of the Code. Nothing contained in this Article 20 shall limit or reduce in any manner whatsoever rights and/or obligations which are otherwise provided by law.

ARTICLE XXI. ACCESS BY LANDLORD, AMERICAN AND THE AUTHORITY

Section 21.01 **RIGHT OF ENTRY.** Landlord, American and the Authority and their respective officers, employees and representatives shall each have the right to enter the Premises for any reasonable purpose (including inspecting the condition of the Premises and any equipment used by Tenant) during ordinary business hours. Tenant shall cooperate upon receipt of any such notice and arrange for its personnel to be available during any such entry. The Authority, American and Landlord and their respective officers, employees and representatives shall each have the further right to enter the Premises to make such repairs, alterations, improvements or additions as they may deem necessary or desirable; and such parties shall be allowed to take all material into and upon the Premises that may be required without the same constituting an eviction of Tenant in whole or in part; and Rentals and other charges reserved hereunder shall not abate while said repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant or otherwise. In exercising such right of entry, Landlord shall use reasonable efforts not to disrupt Tenant's business in the Premises. The Authority, American, Landlord and their agents shall each have the further right to enter the Premises without notice at any time in the event of an emergency. Tenant shall assure Landlord, American and the Port Authority emergency access to all enclosed areas of the Premises either by delivering duplicate keys to the Premises to Landlord's General Manager and American's JFK Airport Manager or by providing emergency telephone numbers by which the Store Manager can be reached on a twenty-four (24) hour basis. Finally, Landlord, during the last six (6) months prior to the expiration of the Term, may enter the Premises upon reasonable notice to Tenant for the purpose of exhibiting the same to prospective tenants and their representatives.

ARTICLE XXII. TENANT'S PROPERTY

Section 22.01 **TAXES ON TENANT'S PROPERTY.** Tenant shall be responsible for, and agrees to pay prior to delinquency, any and all taxes and other assessments, levies, fees and other governmental charges and impositions or every kind or nature, regular or special, direct or indirect, presently foreseen or unforeseen, known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (a) Tenant's leasehold interest in the Premises, (b) the Fixed Improvements, the Operating Equipment, all furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Premises by or on behalf of Tenant, and (c) all alterations, additions, or improvements of whatsoever kind or nature, if any, made to the Premises, by or on behalf of Tenant, irrespective of whether any such tax is assessed, real or personal, and irrespective of whether any such tax is assessed to or against, American, the Authority, Landlord or Tenant (collectively, "**Tenant's Taxes**"). Tenant shall provide Landlord with evidence of Tenant's timely payment of such Tenant's Taxes upon Landlord's request. If at any time any of such Tenant's Taxes are not levied and assessed separately and directly to Tenant (for example, if the same are levied or assessed to Landlord, American or the Authority, or upon or against the building containing the Premises and/or the land underlying said building), Tenant shall pay to Landlord Tenant's share thereof as reasonably determined and billed by Landlord. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Tenant's Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Tenant's Taxes described in this Section 22.01.**

Section 22.02 **LOSS AND DAMAGE.** Except with respect to Landlord's own negligence, Landlord shall not be responsible or liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying premises or any part of the premises adjacent to or connected with the Premises or any part of the building of which the Premises are a part, or any other area in Concession Area, the Terminal or the Airport, or for any loss or damage resulting to Tenant or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes, or (without limiting the foregoing) for any damage or loss of property within the Premises from any cause whatsoever. Tenant shall give immediate notice to Landlord in case of any damage to or destruction of all or any part of, or of accidents occurring within the Premises, or of defects therein, or of any damage to or destruction of any inventory, fixtures or equipment within the Premises. In no event shall American or the Authority have any liability to Tenant whatsoever for the foregoing damage and destruction.

ARTICLE XXIII. HOLDING OVER

Section 23.01 **HOLDING OVER.** Unless otherwise agreed to in writing by Landlord and Tenant, if, at the termination or expiration of this Sublease, Tenant has not delivered possession of the Premises to Landlord as required in Section 6.04, and, for any reason, Tenant retains possession of the Premises or any portion thereof, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes either: (a) the creation of a month-to-month tenancy, or (b) the creation of a tenancy at sufferance, in either case upon the terms and conditions set forth in this Sublease; provided, however, that the monthly Guaranteed Rent shall, in addition to all other sums which are to be paid by Tenant hereunder, whether or not as Additional Rent, be equal to double the highest monthly Guaranteed Rent paid in the preceding twelve (12) month period (and prorated in the case of (b) on the basis of a three hundred sixty-five (365) day year for each day Tenant remains in possession), plus Additional Rent accruing during the period of Tenant's occupancy based on a termination for an Event of Default if such unlawful holding over exceeds five (5) days after the natural expiration or earlier termination of the Term. The provisions of this Section 23.01 shall not constitute a waiver by Landlord of any right of re-entry as

herein set forth; nor shall receipt of any hold-over rent or other amount under this Sublease or any other act in apparent affirmation of the tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the terms, covenants, or obligations to be performed by or on behalf of Tenant. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Sublease except as otherwise expressly provided. The preceding provisions of this Section 23.01 shall not be construed as consent for Tenant to retain possession of the Premises in the absence of prior written consent thereto by Landlord. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York from and against any and all loss, claims, demands, liabilities, damages (including, without limitation, consequential damages), costs and expenses (including, without limitation, attorneys' fees and expenses) resulting from any failure by Tenant to surrender the Premises in the manner and condition required by this Sublease upon the expiration of the Term or earlier termination of this Sublease, including, without limitation, any claims made by any proposed new tenant founded upon such failure.**

Section 23.02 SUCCESSORS. All rights and liabilities herein given to, or imposed upon, the parties hereto shall inure to and be imposed upon the respective heirs, executors, administrators, successors and assigns of the said parties; and, if there shall be more than one (1) entity or individual comprising Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant unless the assignment to such assignee has been approved in advance by Landlord in writing as required by Article XIV.

ARTICLE XXIV. RULES AND REGULATIONS

Section 24.01 RULES AND REGULATIONS. Tenant shall at all times comply with any and all Rules and Regulations (as hereinafter defined) in effect at the Airport or the Terminal. The term "**Rules and Regulations**" means all rules and regulations governing the conduct and/or operations of the Airport or the Terminal as may be promulgated from time to time, by any governmental authorities, including but not limited to, the FAA, the U.S. Department of Transportation ("**DOT**"), the TSA and/or the EPA, and any rules and regulations promulgated from time to time by Landlord or American specifically for or otherwise affecting conduct and/or operations in the Terminal and/or Concession Area, provided that Landlord's and American's rules do not have an unreasonable and material adverse discriminatory impact on concession operations within the Concession Area. Landlord shall not have any duty or obligation to enforce the Rules and Regulations or the terms and conditions in any other lease or sublease as against any other tenant; Landlord and American shall not be liable to Tenant for violations of the same by other tenants, invitees, their servants, employees, contractors, subcontractors and agents. Tenant's failure to keep and observe the Rules and Regulations shall constitute a material breach of the terms hereof in the same manner as if the Rules and Regulations were contained herein as covenants.

ARTICLE XXV. QUIET ENJOYMENT

Section 25.01 LANDLORD'S COVENANT. Subject to the terms and conditions hereof, the terms and provisions of the Concession Area Lease, the Authority Lease as well as the Consent Agreement, upon payment by Tenant of Rentals herein provided and other charges payable by Tenant hereunder, and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term without hindrance or interruption by Landlord.

ARTICLE XXVI. PERFORMANCE GUARANTY

Section 26.01 PERFORMANCE GUARANTY. (a) Tenant shall provide Landlord with the Performance Guaranty in the amount specified in the Data Sheet, which shall be at Landlord's option, in the form of either immediately available funds or the unconditional, irrevocable standby letter of credit ("**Letter of Credit**"), as security for the faithful observance and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed. Such Letter of Credit must be in form and content as set forth in **Exhibit H**. No surety bonds shall be permitted. If Landlord permits Tenant to provide a Letter of Credit, the following shall be applicable. Such Letter of Credit must be for a term of not less than one (1) year which term shall be automatically renewed for successive one (1) year periods, unless the Bank gives not less than sixty (60) days prior written notice that it will not so renew the Letter of Credit for such successive term and the last term of the letter of credit shall end not less than sixty (60) days after the Expiration Date. If such letter of credit is not automatically renewed as aforesaid, Tenant agrees to cause the Bank to renew such letter of credit, from time to time, during the Term, at least ninety (90) days prior to the expiration of said letter of credit or any renewal or replacement, upon the same terms and conditions. In the event of any transfer of said Letter of Credit pursuant to Section 26.05, and notice of such transfer to Tenant, Tenant, within twenty (20) days thereafter, shall cause a new Letter of Credit to be issued by said Bank to the transferee, upon the same terms and conditions, in replacement of the Letter of Credit so transferred and Landlord agrees that, simultaneously with the delivery of such new Letter of Credit, it will return to said Bank the Letter of Credit being replaced. The Letter of Credit shall be held in trust by Landlord for the purposes set forth in this Article and shall not be transferred except for transfer (a) to an agent for collection, or (b) pursuant to the provisions of Section 26.05. In the event Tenant defaults beyond any applicable grace period hereunder in the performance of its obligations to issue a replacement Letter of Credit, or in the observance or performance of Tenant's agreement to cause the Bank to renew the Letter of Credit, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank to make payment to Landlord of the entire sum of the Letter of Credit or the undrawn portion thereof, as the case may be, which sum may be held by Landlord as the Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article. If payment of the entire sum of the Letter of Credit or the undrawn portion thereof is made to Landlord by reason of Tenant's failure to renew or replace the Letter of Credit in accordance with the foregoing provisions of this Article, Landlord shall have the right, at any time on behalf of Tenant, to replace said Performance Guaranty with a new Letter of Credit issued by the Bank or any other bank selected by Landlord, in Landlord's sole discretion, and Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's agent and attorney-in-fact to cause the Bank or any such other bank selected by Landlord to issue such a replacement Letter of Credit. The Letter of Credit provides for partial drawings. In the event Tenant defaults in the payment when due of an installment of Rentals and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default or if this Sublease and the Term shall expire and come to an end, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, then Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, may from time to time, draw on the Letter of Credit in one (1) or more drawings for the amount of any Rentals then due and for any amount then due and payable to Landlord under this Sublease. In the event of a partial drawing, as provided in the immediately preceding sentence, Tenant shall, within five (5) days after demand, cause the Bank to issue an amendment to the Letter of Credit restoring the amount available thereunder to the amount required under this Sublease. Notwithstanding anything to the contrary set forth in this Sublease, including, but not limited to, the foregoing provisions of this Article, in addition to all rights granted to Landlord pursuant to the provisions of the Sublease, if this Sublease and the Term shall expire and come to an end as provided in Article XIX, or by or under any summary proceeding, or any other action or proceeding, or if Landlord shall re-enter the Premises as

provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank to make payment to Landlord of the entire sum of the Letter of Credit or the undrawn portion thereof, as the case may be, which sum shall be held by Landlord as a Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article.

(b) Any Performance Guaranty held by Landlord in the form of immediately available funds (cash) shall be held subject to the provisions of any and all legal requirements applicable thereto. Landlord agrees that, if not prohibited by law or the general policies of lending institutions in New York, Landlord shall deposit the Performance Guaranty held by Landlord either in an account that does not bear interest or in an interest-bearing account at a bank or banks selected by Landlord, and all interest, if any, accruing thereon shall be added to and become a part of the Performance Guaranty and shall be retained by Landlord under the same conditions as the principal sum held as the Performance Guaranty. Notwithstanding anything to the contrary set forth in the preceding sentence of this Section 26.01(b), in the event the Performance Guaranty is held in an interest-bearing account, Landlord shall be entitled to retain the one percent (1%) administrative fee permitted by law to by landlords with respect to security deposits.

Section 26.02 **APPLICATION OF PERFORMANCE GUARANTY.** In the event Tenant defaults in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, including, but not limited to, the covenant for the payment of Rentals, beyond the applicable notice and cure periods provided under this Sublease for curing such default, Landlord may use, apply or retain the whole or any part of any Performance Guaranty held by Landlord under any of the provisions of Section 26.01, to the extent required for the payment of any Rentals or performance of any other obligations, without thereby waiving any other rights or remedies of Landlord with respect to such default, and Landlord shall hold the remainder of such Performance Guaranty as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed with the same rights as hereinabove set forth to use, apply or retain all or any part of such remainder in the event of any further default by Tenant under this Sublease.

Section 26.03 **RESTORATION OF PERFORMANCE GUARANTY.** If Landlord uses, applies or retains the whole or any part of the Performance Guaranty held by Landlord under any of the provisions of this Article, Tenant, promptly after notice thereof, shall deliver to Landlord, in cash or by cashier's check or certified check, payable to the order of Landlord, the sum necessary to restore the Performance Guaranty to the sum required under this Sublease.

Section 26.04 **RETURN OF SECURITY.** The Letter of Credit and/or any remaining portion of any Performance Guaranty then held by Landlord for the performance of Tenant's obligations under this Sublease as security shall be returned to Tenant after (a) sixty (60) days following the Expiration Date and (b) the full observance and performance by Tenant of all of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed.

Section 26.05 **TRANSFER OF LETTER OF CREDIT.** In the event of a transfer of Landlord's interest in this Sublease, Landlord shall transfer the Letter of Credit and/or any remaining portion of any Performance Guaranty then held by Landlord as security for the performance of Tenant's obligations under this Sublease to the transferee, and Landlord shall thereupon be released from all liability for the return of such security; Tenant agrees to look solely to the transferee for the return of any such security and it is agreed that the provisions of this sentence shall apply to every sale or transfer of the Premises or Landlord's interest in this Sublease by Landlord named herein or its successors, and to every transfer or

assignment made of any such security. Any transferee shall be deemed to have agreed that any Letter of Credit or Performance Guaranty transferred to such transferee pursuant to this Section shall be held in trust for the purposes of this Article.

Section 26.06 **NO ASSIGNMENT OF SECURITY BY TENANT.** Tenant agrees that it will not assign, mortgage or encumber, or attempt to assign, mortgage or encumber, the Letter of Credit or any Performance Guaranty held by Landlord under this Sublease, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, mortgage, encumbrance, attempted assignment, attempted mortgage or attempted encumbrance. Landlord shall not be required to exhaust its remedies against Tenant before having recourse to the Letter of Credit, the Performance Guaranty or any other security held by Landlord. Recourse by Landlord to the Letter of Credit, the Performance Guaranty or any other security held by Landlord shall not affect any remedies of Landlord which are provided in this Sublease or which are available in law or equity.

ARTICLE XXVII. MISCELLANEOUS

Section 27.01 **WAIVER; ELECTION OF REMEDIES.** One (1) or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same covenant or condition by the other party, and the consent or approval to or of any act by Tenant requiring consent or approval shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act by Tenant. No breach by either party of a covenant or condition hereof shall be deemed to have been waived by the non-breaching party unless such waiver is in writing and signed by a representative of the non-breaching party. The rights and remedies of Landlord hereunder or in any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have elsewhere hereunder or at law or equity, whether or not such Section, subsection or clause expressly so states.

Section 27.02 **ENTIRE AGREEMENT.** This Sublease supersedes all prior agreements between the parties and sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises; and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein (other than the Concession Area Lease, the Consent Agreement and Authority Requirements), and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. **Neither Landlord nor its agents or representatives have made any representation or warranty regarding the profitability of the Premises, the enplaned passenger and/or airline volume in the Terminal and/or the Airport or operating airlines in the Terminal and/or the Airport; and Tenant has not entered into this Sublease in reliance on any such representations, warranties or financial projections prepared or furnished to Tenant by Landlord or its agents or representatives.** No alteration, amendment, change or addition to this Sublease shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party.

Section 27.03 **INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint ventures between the parties hereto; it being understood and agreed that neither the method of computation of Rentals, nor any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If this Sublease is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this Sublease on behalf of such corporation, partnership or entity.

Section 27.04 **DELAYS; FORCE MAJEURE.** **"Force Majeure"** means, strictly in relation to the conditions that may cause a party to be temporarily or partially prevented from performing its obligations to the other party under this Sublease, and not for any other purpose or for any benefit of a third party: (a) strikes, boycotts, lockouts, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of Tenant; (b) embargoes, shortages of material, acts of God, acts of the public enemy, acts of a governmental authority (including, without limitation, the FAA, the DOT, the TSA and the EPA or defense authorities), extreme weather conditions, riots, rebellion, or sabotage, war (declared or undeclared), invasion, insurrection, or terrorism; or (c) any other circumstances for which an affected party is not responsible and which are not within its ability to control in the exercise of commercially reasonable efforts. In the event either party is delayed in the performance of any obligation required by this Sublease, such performance shall be excused (unless the specific provision otherwise provides) for the period of the delay, and performance of any such obligation shall be extended for a period equal to the delay, if and only if the delay is by reason of Force Majeure. However, the time for Tenant's performance of any obligation shall not be extended due to any lack of funds, financial or economic problems of either Tenant or Tenant's architects, contractors, suppliers, agents, consultants and/or employees If Tenant shall claim a delay due to Force Majeure, Tenant must notify Landlord in writing for receipt by Landlord within fifteen (15) days of the first occurrence of an event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming force majeure and the anticipated delay in Tenant's performance. In no event shall any delay extend Tenant's performance beyond a sixty (60) day period without the specific written approval of Landlord. Under no circumstances shall any such condition or delay (unless the specific provision provides for abatement of Rentals), whether such condition or delay is claimed by Landlord or Tenant, excuse or delay Tenant's payment of any Rentals and other charges due hereunder. Further, Landlord's, American's or the Authority's reasonable reduction but not elimination of heat, light, air conditioning or any other services whatsoever to the Terminal or the Premises shall not relieve or excuse Tenant from any of its obligations hereunder.

Section 27.05 **NOTICES.** Notwithstanding the fact that certain descriptions elsewhere in this Sublease of notices required to be given by one (1) party to the other may omit to state that such notices shall be in writing, any notice, demand, request or other instrument which may be or is required to be given hereunder shall be in writing and sent by (a) United States certified mail, return receipt requested, postage prepaid, (b) United States express mail, (c) recognized overnight national air courier (such as Federal Express, Airborne or UPS for example), (d) personal delivery or (e) any other overnight method creating a receipt, waybill or other indication of delivery. Notices shall be addressed if to the Landlord, at the address as set forth on the Data Sheet, or such other address or addresses as Landlord may designate by written notice, together with copies thereof to such other parties designated by Landlord, and if to Tenant, the address set forth on the Data Sheet, or such other address or addresses as Tenant shall designate by written notice, together with copies thereof to such other parties designated by Tenant. Notices shall be deemed given on the 3rd day after deposit for notices sent under (a) and (b) above, on the first (1st) day after deposit for notices sent under (c) and (e) above and on the date delivered for notices sent under (d) above. Nothing contained in this Section 27.05 shall preclude, limit or modify Landlord's service of any notice, statement, demand or other communication in the manner required by law, including, but not limited to, any demand for rent under Article 7 of the New York Real Property Actions and Proceedings Law or any successor law of like import.

Section 27.06 **CAPTIONS AND SECTION NUMBERS.** The captions, section numbers, article numbers appearing herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles hereof nor in any way affect this Sublease.

Section 27.07 **BROKER'S COMMISSION.** Each party represents and warrants to the other party that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Sublease, and each party agrees to indemnify the other and hold it harmless from all liabilities arising from any claim

due to its own acts for brokerage commissions and finder's fees in connection with this Sublease. Such indemnity shall survive the termination hereof. Notwithstanding the foregoing, each party shall be solely responsible for the payment of any claims for brokerage commissions or finder's fees as a result of such party's retaining a broker or similar entity in connection with this Sublease.

Section 27.08 **RECORDING.** Tenant shall not record this Sublease or any short form or memorandum hereof.

Section 27.09 **FURNISHING OF FINANCIAL STATEMENTS.** Tenant has provided Landlord at or prior to the date of this Sublease with statements reflecting its financial condition and a credit report as of a date within the last twelve (12) months as an inducement to Landlord to enter into this Sublease, and Tenant hereby represents and warrants that its financial condition and credit rating have not materially changed since the date of those statements and reports. Upon Landlord's written request, Tenant shall promptly furnish Landlord, from time to time, but not more frequently than once in any Lease Year, with financial statements and a credit report reflecting Tenant's then current financial condition. Landlord shall treat such financial statements, credit reports and information provided to it confidentially, and shall not disclose them except to Landlord's lenders or otherwise as reasonably necessary for the operation of the Terminal or administration of Landlord's business or unless disclosure is required by any judicial or administrative order or ruling.

Section 27.10 **TENANT'S WAIVERS IN ACTION FOR POSSESSION.** Landlord and Tenant agree that in any action brought by Landlord to obtain possession of the Premises, the parties desire an expeditious resolution of such litigation. Accordingly, Tenant shall not file and hereby waives the right to file any non-compulsory counterclaim in such action.

Section 27.11 **TRANSFER OF LANDLORD'S INTEREST.** In the event of any transfer or transfers of Landlord's interest in the Premises, the transferor shall be automatically relieved of any and all obligations on the part of Landlord accruing from and after the date of such transfer, provided that (a) the interest of the transferor, as Landlord, in any funds in the hands of Landlord in which Tenant has an interest shall be turned over, subject to such obligations, to the then transferee; and (b) notice of such sale, transfer or lease shall be given to Tenant as required by law. Landlord also has the right at any time to assign this Sublease to American, the Authority or to any successor operator to American or the Authority in the Terminal or the Airport in the event of the expiration, termination or assignment of the Concession Area Lease without notice to Tenant.

Section 27.12 **FLOOR AREA.** The term "Floor Area" as used in this Sublease means with respect to any leasable area of the Premises the aggregate number of square feet of interior floor space of all floor levels therein, including any mezzanine space which shall be measured: (a) with respect to the front and rear width thereof, from the exterior face of the adjacent exterior or corridor wall, or if none, to the center of the demising partition; and (b) with respect to the depth thereof, from the front of the lease line as shown on **Exhibit A-2** to the exterior face of the exterior wall, or corridor wall, or if none, to the center of the demising partition. No deduction or exclusion from Floor Area shall be made by reason of columns, ducts, stairs, elevators, escalators, shafts or other interior construction or equipment.

Section 27.13 **INTEREST ON PAST DUE OBLIGATIONS.** Any amount due from Tenant to Landlord hereunder which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the lesser of: (a) the prime rate of interest plus four percent (4%); (b) or the highest rate permitted by the laws of the State of New York (collectively, "**Late Interest**") from the date due until paid, unless otherwise specifically provided herein, but the payment of

such interest shall not excuse or cure any default by Tenant hereunder. The "prime rate of interest" means the average interest rate per annum published in the national addition of The Wall Street Journal "Money Rates" section as of the relevant date of determination under this Sublease. If The Wall Street Journal ceases to publish such an average prime rate, the rate shall be the prime rate established by the commercial bank having an office in the City of New York with the highest net worth and which is a member of the New York Clearing House Association, then establishing and publishing a prime rate, or if no such commercial bank shall establish a prime rate, the rate to be used shall be a comparable rate for the purposes of establishing the cost of money as reasonably determined by Landlord. The parties hereto agree that such late payment charge represents a fair and reasonable estimate of costs and expenses Landlord will incur by reason of any such late payment.

Section 27.14 LIABILITY OF LANDLORD AND LIMITATION OF DAMAGES. If Landlord shall fail to perform any covenant, term or condition hereof upon Landlord's part to be performed, and if as a consequence of such default Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the management fees from the concession program in the Terminal received by Landlord; and neither Landlord nor any of the officers, directors, employees, agents, partners or Affiliates of Landlord shall be liable for any deficiency. No shareholder, director, officer, agent or employee of Landlord shall be charged personally or held contractually liable under any term or provision of this Sublease or because of any breach thereof or because of the execution or attempted execution of this Sublease. Landlord (including its shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, special, consequential or exemplary damages or lost profits.

Section 27.15 EXECUTION OF SUBLEASE; NO OPTION. The submission of this Sublease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of an option for Tenant to lease, or otherwise create any interest by Tenant in the Premises or any other premises in the Terminal. Execution of this Sublease by Tenant and the return of same to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has executed and delivered this Sublease to Tenant and the parties have obtained the required Consent Agreement executed by the Authority. Once so executed and delivered by Landlord as aforesaid and the parties have obtained the required Consent Agreement executed by the Authority, this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives and assigns where permitted by this Sublease.

Section 27.16 GOVERNING LAW. All obligations of the parties hereunder are performable in Queens County, New York. This Sublease shall be governed by and construed under and in accordance with laws of the State of New York except where any state law shall be preempted by any rules, laws or regulations of the government of the United States of America and all agencies thereof. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible; in any event, all other provisions hereof shall be deemed valid and enforceable to the full extent.

Section 27.17 SPECIFIC PERFORMANCE OF RIGHTS. Each party shall have the right to obtain specific performance of any and all covenants or obligations of the other party hereunder except to the extent otherwise provided herein for the benefit of Landlord excusing any such performance by Landlord, and nothing contained herein shall be construed as or shall have the effect of abridging such right.

Section 27.18 SURVIVAL OF OBLIGATIONS. All obligations of Tenant hereunder which cannot be ascertained to have been fully performed prior to the end of the Term or any earlier termination hereof shall survive any such expiration or termination. Further, all of the terms, conditions, covenants, provisions,

restrictions or requirements imposed upon Tenant hereunder shall be deemed to extend to Tenant's agents, employees, officers, directors, partners, guarantors, contractors, invitees, concessionaires, licensees and subcontractors; and Tenant shall cause all such persons and entities to comply herewith and include any applicable provisions in any agreements, contracts, subcontracts or the like entered into by Tenant with such persons and/or entities with respect to Tenant's activities and operations in the Premises, the Terminal and the Airport.

Section 27.19 CERTAIN RULES OF CONSTRUCTION. Time is of the essence in Tenant's performance of this Sublease. Notwithstanding the fact that certain references elsewhere in this Sublease to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Sublease by Tenant, omit to state that such acts shall be performed at Tenant's sole cost and expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant hereto shall be performed or fulfilled at Tenant's sole cost and expense, and all breaches or defaults by Tenant hereunder shall be deemed material. Tenant shall be fully responsible and liable for the observance and compliance by concessionaires, franchisees, subtenants and licensees of Tenant and with all the terms and conditions of this Sublease, which terms and conditions shall be applicable to concessionaires, franchisees, subtenants and licensees as fully as if they were the Tenant hereunder; and failure by a concessionaire, franchisee, subtenant or licensee fully to observe and comply with the terms and conditions of this Sublease shall constitute a default by Tenant. Nothing contained in the preceding sentence shall constitute consent by Landlord to any concession, subletting or other arrangement. Further, although the printed provisions of this Sublease were drawn by Landlord, the parties agree that this circumstance alone shall not create any presumption, canon of construction or implication favoring the position of either Landlord or Tenant; and the deletion of language from this Sublease prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, adverse or opposite of the deleted language.

Section 27.20 CONFIDENTIALITY. Any and all information contained in this Sublease or provided to or by Tenant and/or Landlord by reason of the covenants and conditions hereof, economic or otherwise, shall remain confidential between Landlord and Tenant and shall not be divulged to third parties other than American and the Authority except as required to be disclosed by law. Landlord shall be permitted to divulge the contents of statements and reports derived and received in connection with the provisions of Articles 3 and 4 in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Concession Area Lease or in connection with any administrative or judicial proceedings in which Landlord is involved.

Section 27.21 ATTORNEY FEES. If at any time after the date that this Sublease has been executed by Landlord and Tenant, either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions hereof or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs and disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Any such amounts due from Tenant to Landlord under this provision shall be considered as Additional Rent hereunder and shall be paid by Tenant to Landlord within twenty (20) days after written demand. Any such amounts due from Landlord to Tenant under this provisions shall be paid by Landlord to Tenant within twenty (20) days after written demand.

Section 27.22 WAIVER OF TRIAL BY JURY. Landlord and Tenant desire and intend that any

disputes arising between them with respect to or in connection with this Sublease be subject to expeditious resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waives the right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought by either Landlord against Tenant or Tenant against Landlord or any matter whatsoever arising out of, or in any way connected with, this Sublease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Section 27.23 **A.D.A. & OTHER HANDICAP ACCESS AND NON-DISCRIMINATION LAWS COMPLIANCE.** Tenant agrees that with respect to the Premises, its Fixed Improvements and Operating Equipment (including communications equipment) thereon, Tenant shall be responsible for compliance with the Americans with Disabilities Act of 1990 ("**ADA**", 42U.S.C.§§12101 et seq.) and the Regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto ("**ADAAG**"). Within five (5) days after receipt, Tenant shall advise Landlord in writing and provide copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises. Tenant acknowledges that a portion of the Premises is to be used by the traveling public. Tenant shall make available such space to the traveling public on a nondiscriminatory basis, including ensuring access by disabled persons, and shall coordinate its activities and operations with abutting tenants so as to maximize efficient use of available space. If Tenant fails to comply with the requirements of this Section, Landlord, upon reasonable notice to Tenant and an opportunity to cure, shall have the right, but not the obligation, to enter the Premises and perform all necessary tasks to ensure Tenant's compliance with the ADA and other handicap access and nondiscrimination laws and requirements as set forth in this Section 27.23. **Tenant shall indemnify, defend and save harmless Landlord and American from all injury, loss or damage to any Person or property occasioned by Landlord's completion of any necessary tasks to ensure compliance with this Section, except to the extent such loss or damage is the result of the gross negligence or willful misconduct of Landlord or American.** Tenant shall reimburse Landlord for any and all actual costs plus an administrative fee equal to fifteen percent (15%) of such costs incurred in completing such necessary tasks to ensure Tenant's compliance with this Section, including, but not limited to, reasonable attorneys' and consultants' fees and disbursements and costs of corrective measures.

Section 27.24 **AIRPORT SECURITY.** Tenant shall be fully responsible, at its sole cost, for providing security for the Premises with no right of reimbursement from Landlord. Tenant hereby agrees that it shall take such reasonable security precautions with respect to the Premises and its operations and personnel as Landlord, American and the Authority, in their discretion, may require from time to time. Notwithstanding the foregoing, Tenant shall comply with security policies, regulations, rules, statutes, orders, directives, mandates and/or practices as such now exist or as they may be changed, amended, or replaced with new and different requirements in the future as Landlord, American (including, without limitation, American's FAA-approved "Safety Program" as it is in effect from time to time), the Authority or any local, state or federal agency of competent jurisdiction, including the FAA and/or the TSA, may from time to time require, including, but not limited to, compliance, at Tenant's sole cost and expense, with any background investigation, fingerprinting, verification of citizenship and residency and badging requirements for all of its personnel employed at the Terminal (including Tenant's employees and employees of any of Tenant's contractors, subcontractors, concessionaires, franchisees, subtenants and licensees) and with respect to screening of all of the equipment, supplies, materials, merchandise, goods, products and inventory. **Tenant hereby covenants and agrees with Landlord that Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York**

and their respective officers, directors, agents, representatives, elected officials and employees from and against any and all liabilities, claims, costs, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing out of or in any way connected with, directly or indirectly, the failure by Tenant to strictly comply with the requirements of local, state and federal law, including, but not limited to, the FAA's, the TSA's, the Authority's, American's and Landlord's rules and regulations concerning the subject matter set forth in this Section 27.24.

Section 27.25 NON-DISCRIMINATION AND AFFIRMATIVE ACTION. With respect to non-discrimination and affirmative action, Tenant, its agents, employees, licensees, contractors and subcontractors shall comply at all times with all of the terms and conditions set forth in **Exhibit I**. Tenant, for itself, its successors in interest, and assigns, as a part of the consideration for the Sublease, shall covenant and agree that: (a) no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (b) in the construction of any improvements on, over, or under the Premises and furnishing of services thereon, no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in such activities, denied the benefits thereof, or otherwise be subject to discrimination; and (c) Subtenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time to time may be applicable to Subtenant's operations at the Premises, whether by reason of agreement between American, the Authority and the United States Government or otherwise. Furthermore, during the performance of this Sublease, the parties hereto hereby incorporate by reference the provisions set forth in 41 CFR § 60-1.4, §60-250.5 and §60-741.5, which provisions apply to all nonexempt contractors and vendors.

Section 27.26 LABOR HARMONY. Tenant agrees that in the use of the Premises or any work performed in or about the Premises that Tenant will employ only labor which can work in harmony with all elements of labor being employed at the Airport. Tenant shall use its best efforts, taking all measures and means, to insure labor harmony in its activities at the Terminal and the Airport, all to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. Tenant particularly recognizes the essential necessity of the continued and full operation of the whole Airport as a transportation center. Tenant shall immediately give oral notice to Landlord (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. If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Tenant or against any of Tenant's operations pursuant to this Sublease which in the opinion of Landlord, American and/or the Authority: (a) physically interferes with the operation of the Terminal or the Airport, or (b) physically interferes with access by the public between the Premises and any portion of the Terminal or the Airport, or (c) physically interferes with access by the public to other areas of the Terminal or the Airport, or (d) physically interferes with the operations of other tenants, concessionaires, lessees or licensees at the Terminal or the Airport, or (e) presents a danger to the health or safety of users of the Terminal or the Airport, persons employed thereat, or to members of the public, whether or not the same is due to the fault of Tenant or is caused by employees of Tenant or of others, Landlord, American and/or the Authority shall have the right at any time during the continuance thereof, by twenty-four (24) hours oral notice, to suspend Tenant's operations hereunder effective at the time specified in such oral notice. During any suspension, Tenant shall cease all its activities and operations hereunder and take such steps to secure and protect the Premises as shall be necessary or desirable. The period of suspension shall end automatically no later than twenty-four (24) hours after the cause thereof has

ceased or been cured. While Tenant shall be relieved of its obligation to continually conduct its business in the Premises during a suspension period, suspension shall not relieve Tenant of its payment or reporting obligations hereunder; and there shall be no abatement of Rentals under any circumstances whatsoever unless otherwise approved in writing by Landlord determined in its sole and absolute discretion.

Section 27.27 CROSS DEFAULT. Notwithstanding anything to the contrary contained in this Sublease, a default of Tenant's obligations under the provisions of any other lease with Landlord covering any other concession facilities within the Terminal shall constitute a default by Tenant under this Sublease, entitling Landlord to the rights and remedies provided to it under this Sublease at law, and at equity.

Section 27.28 DISCOUNT TO CERTAIN EMPLOYEES AND CUSTOMER VOUCHERS. Notwithstanding anything to the contrary contained in this Sublease, Tenant is hereby required to give a discount for all merchandise, products and/or services sold and/or rendered hereunder to all individuals employed at the Airport. The discount to be given as required under this Sublease shall be in the amount of ten percent (10%) as compared to Tenant's normal non-sale prices offered to the general public and the discounted portion of the sale shall be separately stated. All Tenants shall honor, for reimbursement by American, food and beverage vouchers issued by American from time to time by passengers bearing a boarding pass or other verifying documentation deemed sufficient by American.

Section 27.29 LOCAL BUSINESS ENTERPRISE COMMITMENT. Tenant commits to use good faith efforts to implement an extensive program to utilize Local Business Enterprises in accordance with, and as set forth on, **Exhibit J**.

Section 27.30 TENANT'S CERTIFICATION. Tenant hereby represents and warrants to Landlord that Tenant is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. Tenant acknowledges that Landlord is executing this Sublease in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing Landlord to enter into and execute this Sublease. In the event of any breach of the foregoing representations and warranties by Tenant, Landlord shall have the right, in addition to any other remedies provided under this Sublease or at law, to immediately terminate this Sublease upon written notice to Tenant. In the event of any such termination by Landlord, Tenant shall, immediately on receipt of Landlord's termination notice, close the Premises for business and surrender possession of the Premises to Landlord without Landlord resorting to any other legal process.

[SIGNATURE BLOCKS ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant, personally or by their duly authorized agents, have executed this Sublease as of the day and year first above written.

TENANT:

TIE RACK (U.S.), INC.,
a Delaware corporation

By: Judy Paul

Print Name: JUDY PAUL

Title: V.P. Administration

ATTEST:

By: Veronica Cheung

Print Name: VERONICA CHEUNG

Title: SECRETARY

LANDLORD:

WESTFIELD CONCESSION MANAGEMENT, LLC,
a Delaware limited liability company

By: Arnold L. Mayersohn, Jr.

Print Name: Arnold L. Mayersohn, Jr.

Title: Asst. V.P. & Secretary

EXHIBIT B

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN
AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. _____
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of _____, 200_ ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), _____ ("Sublessee"), a (corporation/partnership/limited liability company) organized and existing under the laws of the State of _____ with an office and place of business at _____, whose representative is _____, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate each consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to Paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; (e) or such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee

with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under Paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of Paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably

hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this Paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. (a) The Sublessee acknowledges that it has received, and is familiar with the contents of, a copy of the

Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 (the "City Lease").

(b) In accordance with the provisions of the City Lease, the Port Authority and the Sublessee hereby agree as follows:

(1) This Consent is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(2) The Sublessee shall not pay fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(3) With respect to this Consent, the Sublessee on the termination of the City Lease will, at the option of The City of New York (the "City"), attorn to, or enter into a direct permit on identical terms with, the City;

(4) The Sublessee shall indemnify the City with respect to all matters to the extent described in Section 31 of the City Lease;

(5) The Sublessee shall not engage in the privilege permitted hereunder for any use other than as permitted under the City Lease;

(6) The Sublessee shall use, operate and maintain the privilege granted hereunder in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(7) The failure of the Sublessee to comply with the forgoing provisions shall be an event of default under this Consent, which, after the giving of reasonable notice, shall provide the Port Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have hereunder; and

(8) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to the Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline, the Permittee or the Sublessee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

[Note: Signature Blocks and Notary Forms will be provided in the Consent Agreement to be signed]

EXHIBIT C

JOHN F. KENNEDY INTERNATIONAL AIRPORT

TENANT CERTIFIED GROSS RECEIPTS AND RENT STATEMENT

TENANT NAME: _____ SPACE#: _____ CONTACT: _____

YEAR: _____ PHONE: _____

Month	Gross Receipts	RENT										
		Guaranteed Rent	Percentage Rent				Mrktg Fund 0.5%	Electric (F&B Only)	Logistical Support & Pub. Area Main Fee	Taxes	Total Rent
			Breakpoint	Overage	%	Rent					
Jan											
Feb											
Mar											
Apr											
May											
June											
Jul											
Aug											
Sep											
Oct											
Nov											
Dec											
Y-T-D											

CERTIFICATION: The undersigned hereby certifies that the information contained herein is true and correct in all respects.

Signed: _____ Date: _____

Title: _____

EXHIBIT C

MONTHLY STATEMENT & ANNUAL STATEMENT FORMS

EXHIBIT D

DESIGN AND CONSTRUCTION REQUIREMENTS

I. INTRODUCTION AND DEFINITIONS.

A. American has constructed or is in the process of constructing all of the existing improvements for the Terminal as generally shown on Exhibit A-1, including the base building structure and the base building utility systems. American shall have the right to perform the safe removal, encapsulation, enclosure or other disposition of Toxic or Hazardous Materials, if any, that exist within the Premises as of the date Tenant is delivered possession of the Premises. American is obligated under the Concession Area Lease to remediate or remove (or reimburse Tenant for the reasonable costs incurred by Tenant) any such pre-existing Toxic or Hazardous Materials that American determines, in its sole discretion, to be necessary in order for Tenant to perform Tenant's Work. If Tenant encounters any such pre-existing Toxic or Hazardous Materials during the performance of Tenant's Work for the initial construction of the Premises, Tenant shall immediately notify Landlord and American in writing and provide all details related thereto. In no event shall Tenant perform any of Tenant's Work that will in any way disturb any such Toxic or Hazardous Materials so encountered until American has determined whether it is necessary to remediate or remove the same.

B. The term "**American's Work**" shall mean American's total responsibility for construction of improvements for the Premises within the Terminal as set forth in this Exhibit D. The cost of American's Work shall be borne as set forth in this Exhibit D. American's Work shall be of a design, type, size, location, quality and nature as may be selected by American from time to time. Any item of work necessary to complete the Premises which is not hereinafter specifically included as part of American's Work under this Exhibit D shall be considered as part of Tenant's Work.

C. The term "**Tenant's Work**" shall mean Tenant's total responsibility (or any portion thereof) for the construction and improvement of the Premises. Tenant's Work shall be performed at Tenant's sole cost and expense. Tenant's Work shall include, but not be limited to, all work necessary or required to complete the Premises, except those items of work that are specifically included under this Exhibit D as part of American's Work.

II. GENERAL REQUIREMENTS AND PROVISIONS.

A. Tenant's Work shall be subject to Landlord's, American's and the Authority's prior approval, such approval to be determined in their sole discretion, and shall be designed, fabricated, constructed and installed to comply with all of the requirements set forth in the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process and with all of the requirements set forth in other various documents and requirements of the Authority pertaining to Tenant's construction within the Terminal. All details and information contained in either the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process, whether appearing on Tenant's Conceptual Plans and Final Drawings or not, shall be considered a part of Tenant's Conceptual Plans and Final Drawings and design and construction requirements. By this reference the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements are incorporated herein and made a part of this Exhibit D and the Sublease. This Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements may, when the context requires, hereinafter be collectively referred to as "**Tenant's Construction Requirements**".

B. The design, fabrication, construction and installation of Tenant's Work must comply with each of the following requirements:

1. This Exhibit D.

2. The Design Guidelines.

3. The Tenant Construction Review Manual, the Alteration Application and the TAA Process.

4. Tenant's Final Drawings, as approved by Landlord, American and the Authority.

5. All applicable laws, ordinances, codes, regulations and the requirements of all federal, state or local permitting, building and inspection agencies, including the Authority.

6. All applicable standards of the American Insurance Association, The National Electric Code (latest edition), the American Society of Heating, Refrigeration and Air Conditioning Engineer's Guide (latest edition), the Authority's, American's and Landlord's insurance carriers, the local building codes and regulations and all other agencies having jurisdiction.

In the event of a conflict between any of the above-referenced items, the most stringent requirement shall govern each increment of Tenant's Work.

C. All aspects of Tenant's Work shall be performed in a professional, first-class and workmanlike manner and shall be in a good and first-class and usable condition as of the date of completion and maintained in such condition at all times. All materials used in Tenant's Work, Tenant's construction of the Premises and installations made as a part of Tenant's Work shall be of new, commercial grade and first-class quality. After Tenant's initial construction of the Premises, any and all elective Refurbishments and any and all Refurbishments required of Tenant by Landlord or American under the applicable provisions of the Sublease shall be performed in accordance with all of the requirements set forth in this Exhibit D and the most current editions of the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process.

D. Tenant shall be solely responsible for the investment required for the planning, design, development, construction, fabrication and installation of all Fixed Improvements and other permanent leasehold improvements and Operating Equipment necessary to complete the Premises as required to provide the concession services within the Terminal as provided in the Sublease. Such investment shall be subject to the detailed review and approval by Landlord and American as provided elsewhere in the Sublease and in the Tenant's Construction Requirements.

E. All contracts and subcontracts for any portion of Tenant's Work shall require: (i) that all contractors and subcontractors provide labor that can work in harmony with other elements of labor employed or to be employed at the Airport as specified in Section 27.25 hereof; (ii) insurance coverage and suretyship reasonably satisfactory to Landlord, American and the Authority for the protection of Landlord, American, the Authority and their respective laborers, suppliers, contractors, subcontractors and the general public; (iii) that all contractors and subcontractors comply strictly with all of the applicable provisions of the Authority Lease, the Concession Area Lease, this Sublease, this Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process; and (iv) for all Fixed Improvements and other permanent leasehold improvements to the Premises, performance bonds and payment bonds from the Tenant or its general contractor, in form and substance satisfactory to Landlord and American, each of which shall name Landlord, American and the Authority as an additional obligee and which shall be in the penal

sum equal to the amount of Tenant's total construction contracts and subcontracts. Further, Tenant shall comply and shall cause all of its contractors and subcontractors to comply with the Authority's non-discrimination and affirmative action provisions contained in **Exhibit I** and shall require the inclusion of such provisions in all contracts and subcontracts relating in any way to Tenant's Work.

III. AMERICAN'S WORK.

A. As required by the Concession Area Lease, American shall perform the "**Base Building Work**" which is defined to mean the subflooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures and fixtures which American installs or causes to be installed at the Concession Area in accordance with the Authority Lease. Base Building Work includes delivery of portions of the Concession Area designated for concession activities including the Premises, in "shell condition". "Shell condition" is defined, for purposes of this Sublease, as smooth concrete floors, demising studs and walls, and utility services (conduits, lines, pipes, etc.) of commercially adequate capacity and size located at the lease lines of the Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), heating ventilating and air conditioning systems including access for exhaust ducts for food & beverage locations ("**HVAC**"), fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises. American's Work to be performed or provided at American's sole cost and expense shall be limited to the following:

1. A basic building in "shell condition" for the Premises (for in-line concession facility locations only) to American's specifications. Neither Landlord nor American shall provide any finished walls or wall coverings, finished ceiling or ceiling covering or finished floor covering within the Premises, all of such to be performed by Tenant as part of Tenant's Work.

2. Utility stub-ins of a commercially adequate capacity and size located at the lease lines of each of Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), HVAC systems including access for exhaust ducts for food & beverage locations, fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises, as more fully detailed on the utilities matrix ("**Utilities Matrix**") attached as an exhibit to the Concession Area Lease. Tenant acknowledges that a copy of the Utilities Matrix has been provided to Tenant.

3. Public use service corridors, if any, located as required by code or as selected by American, with such corridor walls, if any, finished on the corridor side only.

B. American and Landlord may, but shall not be required to, provide additional items of basic building shell or base building utility conduit services for the Premises as part of American's Work. If applicable, such additional items, if any, shall be provided in accordance with American's specifications.

IV. TENANT'S WORK.

A. Tenant shall prepare preliminary conceptual plans ("Conceptual Plans") for the Premises in accordance with the provisions of the Tenant's Construction Requirements and submit them to Landlord, American and the Authority (if American and the Authority determines to review Conceptual Plans) for approval, such

approval to be determined in their sole discretion. The Conceptual Plans must be submitted to Landlord not later than twenty (20) days from the Commencement Date or such shorter period of time as may be required for Tenant to open for business by the Latest Rental Commencement Date, and shall include at a minimum the following:

Floor Plans: To include overall dimensions; interior finishes; construction components; identification of any proposed structural alterations to the Premises.

Fixture Plans: Merchandising layouts of the Premises including fixture locations (permanent and movable); and details and/or catalog cuts of the fixtures including materials with smoke developed ratings and flame spread classifications.

Reflected Ceiling Plans: Showing types and electrical connections for lighting fixtures.

Elevations: Drawings of all interior and storefront elevations of the Premises visible to the public, storefront details illustrating architectural compatibility with surrounding areas, building sections or cross sections to accurately depict design details.

Material Boards: Material boards referenced to floor plans and elevations for the Premises illustrating floor base, wall, door, trim and ceiling materials and color selections; material boards shall include color photos and catalog cuts of furniture and/or fixtures where required; colors and materials for all storefront components. Include smoke developed ratings and flame spread classifications, as applicable.

Project Schedule: A preliminary project schedule describing the actions necessary to implement the project, the sequence of actions and the schedule of actions.

Signage Drawings: The shape, size, color and location of signs, and a description of all methods of fabrication, installation and construction.

B. Landlord shall have the right to require modifications to the Conceptual Plans and any approval granted by Landlord is subject to the Tenant's incorporation of the required modifications and draft set of Tenant specifications to ensure compliance with the Tenant Construction Requirements. In the event Landlord requires any such modifications to the Conceptual Plans, Tenant shall prepare and submit the same for Landlord's review and approval within ten (10) days after receipt of Landlord's modifications. Tenant shall follow the steps as outlined in the Tenant Construction Requirements for submitting the Conceptual Plans required for the Tenant.

C. Tenant shall prepare final drawings and specifications ("Final Drawings") which are based on the approved Conceptual Plans for the Premises as described in the Tenant Design Criteria and Handbook within twenty (20) days from receipt of the approved Conceptual Plans, or earlier as may be required to open the Premises for business no later than the Latest Rental Commencement Date. The Final Drawings shall be prepared, and all calculations must be signed and sealed by a registered architect or a registered engineer licensed in the State of New York, and at a minimum, must include the following:

Drawings: Floor Plans including location of all walls, partitions, and doors; lease lines to adjacent premises; overall dimensions of space with column locations; including room finish schedule with fire rating and door and hardware schedule.

Final Fixturing Plans: Merchandising layouts.

Reflected Ceiling Plans: To include ceiling grid, soffits, drops, recesses, coves, etc.; ceiling heights for each space; all light fixtures; HVAC supply and return grilles; type of ceiling system with fire-rating; sprinklers and smoke detectors; any items attached to or coming through the ceiling, if any, ceiling mounted signs, banners, flags, etc.; and communicated system components.

Structural Drawings: Structural drawings and calculations of proposed structural alterations to the base building.

Signage Drawings: Elevation of storefront showing design, location, size, color and layout of signs, including dimensions, etc., and a description of all methods of construction.

Mechanical Drawings: To include load calculations submitted as required in the Tenant's Construction Requirements and proposed locations of all equipment.

Plumbing Drawings: If applicable, to include location and size of water and supply lines, drains, vents and grease traps; and water and sanitary riser diagrams.

Fire Protection System: Fire suppression system including hydro-calculations, as required, to illustrate Tenant's alteration to existing sprinkler coverage; and fire alarm and location of connection point to the base building fire alarm systems and location of addressable smoke detectors, duct/smoke detectors, combination heat/smoke detectors and addressable heat detectors all per the Tenant's Construction Requirements and all applicable codes and regulations.

Electrical Plans: To include power and lighting layout with circuits and home runs; electrical load requirements; on panel schedules; service riser diagrams; telephone conduits; and load calculations.

Sections: Showing construction materials and design details.

Special Systems: Such as telephone and data transmission line systems; airport access control system (if applicable); paging system (if applicable); cable access television system (if applicable); and master clock system (if applicable).

Locking System: Tenant shall install a lock keying system compatible with American's and the Authority's system on all entrances to the Premises and mechanical room entrances located therein for police, security, fire protection and maintenance reasons.

Specifications: All specifications shall include the requirements contained in the Tenant's Construction Requirements.

D. Tenant shall submit to the Landlord, American and the Authority as part of the Conceptual Plans and Final Drawings, drawings (in color) showing storefronts, window displays, signage and any advertising structures; plus a lighting plan.

E. When Tenant submits any plans and specifications to Landlord it shall include complete sets for each submittal as specified in the Tenant's Construction Requirements.

F. Tenant's Work shall include the procurement of all necessary building permits, licenses, variances, and additional utility services required to facilitate Tenant's construction and occupancy of the Premises, and the payment of any fees associated therewith as may be required by the Authority, other public agencies and

utility companies. Within five (5) days after approval of the Final Drawings or such shorter period of time as may be required for Tenant to open the Premises for business no later than the Latest Rental Commencement Date, Tenant shall make all necessary applications, provide all necessary information, pay all required fees and take all necessary actions to obtain such items and shall endeavor to use due diligence and its best efforts to procure the same as quickly as possible. Please refer to the Tenant's Construction Requirements.

G. Tenant shall comply in all respects with the Tenant's Construction Requirements including, but not limited to, applicable local/state health department requirements, U.S. Department of Labor, Construction Safety and Health Regulations, Part 1926. Tenant shall comply and be liable for all costs associated with adherence to the Americans with Disabilities Act (ADA) codes and guidelines.

H. If the Premises are modified, renovated, or newly-constructed, the Tenant shall: (i) obtain the Architect's/Engineer's New York Seal on two (2) sets of final construction drawings or as may otherwise be specified by the Authority's TAA Process submitted for a building permit; (ii) obtain from the Tenant's contractor(s) a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the Premises. Tenant's contractor(s) shall be required by Tenant in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the Authority, American, Landlord or Tenant occupying the Premises; (iii) obtain all required manufacturers' guarantees, maintenance manuals and other pertinent documents; and (iv) furnish to Landlord the information and documentation specified in Section 5.01, no later than ninety (90) days after completion of the Fixed Improvements or any Refurbishments.

I. Tenant's Final Drawings must be submitted to Landlord in CADD and satisfy all other requirements for Final Drawings as set forth in this Exhibit D and the Tenant's Construction Requirements.

J. Tenant shall not be permitted to commence any work until all requirements of the Tenant's Construction Requirements and this Exhibit D have been completed.

K. Security clearance must be completed as required by American and/or the Authority.

L. Separate construction deposits of a minimum of Ten Thousand Dollars ($10,000.00) each will be required from both Tenant and from Tenant's general contractor and neither shall be released by Landlord to Tenant or Tenant's general contractor until after satisfactory completion of all requirements of this Exhibit D and the documents referenced herein, approval by both Landlord's American's and the Authority's on-site construction supervision personnel specifying that all of Tenant's Work has been completed and accepted by Landlord, American and the Authority, proper completion of any and all punch list items and acceptance thereof by Landlord and delivery to Landlord of all of the construction close-out documents required under this Sublease and acceptance and approval thereof by Landlord.

M. During the construction periods at the Terminal, Tenant and its agents, servants, employees, contractors and subcontractors shall be permitted entry and access to the Terminal and to the Premises for the purpose of performing and completing all work necessary to make the Premises and other improvements ready for use, occupancy and rental. During the construction periods, Tenant and its agents, consultants and employees, contractors and subcontractors shall observe all applicable rules and regulations and applicable directives imposed by American and/or the Authority at the Terminal as to the conduct of their work. Tenant shall be responsible for securing, keeping and maintaining all of their equipment, materials, supplies, tools, work trailers and the like within the Premises, or within a defined staging area for the exclusive purpose of supporting the Premises construction, subject to Landlord and American approval. Tenant shall also be responsible for insuring that all construction debris is removed from the construction site daily, and that the site is neat and clean at all times. Tenant shall comply in all respects with procedures for project close-out and acceptance of the space as detailed in the Tenant's Construction Requirements.

N. All policies of insurance and bonds addressed in this Sublease shall be issued for the protection of the Landlord, Tenant, American and the Authority, in accordance with their respective insurable interests. The terms of the policies and bonds and the insurer or surety shall be subject to the reasonable approval of Landlord, American and the Authority.

O. Tenant shall provide, maintain and identify the Authority, American and Landlord as an additional insured, with respect to the insurance protection required under the provisions outlined in the Sublease.

P. Construction Costs:

1. As part of Tenant's Work and the construction requirements required in this Sublease, Tenant shall submit to Landlord a statement of the total construction costs which it has certified as correct with all supporting documents required by Landlord as specified in the applicable sections of this Sublease.

2. The Authority, American, Landlord, or an independent professional firm retained by any of them, may audit costs associated with the construction, modification or renovation of the Premises. In this regard, the Authority, American, Landlord and/or their auditing firm(s) shall have the right upon seven (7) days advance request by the Authority, American or Landlord during the Term hereof and for such longer period as required by the Authority, to examine and audit books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly all construction costs claimed to have been incurred or anticipated to be incurred, in performing this Sublease. The right of examination shall extend to all documents necessary to allow evaluation of both the validity and reasonableness of said construction costs, including all documents of Tenant who shall make all construction records available to the Authority, American or Landlord within the Port of New York District for examination, audit, or reproduction, upon seven (7) days advance request by the Authority, American or Landlord.

Q. In its construction plans Tenant must insure that the Premises has strong visual appeal and is inviting to the customers; and that the Premises accommodates customers with luggage and meets all Americans With Disabilities Act (ADA) requirements relating to ingress, egress, access and other architectural matters, such as for example, large print price signs for the visually impaired and the ability to communicate with hearing impaired.

V. CONSTRUCTION CHARGEBACKS PAYABLE TO LANDLORD.

A. Landlord may provide items of construction, work or services for the Premises as a part of American's Work at Tenant's sole cost and expense, including, but not limited to the following:

1. Landlord, at Tenant's expense, may install a temporary construction barricade along the storefront area leaseline in a design, material and location approved by Landlord if Tenant fails to install such temporary construction barricade prior to the commencement of any of Tenant's Work in the Premises. If Landlord installs such a barricade, Tenant shall reimburse Landlord therefor as Additional Rent an amount which will be computed at the rate of One Hundred Fifty Dollars ($150.00) per lineal foot of the barricade. Upon completion of Tenant's Work, Tenant shall be responsible, at Tenant's sole cost, to remove such barricade to an appropriate disposal site outside of the Airport.

2. Tenant's general contractor shall pay to American, a non-refundable fee for use of the dumpster, with respect to all construction debris and trash required to be removed from the Terminal by Tenant's general contractor with respect to the performance of Tenant's Work. Such initial fee is estimated to be at the rate of One and 50/100 Dollars ($1.50) per square foot of Floor Area in the Premises and checks are payable to "American Airlines, Inc." but delivered to Landlord's on-site tenant coordinator. If American incurs costs greater than such estimated rate, Tenant shall reimburse American within twenty (20) days of demand for any such actual excess costs.

VI. PROGRESS MEETINGS; MISCELLANEOUS.

A. Representatives of Landlord and Tenant, as designated in writing to each other, shall establish and attend on-site progress meetings with such periods of frequency during the performance of Tenant's Work as may be mutually agreed upon but no less frequently than bi-weekly.

B. Tenant shall perform Tenant's Work so as not to: (i) unreasonably interfere with any other construction being performed at the Terminal or the Airport; or (ii) unreasonably impair the use, occupancy or enjoyment at the Terminal and/or the Airport by Landlord, American, the Authority, other airlines, other subtenants operating concession facilities or customers of any of them.

C. Tenant shall (i) take all safety measures required to protect the Terminal and/or the Airport from injury or damage caused by or resulting from the performance of Tenant's Work and defend, protect and indemnify Landlord, American and the Authority (including their respective agents, commissioners, officers, directors and employees), other airlines, other subtenants operating concession facilities or customers of any of them from any and all claims arising from or in connection with the death of or accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person or entity arising out of, in connection with, or as a result of Tenant's Work; (ii) repair any and all damage to the Terminal and/or the Airport as a result of Tenant's Work; and (iii) require all contractors and subcontractors to comply with all of the Authority's Requirements and Tenant's Construction Requirements for the performance of Tenant's Work.

EXHIBIT E

AUTHORITY STREET PRICING REQUIREMENTS

A. General Authority Street Pricing Policy.

The Aviation Department of the Authority requires specific pricing criteria in all concessions agreements at the Airport. In general, the Authority and American seek to promote fair and reasonable prices in airport concession programs. The street pricing policy is also designed to produce a greater volume of sales, thereby reflecting the Authority's and American's objective to provide high customer service and optimization of financial return. The Authority's street pricing policy requires that prices charged at the Airport will be comparable to off-airport prices. In general, the policy requires any specialty retail, newsstand and food & beverage vendors that operate both on-airport and off-airport to price goods in the on-airport store within the range of prices charged at their off-airport stores. For vendors without off-airport operations in the area, comparable stores in the region are identified to establish the basis for street prices (the specific methodology for this comparison is established based upon the specific type of store and merchandise sold). For duty free concession vendors, where there are no comparable off-airport operations, the pricing policy requires that the prices of duty free merchandise be substantially comparable to the prices charged for duty free goods in duty free stores at other airports in the northeastern United States. Further, vendors must submit price lists for all goods and services in advance for approval. The street pricing policy also requires vendors to post signs in clearly visible locations notifying customers that the store charges fair and reasonable prices that are comparable to other stores in the region. Landlord requires strict adherence to the Authority's street pricing policy.

B. Comparable Locations In the Metro Area.

1. Specialty Retail and Food & Beverage Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the various types of specialty retail and food & beverage concession facilities permitted hereunder shall be compared to similar specialty retail and food & beverage establishments located in major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time.

2. Newsstand and News & Gifts Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for newspapers, magazines and sundries shall be compared to local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for gifts, souvenirs and novelties shall be compared to both similar gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as well as to the local convenience store chains and/or local non-Airport news & gift locations (excluding any locations which do not have multiple independent competitive sources and operators) in the Metro Area as selected by Landlord from time to time.

C. **Specialty Retail and Food & Beverage Concession Facilities Pricing Requirements.**

Tenant's prices for all specialty retail and food & beverage products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor are the same or comparable with comparable brands in specialty retail and food & beverage establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) comparable establishments in such locations within the Metro Area. Tenant's prices may not exceed the average price of those similar items in the five (5) comparable establishments.

D. **Newsstand and News & Gifts Concession Facilities Pricing Requirements.**

Tenant's prices for all news and gift products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor for newspapers, magazines and sundries are the same or comparable to those charged by the local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time and for gifts, souvenirs and novelties to those charged by comparable gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) establishments in such locations within the Metro Area. Tenant's prices on any specific item may not exceed the average price of those similar items in the five (5) comparable establishments.

E. **General Pricing Requirements.**

In all other situations and circumstances for which no specific pricing requirement has been established, Tenant shall abide by the following pricing requirements. Tenant shall offer for sale only goods of first-class quality. For such goods, Tenant shall charge fair, reasonable and competitive prices. When an item has a suggested retail price pre-marked and established by the manufacturer or distributor, Tenant shall not charge the public a price higher than the suggested retail pre-marked price without the prior written approval of Landlord in accordance with the Authority's street pricing policy. When an item has no suggested retail price or pre-marked price, the item shall be sold at a price as first approved by Landlord in accordance with the Authority's street pricing policy.

EXHIBIT F

ADDITIONAL INSURED AND LOSS PAYEE ENTITIES

Each of Tenant's insurance policies (except for workers' compensation and employers' liability coverage) required under Section 11.01 of the Sublease shall name the following entities as additional insureds:

WESTFIELD CONCESSION MANAGEMENT, LLC, a Delaware limited liability company

WESTFIELD, LLC, a Delaware limited liability company

AMERICAN AIRLINES, INC., a Delaware corporation

AMERICAN EAGLE AIRLINES, INC., a Delaware corporation

AMR CORPORATION, a Delaware corporation

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THE CITY OF NEW YORK

NEW YORK CITY ECONOMIC DEVELOPMENT CORPOTATION, a New York not-for-profit corporation

Certificates of Insurance evidencing the Tenant's insurance coverages shall be delivered by Tenant to Landlord upon execution of the Sublease and no later than prior to delivery of the Premises to Tenant at the following address:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

The certificate holder on each of the Certificates of Insurance shall be as follows:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

EXHIBIT G

INTENTIONALLY DELETED

EXHIBIT H

Westfield Concession Management, LLC
2730 University Boulevard, Suite LL3
Wheaton, Maryland 20902
Attention: Airport Division Project Controller

Date: _____

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

To the Addressee:

At the request of ___A___, we ___B___, hereby open this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. ___C___ in your favor up to an aggregate of $ ___D___ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all of your drafts under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT will be duly honored upon presentation of your draft(s) drawn on us and presented to us at the office of our New York City Branch, now located at ___E___, ___E___ on or before the expiration set forth below or future expiration date as indicated below. Our obligation under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT is the individual obligation of the Bank, in no way contingent upon reimbursement with respect thereto, or upon our ability to perform any lien or security interest.

All drafts must be marked "Drawn Under ___B___ Letter of Credit No. ___C___ dated _____, 200_." Partial drawings under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT are permitted. Drafts must be accompanied by a statement from an authorized representative of Westfield Concession Management, LLC, or its designee, that ___A___ has not performed certain terms, conditions or covenants contained in the Sublease dated _____, 200_, by and between Westfield Concession Management, LLC and ___A___.

This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT expires at the close of business on _____ ___F___, 200_. This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT within the then applicable expiration date, no statement required. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.**

_____
Bank Officer/Representative

LEGEND:

A: INSERT APPLICANT NAME, I.E. TENANT NAME.
B: INSERT NAME OF ISSUING BANK.
C: INSERT LOC IDENTIFICATION NUMBER.
D: INSERT DOLLAR VALUE OF INSTRUMENT.
E: INSERT EXACT ADDRESS OF LOCAL BANK BRANCH.
F: INSERT EXPIRATION DATE OF SUBLEASE PLUS 90 DAYS.

EXHIBIT I

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY

Part I AFFIRMATIVE ACTION GUIDELINES – EQUAL EMPLOYMENT OPPORTUNITY

I. As a matter of policy the Authority, Landlord and American hereby require Tenant to comply with the provisions set forth hereinafter in this Exhibit I and in sections 41, 68(I)(b) and 79 (b)(1) of the Authority Lease. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

Tenant and Tenant's respective bidders, contractors and subcontractors 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"). Tenant 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. Tenant 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. Tenant 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%; and (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 Tenant and Tenant shall provide written notification to Landlord and the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the 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 herein: (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; and (2) "**Minority**" – as in the Definitions to the Concession Area Lease.

(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 non-working 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 (2) 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 Tenant 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 (6) 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 (1) 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 (6) 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 circulation of solicitations to Minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six (6) months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one (1) or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one (1) or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's Minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is

the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all Minority groups, both male and female, and all women, both Minority and non-Minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific Minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by Tenant. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, Tenant shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Concession Area Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Authority.

PART II MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Authority, Landlord and American require Tenant and Tenant shall itself and shall require all general contractors or other construction supervisors and each of Tenant's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work, pursuant to the provisions of this Exhibit I. For purposes hereof, "**Minority Business Enterprise**" "(MBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and

continuing. For the purposes hereof, "**Women-owned Business Enterprise**" "(WBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing. "**Meaningful participation**" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to Minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that Tenant and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If the Contractor wishes to utilize a firm not already certified by the Authority, it shall submit to the Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Authority. All such requests shall be in writing addressed to the Economic Development Department/Business and Job Opportunity, Port Authority of New York and New Jersey, Newark Legal Center, Riverfront Plaza, 9th floor, Newark, New Jersey 07102, or such other address as the Authority may specify by notice. Certification shall be effective only if made in writing by the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the Authority. The determination of the Authority shall be final and binding.

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

EXHIBIT J

LOCAL BUSINESS ENTERPRISE COMMITMENT

As a matter of policy, Landlord, American and the Authority hereby require Tenant and Tenant shall require any Contractor utilized by Tenant to perform construction work on the Premises to comply with the provisions set forth hereinafter in this Exhibit J.

(1) Tenant and each Contractor shall use every good faith effort to maximize the participation of Local Business Enterprises ("**LBEs**") in all construction work on the Premises, including without limitation, the Section 2B Work. In order to assure familiarity with the services and materials provided by LBEs, the Contractor shall attend such meetings as may be called by the General Manager of the Airport on LBEs and shall contact the Queens Air Services Development Office ("**ASDO**"), located at John F. Kennedy International Airport, Bldg. 80, First Floor, South Service Court, Jamaica, NY 11430 to obtain LBE Vendor Profiles and access ASDO's on-line vendor retrieval system ("**BASIS**"). Landlord, American or the Authority has not checked the references, capabilities or financial background of the LBEs registered with the ASDO, but is referring the Contractor to the ASDO and BASIS solely for the purpose of advising Contractors of LBEs who may be interested in providing services and/or materials to the Contractor.

(2) Good faith efforts to include participation by LBEs in construction work shall include at least the following: (i) Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible. (ii) Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from LBEs registered with ASDO and such other LBEs as the Contractor deems appropriate.

(3) Landlord, American and the Authority are committed to making employment opportunities available to local residents and expects that the Contractor will utilize LBEs.

(4) It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit, diminish or modify any of the obligations under the Concession Area Lease or this Sublease including, without limitation, the obligation to put into effect the affirmative action program and the MBE and WBE programs in accordance with the provisions set forth above in Exhibit I.

EXHIBIT K

PERFORMANCE STANDARDS

All items marked with an "*" denote a Minimum Performance Standard. There shall be no notice and cure periods for failure to comply with any Minimum Performance Standard. For all other Performance Standards which are not Minimum Performance Standards, the graduated fines shall not be applicable until fourteen (14) days after Landlord has provided Tenant with written notice of its failure to comply and such failure to comply by Tenant continues after such fourteen (14) day notice and cure period. These graduated fines are in addition to any other remedies available to Landlord under this Sublease, at law or in equity, including, but not limited to, the liquidated damages provisions set forth in Article VII. The Performance Standards and the Minimum Performance Standards are subject to change from time to time as may be directed by Landlord or the Authority.

PERFORMANCE CATEGORIES

A. PRICE AND PRODUCT QUALITY

"Street" Pricing:

1. Landlord will periodically perform benchmark "street" pricing surveys to establish "street" pricing and to ensure that the price/value relationship is consistent with major regional malls, shopping centers and complexes in the Metro Area as further described in Section 7.02(g) and **Exhibit E**. Upon written notification by Landlord of a pricing discrepancy, Tenant shall adjust prices to comply with the "street" pricing policy. Tenants who fail to do so within two (2) days of such notification shall be subject to fines identified herein until strict compliance has been achieved.

2. Tenant shall participate in marketing campaigns designed to promote the "street" pricing message. Tenant's participation may include, but is not limited to, employee buttons, POS signage and window decals.*

3. Tenant will respond within 72 hours to a complaint received on the Fair Pricing '800' number established and advertised by Landlord. Customers shall be reimbursed by Tenant as appropriate and provide evidence of such reimbursement to Landlord when requested from time to time.*

4. Prices for all products and services must be visible on the product, a menu board, price signage and/or on the shelf.*

5. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

Product and Service Quality:

1. All products displayed and offered for sale and all services rendered shall be authentic, high quality and in brand-new condition at all times.*

2. Tenant shall immediately remove from display and shall thereafter not display nor offer for sale any defective or lesser quality products (even if at a lesser price) or products which are deemed to be non-authentic, the so-called

"grey market", "imitation" or "knock-off" products.*

3. Tenant shall only be permitted to sell products or render services for which Tenant has the right, whether by license or otherwise, to sell or render.*

4. Tenant shall install and maintain at all times a display of non-perishable high-quality merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays.

5. Window displays shall be changed frequently and no less often than on a quarterly basis.*

6. All newsstand and news & sundries concessions shall sell United States postage at face value with associated signage located in the Premises that postage stamps are available.*

7. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

B. CUSTOMER SERVICE AND PERSONNEL

1. Tenant shall continuously operate its business in the Premises during all Terminal concession service hours. Tenant shall open or keep open the Premises for business upon 2 hours prior verbal notice from Landlord.*

2. The level of Tenant's Operating Staff shall include sufficient numbers (including cashiers, management and supervisory personnel) to fully service and meet the needs of customers at all times.

3. All Operating Staff and employees of Tenant must wear nametags identifying the store and the first name of the person at all times.*

4. All Operating Staff, employees and other representatives of Tenant must wear Authority issued security ID badges at all times whenever located in any sterile/secure area (e.g., beyond security checkpoints) of the Airport.* It is recommended that such security ID badge be worn at all time when on Airport property.

5. All Operating Staff and employees of Tenant shall be courteous, neat in appearance, appropriately attired and shall use skill and diligence in the conduct of business and shall not act in a loud, offensive or otherwise objectionable manner or in a manner detrimental to the best interests of Landlord or the Authority.*

6. All Operating Staff and employees of Tenant shall be knowledgeable about all products displayed and offered for sale and all services rendered and able to respond appropriately to questions from customers about products and services.*

7. All Operating Staff and employees shall have sufficient knowledge of the Terminal in which each is employed and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

8. Tenant must accept at least 2 nationally recognized credit cards for payment. Tenant must provide all customers with a receipt for all purchases made. Tenant shall offer shipping and gift wrap services (if appropriate for the type and size of the merchandise or product being offered) at cost. Tenant must provide, without charge, change making service at each cashier's location regardless of whether a purchase is made.*

9. All customers must be greeted in a friendly and timely manner and must thank the customer and provide a friendly goodbye by Tenant's Operating staff and employees.*

10. All Operating Staff and employees must regularly participate in Landlord's TOS training, classroom and in-store training.*

11. The layout of the Premises must be convenient for travelers with luggage, easy to navigate.

12. Tenant shall, within twenty-four (24) hours of receipt of any customer complaint by Tenant, forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint.*

13. Tenant's Store Manager or his or her designee, must be available, by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies.*

14. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

C. PREMISES CLEANLINESS AND APPEARANCE

1. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements (including walls, floors, etc.) and Operating Equipment (including POS systems, fixtures and furniture) shall be maintained in good condition and repair at all times.*

2. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises.*

3. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, spills, stains, offensive or unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord and in accordance with any and all laws, statutes, ordinances and regulations that may be promulgated from time to time by governmental agencies and authorities. Storefronts are to be kept clean and free from dirt, dust and debris.*

4. Exterior and interior signage are properly illuminated and all lighting fixtures are in good working order.*

5. All trash receptacles are adequate in number, not overflowing.*

6. Display cases shall be kept completely stocked with merchandise and attractive.

7. No merchandise shall be displayed outside of the Premises or on the floor at any time.*

8. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

FOR THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the _____ day of _____ in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
(notarial seal and stamp)

FOR WESTFIELD CONCESSION MANAGEMENT, LLC

STATE OF _____)
) ss.
COUNTY OF _____)

On the _____ day of _____ in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
(notarial seal and stamp)

FOR THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 3Rd day of AUGUST in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared LYSA SCULLY, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

GAIL E. MITCHELL
NOTARY PUBLIC, STATE OF NEW YORK
No. 01MI6026210
Qualified in Queens County
My Commission Expires June 14, 2011

Gail E. Mitchell
(notarial seal and stamp)

FOR WESTFIELD CONCESSION MANAGEMENT, LLC

STATE OF Missouri)
) ss.
COUNTY OF St. Charles)

On the 25 day of April in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Arnold L. Mayersohn, Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

E. DIANE LINDSEY
Notary Public-Notary Seal
State of Missouri, St Charles County
Commission # 07997728
My Commission Expires Jan 21, 2011

(notarial seal and stamp)

FOR TIE RACK (U.S.), INC.

PROVINCE
~~STATE~~ OF ONTARIO)
) ss.
COUNTY OF YORK REGION)

On the 17 day of APRIL in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared JUDY PAUL, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

SUSAN AMBROSE
Barrister & Solicitor
105 Main Street
Unionville, Ontario
L3R 2G1

(notarial seal and stamp)

FOR AMERICAN AIRLINES, INC.

STATE OF Texas)
) ss.
COUNTY OF Tarrant)

On the 4th day of June in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Laura Ghspaair, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Rowena Thom
(notarial seal and stamp)

NOTARY PUBLIC STATE OF TEXAS
ROWENA THOM
Notary Public, State of Texas
My Commission Expires 10-29-08

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE
SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. AYD-685
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of November 10, 2007 ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC.** ("Permittee"), and **NEWSLINK OF JFK, LLC d/b/a NEWSLINK JUAN VALDEZ CAFE** ("Sublessee"), a corporation organized and existing under the laws of the State of Florida with an office and place of business at 6910 N.W. 12th Street, Miami, Florida, 33126 whose representative is Mr. Raymond Kayal, Jr., President, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and

covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, dated as of May 31, 2007, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; or (e) such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of

the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to

imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. (a) The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days' notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

(b) In the event the Port Authority exercises it right to revoke this Consent if the Sublessee shall fail to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Consent, the Sublessee shall be obligated to reimburse the Port Authority for any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements

incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. (a) If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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. Nothing in this paragraph 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 Consent, including, without limitation, the Port Authority's rights to revoke this Consent or (ii) any obligations of the Sublessee under this Consent.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers

and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded

on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and

served as of the date of the registered or certified mailing thereof.

21. Basic Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Permit for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(iii) With respect to this Consent, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent, which shall provide the Port

Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline or the Permittee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

24. The other parties hereto hereby waive their respective right to trial by jury in any action or summary proceeding that may hereafter be instituted by the Port Authority against any of them in respect of this Consent or Sublessee's use or occupancy of the Space or in any action that may be brought by the Port Authority to recover fees, damages, or other sums payable under this Consent or to enforce any remedy under law or in equity in any way connected therewith. No other party hereto shall interpose any claims as counterclaims in any action or summary proceeding for non-payment of fees/rent which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

IN WITNESS WHEREOF, the Port Authority, the Permittee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Print Name) Lysa Scully

(Title) Asst. Director, CCCAS

(Seal)

~~ATTEST:~~ WITNESS:

~~Secretary~~

WESTFIELD CONCESSION MANAGEMENT, LLC.

By _____

(Print Name) Arnold L. Mayersohn, Jr.

(Title) Assistant Vice President

(Corporate Seal)

ATTEST:

Secretary

NEWSLINK OF JFK, LLC

By: Its Manger, Newslink Group, LLC

By: _____

Signature

(Print Name) Raymond J. Kayal, Jr., Member

(Title) ~~President of Newslink Group LLC, Non Member~~ ~~Member/Manager~~ President of National Retail Concessions Inc. Manager

(Corporate Seal)

By: _____, Member

(Signature)

(Print Name) Christopher G. Korge

(Title) President of U.S. Retail, Inc.

APPROVED:

FORM	TERMS
MJ	SB

gwe

CDR

ACCEPTED AND CONSENTED TO AS OF THE EFFECTIVE DATE OF THIS CONSENT AGREEMENT

AMERICAN AIRLINES, INC.

By _____

(Print Name) LAURA A. EINSPANIER

(Title) Vice President Corporate Real Estate President

(Corporate Seal)

TERMINAL 8 SUBLEASE
JOHN F. KENNEDY INTERNATIONAL AIRPORT
MAIN TERMINAL BUILDING

THIS SUBLEASE ("**Sublease**") is made as of this 31st day of May, 2007, by and between **WESTFIELD CONCESSION MANAGEMENT, LLC**, a Delaware limited liability company, whose address is 11601 Wilshire Boulevard, 11th Floor, Los Angeles, California 90025 ("**Landlord**"), and **NEWSLINK OF JFK, LLC**, a Florida limited liability company, whose principal place of business is located at 6910 N.W. 12th Street, Miami, Florida 33126 ("**Tenant**").

Subject to the terms and conditions contained herein, Landlord hereby leases to Tenant, and Tenant hereby accepts from Landlord, the premises identified on **Exhibit A-2** ("**Premises**"), which is in and part of Terminal 8 ("**Terminal**") at John F. Kennedy International Airport, Jamaica, New York ("**Airport**"). **Exhibit A-1** is a general site plan of the Airport including the location of the Terminal. **Exhibit A-3** is a site plan of the portion of the Terminal leased to Landlord as shown hatched on such **Exhibit A-3** ("**Concession Area**"). The Terminal consists of approximately 1,414,500 square feet leased by The Port Authority of New York and New Jersey ("**Authority**") to American Air Lines, Inc. ("**American**") and is anticipated to contain approximately 36 gates. The Premises is known as Space No. M20 containing approximately 693 square feet of Floor Area as shown on **Exhibit A-2**. Not included in the Premises is the roof, concrete slab floor, and all perimeter walls (except the inner surfaces thereof) and the perimeter doors and windows. The actual number of square feet of Floor Area may, at Landlord's option, be subject to adjustment based on field measurements as reasonably determined by Landlord; and all charges hereunder based on a per square foot amount shall be adjusted accordingly. The type of concession is:

☒Specialty Retail	☐Food & Beverage (☐ Food Court Location)	☐Service
☒In-Line	☐Wall-Shop	☐Kiosk

Landlord has the right to enter into this Sublease pursuant to the Master Retail Development, Management and Leasing Agreement between American and Landlord dated as of September 2, 2004 ("**Concession Area Lease**"). The Concession Area Lease is subject and subordinate to the Amended and Restated Lease No. AYB-085R between the Authority and American dated December 22, 2000 ("**Authority Lease**"). Tenant hereby acknowledges that a redacted copy of the Concession Area Lease (excluding only certain provisions considered to be confidential by Landlord and American) has been provided to Tenant. This Sublease is subject and subordinate to the Concession Area Lease and the Authority Lease, including all amendments and supplements thereto, whether entered into prior to or after the date hereof; and Tenant shall strictly comply with all applicable provisions of the Concession Area Lease, the Authority Lease, the Consent Agreement, the Authority's TAA Process and any and all other permits, documents and requirements required by the Authority (collectively, "**Authority Requirements**"). In the event of any inconsistency between the terms of this Sublease and the Concession Area Lease or the Authority Lease, then in each and every such instance, the Authority Lease or the Concession Area Lease, as the case may be, shall supersede and control. The terms, conditions and effectiveness of this Sublease are expressly conditioned upon the due execution and delivery by the Authority, American, Landlord and Tenant of an agreement in the form of **Exhibit B** hereto ("**Consent Agreement**") or as such Consent Agreement is otherwise required by the Authority. For definitional purposes, "**Tenant**" shall include Tenant, its agents, contractors, subcontractors, employees, franchisees, invitees, licensees, assignees, subtenants, concessionaires and others performing work and/or who are conducting operations in the Premises. Any capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Concession Area Lease. American and the Authority are express and intended third party beneficiaries of this Sublease.

DATA SHEET

The following references furnish data which is hereby incorporated into the specified sections hereof:

(1) **Section 1.02: Term:** (a) **Latest Rental Commencement Date:** August 1, 2007. Notwithstanding the foregoing, if possession of the Premises is not delivered to Tenant on or before June 1, 2007, then the Latest Rental Commencement Date shall be extended on a day-for-day basis equal to the exact number of days past June 1, 2007, that delivery of possession of the Premises to Tenant was so delayed, and such delay was not caused by Tenant. (b) **Expiration Date:** July 31, 2014, or the 7th anniversary of the Latest Rental Commencement Date, whichever is the later to occur, as confirmed in a letter from Landlord to Tenant.

(2) **Section 2.01: Minimum Annual Guaranteed Rent ("Guaranteed Rent") and Section 2.02: Percentage Rent (Percentage Rent"):** Tenant shall pay to Landlord for the benefit of the Authority, the greater of Guaranteed Rent or Percentage Rent as follows:

(a) **Guaranteed Rent:** Ex. 2.a.) per Lease Year, payable in equal consecutive monthly installments of , subject to annual adjustments based upon the "**Percentage Change in Enplaned Passengers**"; and/or

(b) **Percentage Rent:** Percentage Rent rates of either (collectively, the "**applicable Percentage Rent Rates**") as follows: (i) of all Gross Receipts generated from the sale of Food & Beverage Items (including bottled waters, bottled sodas, bottled energy drinks and bottled juices which are displayed and sold in the coffee café portion of the Premises); plus (ii) Ex. 2.a. all Gross Receipts generated from the sale of all items listed as Category "A" Products (including bottled waters, bottled sodas, bottled energy drinks and bottled juices which are displayed and sold in the newsstand portion of the Premises) and Ex. 2.a. of any retail display allowances and other promotions incentives; plus (iii) Ex. 2.a. of all Gross Receipts generated from the all items listed as Category "B" Products. Food & Beverage Items, Category "A" Products and Category "B" Products are as set forth on **Exhibit L** attached hereto and made a part hereof.

(4) **Section 2.06: Additional Rent:** Additional Rent shall include but not be limited to the following items: **(a) Section 2.03: Storage Premises Rent:** If, applicable, Tenant shall pay Storage Premises Rent as referenced in Section 2.03 without any administrative charges or profit to Landlord; **(b) Section 2.04: Taxes:** Tenant shall pay its proportionate share of Taxes as provided in Section 2.04; **(c) Section 2.05: Miscellaneous Charges:** Tenant shall pay miscellaneous charges for employee parking, security checks and identification badges and screening of goods, products, equipment and supplies as charged by Landlord, American, the Authority or applicable regulatory agencies from time to time, subject to adjustment without any administrative charges or profit to Landlord; **(d) Section 8.04: Logistical Support and Public Area Maintenance Fee:** Tenant shall pay its proportionate share of the Logistical Support and Public Area Maintenance Fee without any administrative charges or profit to Landlord; **(e) Section 12.01: Utilities:** If the Permitted Use provides for the offer and sale of food and beverage items, Tenant shall pay electricity consumed in the Premises; and **(f) Section 16.03: Joint Marketing Fund:** Tenant shall contribute to the Joint Marketing Fund, calculated on the basis of Ex. 2.a. of Gross Receipts per month, payable monthly, subject to adjustment as provided in Section 16.03. The initial joint marketing fund assessment of Ex. 2.a. shall be paid by Tenant to Landlord in one lump sum within sixty (60) days prior to the Rental Commencement Date.

(5) **Section 7.01: Permitted Use:** For the operation of a news & gift and café concession providing for the sale at retail of: (a) Category "A" Products: a wide assortment of local, regional, national and international

newspapers, a wide assortment of domestic and international magazines and periodicals; a variety of snacks (such as candy, candy bars, mints, gums, chips, cookies, crackers, peanuts, health food snacks and ice cream) all of which shall be pre-packaged; bottled water, bottled soda, bottled energy drinks and bottled juices; sundries including health and beauty aids, minor non-prescription drugs, cosmetics, perfumes, sunburn/suntan lotions and men's toiletries; nutritional supplements; batteries; camera film, disposable one-time use cameras and basic camera accessories; watches; reading glasses and sunglasses; ties; socks; hosiery; dress shirts; greeting cards; pens/pencils; stationery; cellular phone/computer supplies and accessories; lottery tickets (factored on commissions only); travel accessories including bags, luggage, umbrellas, maps, tour books and travel guides, luggage tags, locks, luggage carts, neck braces, money holders, portable clocks, carrying cases, deluxe bags and containers; small electronic items such as portable radio and CD players, converters and other small, portable electronic traveler convenience items; gift wrap, bows and ribbons; and tobacco products including an assortment of domestic and international cigarettes, cigars and pipe tobacco, chewing tobacco, pipes and tobacco related products (collectively, the "**Category "A" Products**"); (b) Category "B" Products: souvenirs (regionally and locally indigenous souvenirs such as key chains, magnets, water globes, mugs, glasses, shot glasses, plates, bells, spoons, pins, ash trays, stickers, pens, pencils, pewter, cosmetic jewelry, candles and post cards); regionally and locally indigenous gifts; souvenir apparel such as t-shirts, hats, polo shirts, ties, sweatshirts and fleece products; children's gifts; collectibles; posters, prints, pictures, art objects and pottery; pre-packaged gourmet food and beverage items; and premium candy and nuts (collectively, the "**Category "B" Products**") provided, however, the display and sale of such Category "B" Products shall not exceed ten (10%) percent of the sales display portion of the Floor Area in the Premises; and (c) Food & Beverage Items: a wide assortment of gourmet coffee, latte, cappuccino, espresso, roasted coffee, iced coffee based and blended cool beverages in various sizes, refrigerated bottled waters, bottled sodas, bottled energy drinks and bottled juices, a variety of grab and go pre-made sandwiches, pastries, bakery items, doughnuts, danish, cakes, cereals, fresh fruit and yogurt (collectively, the "**Food & Beverage Items**"), and for no other use or purpose. All of the forgoing items must be in accordance with and as more particularly described for such Category "A" Products, Category "B" Products, Food & Beverage Items as set forth on **Exhibit L**.

(6) **Section 7.02: Hours of Operation:** Tenant shall be open for business twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year, including all holidays, unless otherwise approved by Landlord in writing and only if permitted by American under the Concession Area Lease.

(7) **Section 16.01: Trade Name:** "NewsLink-Juan Valdez Cafe" or such other trade name/brand as may be requested by Tenant and approved in writing by both Landlord and American.

(8) **Section 26.01: Performance Guaranty-Letter of Credit or Payment and Performance Bond:** At Tenant's option: (i) twenty-five percent (25%) of the initial annual Guaranteed Rent in immediately available funds, payable to Landlord upon execution of this Sublease and in no event later than delivery of the Premises to Tenant; or (ii) an unconditional, irrevocable standby letter of credit or payment and performance bond in an amount not less than one hundred percent (100%) of the initial annual Guaranteed Rent in funds available immediately or same day funds in the City of New York, as security for the faithful observance, payment and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed, paid and performed ("**Performance Guaranty**"). Such letter of credit must be in form and content as set forth in **Exhibit H** for a term of not less than one (1) year with automatic extensions and issued by a commercial banking institution reasonably acceptable to Landlord and authorized to conduct business in the State of New York ("**Bank**") or if a Payment and Performance Bond, on a form reasonably satisfactory to Landlord and issued by a surety company reasonably acceptable to Landlord and authorized to conduct business in the State of New York ("**Surety**"). The Performance Guaranty shall be delivered by Tenant and held by Landlord in accordance with the provisions of Article XXVI of this Sublease.

(9) **Section 27.05: Notice Addresses:**

Landlord:

Westfield Concession Management, LLC
11601 Wilshire Blvd., 11th Floor
Los Angeles, California 90025
Attention: Office of Legal Counsel

Tenant:

NewsLink of JFK, LLC
6910 N.W. 12th Street
Miami, Florida 33126
Attention: Raymond Kayal, Jr.

With copies to:

Westfield Concession Management, LLC
Airport Division Management Office
2730 University Boulevard, Suite LL6
Wheaton, Maryland 20902

Westfield Concession Management, LLC
John F. Kennedy International Airport – Terminal 8
Jamaica, New York 11430
Attention: General Manager

With a copy to:

NewsLink of JFK, LLC
6910 N.W. 12th Street
Miami, Florida 33126
Attention: Maria E. Venzal

Tenant's Billing Address:

NewsLink of JFK, LLC
6910 N.W. 12th Street
Miami, Florida 33126
Attention: Accounts Payable

Address for Rental Payments to Landlord: All Rentals payable to Landlord hereunder shall be made payable to "**Westfield Concession Management, LLC, Trustee for American Airlines, Inc. and the Port Authority of New York and New Jersey**" and remitted to: Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Los Angeles, California 90074-0429 (Via U.S. Mail) or Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Remittance Banking, Unit 5195, 1000 West Temple Street, Ground Floor, Los Angeles, CA 90012 (Via Overnight Delivery Service).

(10) **Minority-Owned Business Enterprises, Women-Owned Business Enterprises and/or Disadvantaged Business Enterprises ("M/W/DBE") Requirements:** Not applicable.

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ARTICLE I. GRANT AND TERM

Section 1.01 **CONDITIONS OF GRANT OF PREMISES.** American and the Authority each have the right to make any alterations, replacements or modifications to the Terminal (including, but not limited to, the Concession Area) and/or the Airport, including actions which may change the shape, size, location, number and extent of the improvements generally shown on **Exhibits A-1, A-2 and A-3** and eliminate or add any improvements to any portion of the Terminal and/or the Airport at any time without Landlord's or Tenant's consent. Such rights shall include the right to place, install, maintain, use, repair and replace, in any manner, pipes, lines, conduits, ducts, flues, drains, sprinkler mains and valves, wires and wiring (and like improvements) and structural elements leading through the Premises or serving the Premises or any other parts of the Terminal. Tenant acknowledges that pursuant to the Concession Area Lease, American has agreed to use reasonable efforts to place any such items (other than existing items and/or necessary or desirable structural elements) in locations that do not materially interfere with Tenant's use of the Premises unless required to comply with American's obligations under the Authority Lease. Tenant may, upon approval by Landlord and subject to the Authority's TAA Process (as defined in Section 5.01), have the right to install utility lines and facilities which exclusively serve the Premises in the area between Tenant's finished ceiling and the roof above or under the floor below, but such installation shall be at Tenant's sole cost and expense. Wherever the term Airport or Terminal is used, it shall be deemed to include the areas shown as such on **Exhibit A-1**. If American or the Authority elects to enlarge or alter the Airport, the Terminal or the Concession Area, Landlord, at its sole and absolute discretion, may include any additional area in the respective definitions of Airport, Terminal and/or Concession Area for purposes of this Sublease.

Section 1.02 **COMMENCEMENT AND ENDING DATE OF TERM.** The term of this Sublease ("**Term**") shall commence as of the date reflected on the first page hereof ("**Commencement Date**"). Tenant's obligation to pay Guaranteed Rent, Percentage Rent and Additional Rent (collectively, "**Rentals**") shall commence upon the date ("**Rental Commencement Date**") which is the earlier to occur of (a) the date on which Tenant initially opens for business to the public, or (b) the Latest Rental Commencement Date specified in the Data Sheet. Any occupancy of the Premises by Tenant following the Commencement Date and prior to the Rental Commencement Date shall be subject to all terms and conditions hereof other than the payment of Rentals. The Term hereof shall end on the Expiration Date set forth in the Data Sheet, unless sooner terminated in accordance with this Sublease or if the Consent Agreement is terminated or otherwise revoked as provided therein or as may otherwise be extended. Tenant 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 lawful cause, or in the event either Landlord or American obtains possession of the Premises in any lawful manner. Such termination of the Sublease, as provided herein, and the removal, restoration and surrender obligations of Tenant, shall in no event give rise to any claims for incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises. The first "**Lease Year**" shall be the period commencing on the Rental Commencement Date and ending on the next December 31, and thereafter each "**Lease Year**" shall mean a fiscal year of twelve (12) consecutive calendar months ending on December 31.

Section 1.03 **LATE OPENING.** Landlord and Tenant agree that Tenant's failure to open the Premises on the Latest Rental Commencement Date will result in damages which are difficult to ascertain in light of operational, scheduling and public service factors. Therefore, if Tenant fails to open for business in the Premises by the Latest Rental Commencement Date and such failure shall be due to any fault of Tenant and not due to delays as specified in Section 5.01(c) or other delays caused by or due to the sole fault of either Landlord, American or the Authority, Landlord may assess and Tenant shall pay as liquidated damages and not as a penalty, Two Hundred Fifty Dollars ($250.00) per day for each day Tenant is not open for business for more than twenty (20) days following the Latest Rental Commencement Date. If such failure shall continue for in excess of sixty (60) days, the amount of such liquidated damages may be increased up to a

maximum of Five Hundred Dollars ($500.00) per day. This remedy shall be in addition to any and all other remedies provided in this Sublease or by law to Landlord in the event of default by Tenant. Such liquidated damages shall be deemed to be in lieu of Percentage Rent only that might have been earned during the period of Tenant's failure to open.

Section 1.04 **CONSENT.** Tenant acknowledges that under the Concession Area Lease and the Authority Lease, American and the Authority may have the right to consent to or approve matters which are described herein as being subject to the consent or approval of Landlord. Tenant agrees that Landlord, its agents and employees, shall be deemed to have acted reasonably if they act, fail to act, withhold or delay any consent or approval hereunder and such consent or approval is being withheld or delayed by or at the direction of either American or the Authority, whether or not American or the Authority is acting reasonably in making or refusing to make such determination. Landlord, its agents and employees, shall not have any liability to Tenant for any reason whatsoever in failing to obtain any such consent or approval. Tenant shall not be penalized for any such failure to obtain consent or approval if such failure is beyond Tenant's and Tenant's contractor's or subcontractors' control.

Section 1.05 **DISCLAIMER. TENANT ACKNOWLEDGES THAT NEITHER LANDLORD, AMERICAN, THE AUTHORITY NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, REPRESENTATIVES OR BROKERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION OR WARRANTY OF ANY KIND RESPECTING USE, OCCUPANCY OR OPERATION WITHIN THE TERMINAL AND/OR THE AIRPORT BY ANY AIRLINES, PERSONS OR ENTITIES INCLUDING, WITHOUT LIMITATION, ANY FORECASTED, ANTICIPATED OR ESTIMATED PASSENGER VOLUME (WHETHER ENPLANEMENTS OR DEPLANEMENTS) IN THE TERMINAL AND/OR THE AIRPORT OR SALES EXPECTED TO BE GENERATED AT OR FROM THE PREMISES. TENANT IRREVOCABLY WAIVES ANY CLAIM BASED UPON OR RELATED TO ANY SUCH CLAIMED REPRESENTATION BY LANDLORD, AMERICAN OR THE AUTHORITY. NO REPRESENTATIONS OR WARRANTIES AS TO THE ECONOMIC VIABILITY OF THE PREMISES OR THE AMOUNT OF PASSENGERS TO BE ENPLANED IN THE TERMINAL HAVE BEEN MADE. NO PROMISES TO ALTER, REMODEL OR IMPROVE, THE PREMISES, CONCESSION AREA OR THE TERMINAL HAVE BEEN MADE BY LANDLORD OR AMERICAN EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE CONCESSION AREA LEASE. PASSENGER COUNTS, PASSENGER FLOWS AND OTHER CUSTOMER TRAFFIC ARE IN THE MOST PART PRODUCTS OF AIRLINE SCHEDULES AND GATE UTILIZATION AND GOVERNMENTAL RULES AND REGULATIONS GOVERNING SECURITY AND EMERGENCY SITUATIONS AND MAY RESTRICT ACCESS TO THE TERMINAL. TENANT MAY NOT RELY ON ANY IMPLIED REPRESENTATIONS OR WARRANTIES (THE EXISTENCE OF WHICH ARE HEREBY DISCLAIMED), OR THE ACCURACY OF PROJECTIONS OR PROSPECTIVE INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE. TENANT REPRESENTS THAT TENANT HAS CONDUCTED AN INDEPENDENT AND EXPERT INVESTIGATION AND EVALUATION OF THE TERMINAL, THE PREMISES AND ALL INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE.**

ARTICLE II. RENTALS

Section 2.01 **MINIMUM ANNUAL GUARANTEED RENT.** Tenant shall pay to Landlord the Minimum Annual Guaranteed Rent ("**Guaranteed Rent**") set forth in the Data Sheet in equal consecutive monthly installments in advance on or before the first day of each month, without prior demand or notice. Guaranteed Rent, Percentage Rent and Additional Rent shall be paid to Landlord in U.S. currency at the

address set forth in the Data Sheet, or such other place as Landlord may designate in writing, without any deductions or offsets whatsoever. Should the Rental Commencement Date occur on a day other than the first day of a calendar month or this Sublease expire or terminate on a day other than the last day of a calendar month, then Guaranteed Rent shall be prorated on the basis of a thirty (30) day month. Should any Lease Year contain less than twelve (12) calendar months, said Guaranteed Rent shall be prorated on the basis of a three hundred sixty-five (365) day year. Effective each January 1 (commencing January 1, 2008) following the Rental Commencement Date, Guaranteed Rent shall adjust (but in no event shall the Guaranteed Rent decrease below the amount set forth in the Data Sheet) by an amount equal to the then current Lease Year's Guaranteed Rent times the "**Percentage Change in Enplaned Passengers**". The "**Percentage Change in Enplaned Passengers**" shall mean an amount equal to the percentage change, whether an increase or a decrease, between the Terminal's reported "**Enplaned Passengers**" between two (2) consecutive calendar years for each Lease Year of the Term. For example, the initial calendar year for such measurement shall be the "**Enplaned Passengers**" in the Terminal during the 2006 calendar year and shall be compared to the "**Enplaned Passengers**" in the Terminal during the 2007 calendar year. Thereafter, calendar year periods used for the measurement comparison shall each roll forward by one (1) calendar year for subsequent determinations of the Percentage Change in Enplaned Passengers (e.g., the second comparison shall be the 2007 calendar year compared to the 2008 calendar year). For all purposes of this Sublease, the term "**Enplaned Passengers**" means any passenger determined by American to have boarded an aircraft at the Terminal, including passengers who may disembark and re-board the same aircraft as part of the same flight itinerary, but excluding passengers, such as international in-transit passengers, from international flights who are restricted from access to the Concession Area. Notwithstanding the foregoing, Landlord and Tenant hereby agree that for purposes of such measurement throughout the Term, the number of Enplaned Passengers for each calendar year that such adjustment shall be made shall be the greater of: (ii) the number of actual Enplaned Passengers in the Terminal for the applicable calendar year.

Section 2.02 **PERCENTAGE RENT.** (a) Tenant shall also pay for each month of the Term ("**Lease Month**"), Percentage Rent equal to the product of the applicable Percentage Rent Rate times the amount of Tenant's "**Gross Receipts**" (as defined below) during such month in accordance with the applicable Percentage Rent Rates as specified in the Data Sheet, such payment to be made to the extent Percentage Rent exceeds the monthly installment amount of Guaranteed Rent paid by Tenant to Landlord. Tenant shall pay Percentage Rent to Landlord monthly without prior notice or demand within 15 days after the expiration of each Lease Month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Lease Month in accordance with the applicable Percentage Rent Rates as specified in the Data Sheet, such payment to be made to the extent Percentage Rent exceeds the monthly installment amount of Guaranteed Rent paid by Tenant to Landlord.

(b) If, at the end of any Lease Year, the monthly installments of Percentage Rent are less than the annual Percentage Rent required to be paid, Tenant shall pay the amount of such deficiency on or before the time Tenant provides its Annual Statement together with "**Late Interest**" (as defined in Section 27.13) from the date any such amounts were originally due. If, at the end of any Lease Year, the monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid, Tenant shall receive a credit equivalent to such excess, which shall be credited by Landlord to the next monthly payment(s) of Rentals due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid for such final Lease Year, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises at the conclusion of this Sublease, so long as the Premises are in the condition required by this Sublease, all of Tenant's obligations and liabilities have been performed to the satisfaction of Landlord and any other sums due Landlord from Tenant under this Sublease have been paid in full or Landlord shall be entitled to deduct such remaining sums due from any such excess. Percentage Rent is agreed to be a portion of the

consideration for Landlord to enter into this Sublease and Landlord expects to supplement Guaranteed Rent and Additional Rent to provide a fair rental return. Except as otherwise specifically permitted by this Sublease, if Tenant fails to continuously operate its business or keep the required hours of operation or vacates the Premises prior to the expiration of the Term hereof, Landlord, American and the Authority will suffer damages not readily ascertainable. Landlord shall have the right to treat any of such events as a non-curable, material default and breach by Tenant and Landlord shall be entitled to all remedies provided hereunder or at law.

(c) The term "**Gross Receipts**" means and includes all monies paid or payable to Tenant, whether for cash, credit or otherwise, for sales made or services rendered at or from the Terminal or the Airport regardless of when or where the order therefor is received and outside the Terminal or Airport if the order is received at the Terminal or the Airport, retail display allowances and other promotional incentives (the gross amounts thereof, not net of expenses) received from vendors, suppliers or manufacturers and other revenues of any type arising out of or in connection with Tenant's operations at the Terminal or the Airport, including, without limitation, proceeds from: the sale of gift and merchandise certificates (but only when such certificates are treated as a sale from the Premises pursuant to Tenant's record keeping system); mail, catalogue (as further explained below), closed circuit television, computer, other electronic or telephone orders received or filled; deposits not refunded to purchasers; orders taken at the Premises (although such orders may be filled elsewhere); sales through vending machines or other devices; the spread earned on any exchange or foreign currency transactions whether as a currency exchange service or in connection with the sale of merchandise or services; and all insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage. Catalogue sales generated from catalogues distributed from the Premises will be included in the calculation of Gross Receipts. For this purpose, catalogues displayed in the Premises must include a tracking number unique to the Premises that allows for an auditable method for tracking such sales. A "sale" shall be treated as consummated for the purposes of this definition, and the entire amount of the sales price shall be included in Gross Receipts, and deemed received at the time of determination of the amount due for each transaction, whether for cash, credit or otherwise, and not at the time of billing or payment. No deduction shall be allowed for uncollected or uncollectible credit accounts or "bad" checks. Gross Receipts shall <u>not</u> include: (1) any sums collected for any federal, state, county and municipal sales taxes, so-called luxury taxes, use taxes, consumer excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed by law upon the sale of merchandise or services but only if separately stated from the sales price and only to the extent actually paid by Tenant to any duly constituted governmental/taxing authority; (2) the exchange of merchandise between the stores or warehouses owned by or affiliated with Tenant, if any, where such exchanges of goods or merchandise are made solely for the convenient operation of the business of Tenant and not for the purpose of consummating a sale which has theretofore been made at, in, from or upon the Premises or for the purpose of depriving Landlord, American or the Authority of the benefit of the sale which otherwise would be made at, in, from or upon the Premises; (3) the amount of any cash or credit refund made upon any sale where the merchandise sold, or some part thereof, is thereafter returned by a purchaser and accepted by Tenant; (4) the proceeds of sale of fixtures, equipment or other items of property which are not stock in trade and not in the ordinary course of Tenant's business; (5) any receipts of Tenant which arise from its operations at the Airport under any other agreement with Landlord, American or the Authority and are subject to a percentage fee or percentage rent under that agreement; (6) shipping, delivery and gift wrapping charges provided at Tenant's actual cost by Tenant and documented separately by Tenant and such charges are merely an accommodation to customers; (7) receipts in the form of refunds from, or the value of merchandise, services, supplies or equipment returned to, vendors, shippers, suppliers or manufacturers, including volume discounts or rebates received from Tenant's vendors, suppliers or manufacturers; (8) income actually received by Tenant from manufacturers of goods (e.g., cosmetics, perfume) displayed for sale at the Premises if the conditions set forth below are fully and strictly satisfied with respect to such income; (9) customary

discounts given by Tenant on sales of merchandise or services to its own employees, if separately stated, and limited in amount to not more than of Gross Receipts per Lease Month; (10) mandatory discounts of not less than Ex. 2.a. of Gross Receipts, if separately stated, which must be given by Tenant on sales of merchandise or services to all individuals employed at the Airport, all American employees and to all Terminal airline employees; (11) gratuities for services performed by employees of Tenant which are paid by Tenant or its customers to such employees, except to the extent Tenant may be entitled to receive a portion of such gratuities; (12) the sale or transfer in bulk of the inventory of Tenant to a purchaser of all or substantially all of the assets of Tenant in a transaction not in the ordinary course of Tenant's business; and/or (13) except with respect to insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage as provided above and/or insurance proceeds that may be payable to Landlord, American or the Authority under such coverage, receipts from all other insurance proceeds received as a result of a loss or casualty. The conditions with respect to Section 2.02(c)(8) above are as follows: (i) the manufacturer specifically identifies the time period to which the income relates, (ii) reimbursement from the manufacturer to Tenant occurs in connection with employees (1) who are on Tenant's payroll for the operations permitted under the Consent Agreement and (2) who are on such payroll during the time period to which the reimbursement relates, (iii) the manufacturer and Tenant have previously entered into a written agreement that sets forth the material terms of their arrangement with regard to the reimbursement that is the subject of 2.02(c)(8), and (iv) Tenant provides to Landlord written documents and records substantiating the matters listed in sub-clauses (i) through (iii). Without limiting the generality of the foregoing, any and all income that would otherwise qualify as being excludable from Gross Receipts for purposes of this Sublease shall be includable in Gross Receipts if and to the extent that the income from the manufacturer which is associated with an identified employee during a calendar year exceeds such identified employee's base salary for the same calendar year. Such determination shall be made separately with respect to each employee of Tenant and with respect to each calendar year.

Section 2.03 **STORAGE PREMISES AND RENT.** If and to the extent that Storage Premises exist and/or are available, commencing on the date of actual delivery of Storage Premises to Tenant, all of the terms, provisions and conditions of Tenant's use and occupancy of the Premises set forth herein shall apply fully to Tenant's use and occupancy of the Storage Premises and for all purposes of this Sublease, the Premises shall be deemed to include the Storage Premises. Tenant shall build out such Storage Premises at its sole cost and expense, or, if Landlord may build out such Storage Premises to Landlord's specifications in which case, Tenant shall reimburse Landlord for the reasonable and actual costs incurred to build-out the Storage Premises. Landlord has the right at any time, in its reasonable discretion, to designate comparable alternative Storage Premises. In the event of the relocation of Storage Premises, Tenant shall be solely responsible for all moving and other related costs thereto. Tenant shall pay to Landlord as rent for the Storage Premises ("**Storage Premises Rent**") in accordance with the terms of the separate Storage Premises Sublease. Storage Premises Rent shall be payable in equal consecutive monthly installments in advance on or before the first (1st) day each month, without prior demand or notice. If delivery of the Storage Premises occurs on a date other than the first (1st) day of a month, the Storage Premises Rent shall be prorated on a daily basis for any such partial month.

Section 2.04 **TAXES.** (a) From and after the Rental Commencement Date, Tenant shall pay to Landlord, as Additional Rent, its proportionate share of the Taxes payable by Landlord under the Concession Area Lease. "**Taxes**" means, collectively, any tax, fee, excise, levy, lien, duty, impost or similar charge assessed or imposed, including, without limitation, payments under any taxing agreement between the Authority and/or American, and the City of New York, providing for taxes to be paid to the City of New York, and any additions to a tax, by a governmental authority on, against or in connection with the lease, use, possession, equipping, operation or maintenance of the Concession Area, and any amounts paid or deemed paid in connection with the purchase, lease or use of goods and/or services at or

for the Concession Area, including amounts paid or attributable to utilities generated, provided or consumed by or through Tenant, other tenants of the Concession Area, Landlord, American or the Authority for the benefit of the Concession Area. Taxes exclude payments in lieu of taxes and federal or state taxes based on or determined by net income, net worth or Landlord's or American's ongoing qualification to do business in general as a corporation (e.g., state franchise taxes). Should the State of New York or City of New York or any political subdivision thereof or any governmental, taxing or assessing authority, impose a tax of any kind or nature, regular or special, direct or indirect, upon, against or with respect to the Rentals or other amounts payable to Landlord by Tenant, or a franchise tax assessment, levy or charge measured by or based, in whole or in part, upon such Rentals or any other amounts payable hereunder, then all such taxes, assessments, levies or charges, or the part thereof so measured or based, shall be paid by Tenant and shall be deemed to be included within the term Taxes. The Taxes in respect of the year in which the Rental Commencement Date occurs and for the year in which the Term hereof ends shall be prorated on a daily basis.

(b) Tenant's proportionate share of Taxes shall be determined as follows: (1) if the Premises is the subject of a separate tax lot or lots created by the City of New York, Tenant shall pay Taxes that may become due and payable with respect to the Premises as so reflected on the tax statement during the Term directly to the City of New York, or Landlord, as directed by Landlord, and shall deliver to Landlord, not later than ten (10) days before the date any such Taxes become delinquent, official receipts of the appropriate taxing authority or other evidence satisfactory to Landlord evidencing payment thereof; or (2) if the Premises is not a separate tax lot or lots, the amount of Tenant's proportionate share thereof shall be reasonably calculated by Landlord based upon the type of Tax charged and how it is allocated to all or a portion of the Concession Area. Tenant's proportionate share thereof shall be determined by a formula, the numerator of which is the Floor Area of the Premises and the denominator of which is the total Floor Area of all leased and occupied concession facilities located in the Concession Area. Such proportionate share shall be paid to Landlord in advance, in monthly installments on or before the first (1st) day of each calendar month, either: (i) in an amount estimated by Landlord and billed to Tenant, but Landlord shall have the right to initially determine monthly estimates and to revise estimates from time to time, or (ii) within twenty (20) days of Tenant's receipt of a bill from Landlord for the payment of such Taxes, if any of such Taxes are not so estimated in advance. Tenant agrees to make payment within twenty (20) days after receipt of a bill from Landlord even if a statement showing the Taxes payable by Landlord is not provided by Landlord at the time of billing. Upon receipt of the abovementioned statement pertaining to Taxes payable by Landlord under the Concession Area Lease, Landlord shall furnish Tenant with a written statement of the actual amount of Tenant's proportionate share of Taxes for such tax fiscal year together with a copy of such statement. If the total amount paid by Tenant for any such period following the Rental Commencement Date shall be less than the actual amount due from Tenant for such period, as shown on the statement, Tenant shall pay to Landlord the difference between the amount previously paid by Tenant and the actual amount due together with Late Interest from when originally due within ten (10) days after Tenant's receipt of such statement. If the total amount paid by Tenant hereunder for any such period shall exceed the actual amount due from Tenant for such period, such excess shall be credited against the next payment for Taxes due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total amount paid by Tenant for such final Lease Year shall exceed the actual amount due from Tenant for such period, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises in good condition at the conclusion of this Sublease and all Rentals due Landlord from Tenant under this Sublease have been paid in full or Landlord may deduct such excess, if any, from any outstanding and unpaid Rentals remaining to be paid by Tenant to Landlord.

(c) Landlord reserves the right to contest Taxes so long as Landlord pays any associated penalties and interest; and Tenant shall pay to Landlord that portion of all reasonable external costs and expenses incurred by Landlord in connection with such contests (including attorneys' fees, accountants, consultants and

appraiser expenses, and reasonable administrative expenses) based on a formula, the numerator of which is the square footage of Floor Area in the Premises, and the denominator of which is the total square footage of Floor Area in the Concession Area. Notwithstanding any such contest, related negotiation or appeal, Tenant shall timely pay its proportionate share of Taxes. If Taxes shall be increased, Tenant's proportionate share of Taxes shall be computed on the amount of Taxes finally determined to be payable by Landlord including any of the reasonable external costs incurred therein. If Landlord's obligation to pay Taxes shall be decreased, Landlord's statement following such decrease shall include an appropriate adjustment for any prior fiscal tax years affected by such decrease reflecting the amount of such decrease; and Tenant's proportionate share of any such adjustment, less Tenant's proportionate share of the reasonable external costs incurred shall be treated as a credit against future Taxes payable by Tenant following the decrease or, if during the final Lease Year of the Term, refunded to Tenant as provided in Section 2.04 (b) above. If Taxes are separately-assessed against Tenant, Tenant may contest, in good faith for its own account and at Tenant's sole cost and expense, the validity or amount of any such separately assessed Tax, provided **Tenant shall indemnify Landlord against any resulting loss, cost or expense, and shall provide security reasonably satisfactory to Landlord with respect to Tenant's performance of such indemnification.** Under no circumstances shall Tenant permit any type of lien or encumbrance on the Premises or on the Terminal by reason of the failure to pay any Taxes or Tenant Taxes (as defined in Section 22.01).

(d) If Tenant should fail to pay any Taxes required to be paid by Tenant hereunder, in addition to any other remedies provided herein, Landlord may, if it so elects, pay such Taxes either with its own funds or by a draw-down of such amounts upon the Performance Guaranty. Any sums so paid by Landlord shall be due and payable by Tenant on demand, together with Late Interest thereon from the date paid by Landlord to the date of repayment by Tenant. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Taxes and proceedings described in this Section 2.04.** Tenant shall be liable for all Taxes levied or assessed directly against Tenant, including Taxes assessed on or in respect of "**Fixed Improvements**" and any "**Refurbishments**" (as both terms are defined in Section 5.01), or other fixtures, inventory or personal property of Tenant in the Concession Area. If any such Taxes are levied or assessed against Landlord, American or their property and Landlord pays the same or the assessed value of Landlord's or American's property is increased by inclusion of such personal property and fixtures, then, at Landlord's discretion, Tenant shall advance the corresponding Taxes to Landlord, or reimburse them upon demand if paid by Landlord.

Section 2.05 **MISCELLANEOUS CHARGES.** (a) Employee Parking. The Authority retains the right to institute a charge to Tenant for the privilege of using such employee designated parking facilities for Tenant's employees. Such charges shall be paid directly to the Authority and shall be promptly paid at such intervals as shall be demanded in accordance with parking rates established by the Authority as adjusted from time to time. (b) Identification Security Badges. All persons employed at the Terminal are required to obtain background checks, security clearances and identification security badges from American or the Authority; and American or the Authority has the right to institute a reasonable charge for processing, issuance, reviews and renewals. Such charges shall be paid directly to the issuing party and shall be promptly paid at such intervals as shall be demanded. All security badges must be properly accounted for by Tenant and promptly returned in accordance with American's, the Authority's and all other applicable rules, policies and regulations. (c) Screening. As may be required by local, state or federal law, including, but not limited to, the Federal Aviation Administration's ("**FAA**"), the Transportation Security Administration's ("**TSA**"), American's, the Authority's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, products, equipment and supplies shall be paid by Tenant directly to Landlord or, if not billed directly, included within the

Logistical Support and Public Area Maintenance Fee. (d) Subsequent Regulations. If in the future, American, the Authority or any agency with jurisdiction over the Airport requires Landlord to implement additional procedures related to airport facilities and/or the screening or badging of Tenant's employees, contractors, goods, products, equipment or supplies, Tenant agrees to pay the actual costs incurred by Landlord in the manner provided above. Each of the foregoing shall be collectively referred to as **"Miscellaneous Charges"**.

Section 2.06 **ADDITIONAL RENT.** In addition to Guaranteed Rent and Percentage Rent hereunder, Tenant shall pay, as **"Additional Rent"**, in a manner and at the place provided herein, all sums of money required to be paid by Tenant hereunder, including but not limited to: Miscellaneous Charges, Storage Premises Rent, if any, Taxes, Utilities for concessions which offer food and beverages, the Logistical Support and Public Area Maintenance Fees, and contributions to the Joint Marketing Fund. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next installment of Guaranteed Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All Rentals payable in a given month shall be deemed to comprise a single rental obligation of Tenant.

Section 2.07 **LATE PAYMENT CHARGE.** If any Rentals required to be paid to Landlord hereunder are not made when such Rentals are due, including as a result of any audit findings, Tenant shall pay interest on any such overdue amounts, compounded monthly at the rate specified in Section 27.13 commencing on the due date; provided, however, any such late charges shall be waived in the event any such late payments are in fact received by Landlord within five (5) days following the due date. If Landlord accepts such late payment charge or Tenant pays the late payment charge but fails to pay contemporaneously therewith all unpaid amounts of Rentals due, Landlord's acceptance of this late payment charge shall not constitute a waiver of Tenant's default nor prevent Landlord from exercising all other rights and remedies available to Landlord hereunder or at law. If Tenant is late more than twice during any consecutive twelve (12) month period, Landlord will no longer waive any such applicable late charges for the remainder of the Term.

Section 2.08 **APPLICATION OF PAYMENTS; ACCORD AND SATISFACTION.** Landlord may, at its sole discretion, apply any payments received from Tenant to any Rentals that are then due and payable. If Landlord shall not make any specific application of a payment received from Tenant, then any such payment received shall be applied first to the Rentals which have been overdue for the longest period of time. No designation of any payment by Tenant for application to a specific portion of Tenant's financial obligations hereunder shall be binding unless otherwise required under the laws of the State of New York nor shall it be deemed an accord and satisfaction of any debt or obligation of Tenant hereunder. Tenant covenants to pay all Rentals independent of any obligation of Landlord. No breach of this Sublease by Landlord shall relieve Tenant of its obligation and duty to pay all Rentals when due under the terms hereof. All Rentals shall be paid by Tenant to Landlord without set-off, deduction, demand or abatement. Tenant's obligations to pay Rentals shall be absolute and unconditional and shall not be subject to any right of recoupment or set-off and Tenant shall make all payments in full without deduction, setoff or counter-claims of any form or nature. Landlord reserves the right to accept any check or payment without prejudicing in any way Landlord's right to recover the balance of any and all Rentals due from Tenant after receipt of any such check or payment or to pursue any other remedy provided herein or by law. At any time that Tenant shall have delivered checks to Landlord for payments pursuant hereto which shall have on at least two (2) occasions during any Lease Year been returned by Landlord's bank for any reason, Landlord shall not be obligated to accept any payment from Tenant unless such payment is made by cashier's check or in bank certified funds.

ARTICLE III. RECORDS AND REPORTS

Section 3.01 **TENANT'S RECORDS.** Tenant shall maintain in English and in accordance with accepted accounting practices consistently applied ("**AAP**"), full and complete records and books of account recording all transactions at, through or in any way connected with Tenant's operations at the Premises or elsewhere at the Terminal or the Airport and outside of the Airport if the order therefor is received at the Premises, and shall require and cause all of Tenant's Affiliates (as defined below) performing similar services within the Port of New York District (as defined in the Authority Lease) and its subtenants, concessionaires, licensees and/or assignees to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Tenant (collectively, "**Records**"). For all purposes of this Sublease, "**Affiliate**" or "**Affiliates**" means, with respect to any Person, any other Person, directly or indirectly, through one (1) or more intermediaries, who or which Controls, is Controlled By or is Under Common Control With such Person; "**Person**" means and includes an individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department, authority or agency thereof; and "**Control**" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise (including any entity in which a Person (including any general or limited partner, managing and non-managing member or shareholder of such Person) has an ownership interest); and the terms "**Controls**", "**Controlled By**" and "**Under Common Control With**" shall have the meanings correlative to the foregoing. The Records shall include, without limitation, true copies of all federal, state and local sales and use tax returns and reports, daily bank deposits and daily receipts from all sales (including those from catalogue, mail or telephone orders), duplicate bank deposit slips, invoices, journals, ledgers and other pertinent original sales records, and records of any other transactions conducted in or from the Premises by Tenant. The Records shall also include, without limitation, all corporate records and books of account which the Landlord, in its sole discretion, believes may be relevant for identification, determination or calculation of all fees, rentals and other amounts paid or payable to American and the Authority, all agreements, and all source documents. The Records shall be preserved and retained by Tenant within the Port of New York District and if not kept by Tenant within the Port of New York District, the Records shall be preserved and retained at Tenant's principal business office located in the United States during the Term and for one (1) year after the expiration or earlier termination hereof, and for any further period extending until receipt of written permission from the Authority to do otherwise; provided, however, those Records pertaining to Gross Receipts shall be maintained for a period of five (5) years from the date of each sale, or, in the event of a claim by Landlord, American or the Authority, until such claim for payments hereunder shall have been resolved, fixed and paid. If such records are not kept by Tenant within the Port of New York District, Tenant shall make all of such records available within the Port of New York District within twenty (20) days of a request therefor. All Records shall at all reasonable times, during Tenant's normal business hours after twenty (20) days prior written notice, be open to the inspection of, and may be copied or extracted from, in whole or in part, by Landlord, American, the Authority or their respective representatives for the period hereinabove required. If the Records are not audited within such retention period, the Records shall be deemed adequate and closed; provided, however, in the case of fraud and/or willful errors, such retention period limitation shall not apply; and, provided, further, records relating to any litigation or settlement of claims arising under or relating to this Sublease shall be made available for during retention period after such litigation or claims have been completed and all time limits for appeals have expired.

Section 3.02 **POINT OF SALE TERMINALS.** Tenant shall install in the Premises, at its sole cost and expense, non-resettable cash register(s) and other point of sale terminals (each, a "**Point-of-Sale Terminal**") for recording orders taken, or services rendered, as may be appropriate to Tenant's business and necessary or desirable to keep accurate records of Gross Receipts and to register therein every

transaction made in, on, about or from the Premises, including every type of Gross Receipts. Each such Point-of-Sale Terminal shall provide an historical record of all transactions which occur at the Premises for accounting, terminal-wide merchandising and auditing purposes. Landlord, American and the Authority shall have the right to inspect any Point-of-Sale Terminal or audit Tenant at any time. In order to provide an accurate record and to provide a high level of service to customers, all Point-of-Sale Terminals or cash registers used shall have, as a minimum, the following features: (a) not less than sixty (60) segregated category addresses (if applicable for the types of products or services that maybe offered by Tenant); (b) the input devices may either be a key, scanner or both; (c) the patron fee display shall be of sufficient size and legibility to be readily observed by the patron during the processing of a transaction; and (d) the register of each Point-of-Sale Terminal shall: (1) record transactions by sequential control number to the audit tape or computer files; (2) be capable of printing a transaction history to tape or file by hour (time of day), day, month and year; (3) print a customer receipt showing the amount due, amount tendered, and the amount due to the customer together with the time and date of the transaction; and (4) the register or data collection device shall have a secure transaction audit tape or an ASCII transaction file on an IBM compatible data disk. The tape of each Point-of-Sale Terminal shall be accessible to, and subject to inspection by, Landlord, American and the Authority. Each Point-of-Sale Terminal shall accept at least two (2) major credit cards. Upon request, Tenant shall make available to Landlord weekly sales data ("**Point of Sale Data**"), reflecting the amount of each sales transaction, the number of transactions, items sold per transaction, time and date of each transaction, and specifying the sales category applicable to each item sold.

Section 3.03 **REPORTS BY TENANT.** Tenant shall furnish to Landlord as soon as practicable after the end of each Lease Month, but in no event later than fifteen (15) days after the expiration of each Lease Month, a complete statement (substantially in the form of **Exhibit C**), certified by a authorized officer or equivalent representative of Tenant, of the amount of Gross Receipts during such period and the amount of Percentage Rent paid ("**Monthly Statement**"). Tenant shall furnish to Landlord, within sixty (60) days after the expiration of each Lease Year, a complete statement (substantially in the form of **Exhibit C**), prepared and certified by an authorized officer of Tenant and certified by an independent certified public accountant, showing in reasonable detail for the preceding Lease Year the amount of Gross Receipts and the payments of Guaranteed Rent, Percentage Rent and Additional Rent ("**Annual Statement**"). Tenant shall certify in its Monthly Statements and Annual Statements that (1) such statements have been prepared in accordance with the terms of this Sublease, (2) that all revenues which are required to be included in Gross Receipts under the terms of this Sublease and in accordance with AAP have been so included, (3) that all payments of Guaranteed Rent, Percentage Rent and Additional Rent have been made in accordance with the terms of this Sublease, and (4) all of the foregoing statements are true, accurate and complete in all material aspects. The certification and opinion of the independent certified public accountant shall state that total Gross Receipts, Guaranteed Rent, Percentage Rent and Additional Rent were calculated and reflected by Tenant in its Annual Statement in accordance with the terms of this Sublease and that the Annual Statement was prepared in accordance with AAP. Landlord may make reasonable changes to the form of the Monthly Statement or Annual Statement from time to time upon thirty (30) days prior notice to Tenant. Monthly Statements and Annual Statements shall be accompanied with supporting documentation as may be required by Landlord. If Tenant fails to furnish to Landlord any Monthly Statement or Annual Statement within the time required by this Section 3.03, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of One Hundred Dollars ($100.00) per statement per day until such statement is properly delivered to Landlord for the first (1st) such failure to furnish a statement, Two Hundred Fifty ($250.00) per statement per day until such statement is delivered to Landlord for the second (2nd) such failure to furnish a statement, and Five Hundred Dollars ($500.00) per statement per day until such statement is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a statement. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

Section 3.04 **BUSINESS STATISTICS REPORTS.** Tenant shall furnish to Landlord, within ten (10) business days after the close of each calendar quarter during the Term, the following report ("**Business Statistics Report**") containing trends for the operation of the Premises, as follows: (a) average weekly sales by category, if applicable; (b) rolling twelve (12) month sales by category, if applicable; (c) sales per Enplaned Passenger, by category, if applicable, on a monthly, quarterly and rolling twelve (12) month basis; (d) average sales per transaction on an annual basis; (e) sales per square foot of Floor Area in the Premises and by category, if applicable, on a rolling twelve (12) month basis; (f) occupancy report, listing Rentals as a percentage of Gross Receipts; and (g) where applicable, comparisons to historical data for the same time frames. If Tenant fails to furnish to Landlord any Business Statistics Report within the time required by this Section 3.04, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of One Hundred Dollars ($100.00) per report per day until such report is properly delivered to Landlord for the first (1st) such failure to furnish a report, Two Hundred Fifty Dollars ($250.00) per report per day until such report is delivered to Landlord for the second (2nd) such failure to furnish a report, and Five Hundred Dollars ($500.00) per report per day until such report is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a report. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

ARTICLE IV. EXAMINATION AND AUDIT

Section 4.01 **RIGHT TO EXAMINE BOOKS.** Landlord, American and the Authority each shall have the right to examine all Records. Tenant shall make available to the requesting party within twenty (20)) days following such written request for the same at a designated location within the Port of New York District for the purpose of examination, extracting and/or copying all books, source documents, accounts, records and sales tax reports filed with applicable government agencies of Tenant and any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, in order to verify the amount of Gross Receipts and the amount of all Rentals. Should such records not be made available at the designated location within the Port of New York District within such twenty (20) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

Section 4.02 **AUDIT.** During the Term hereof and for one (1) year thereafter, Landlord, American and the Authority may, each at any time upon ten (10) days prior written notice to Tenant, cause a complete audit to be made by an auditor or accountant of their selection (who may be a certified public accountant), of the records and operations of Tenant and/or any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, relating to the Premises, for the period covered by any statement issued or required to be issued by Tenant, its Affiliates subtenants, licensees, concessionaires, and/or assignees. Tenant shall make available to the auditor or accountant, at a location within the Port of New York District within fifteen (15) days following written notice requiring such audit, all of the Records that such auditor or accountant deems necessary or desirable for the purpose of making such audit. If such audit discloses that Gross Receipts as previously reported for the period audited were understated, Tenant shall immediately pay to Landlord the additional Percentage Rent due for the period audited together with Late Interest from the date such amounts were originally due. Further, if such understatement was in excess of two percent (2%) of actual Gross Receipts as disclosed by such audit, Tenant shall immediately pay to Landlord the reasonable and actual cost of such audit upon Tenant's receipt of an invoice therefor, plus Late Interest; and, if such understatement was in excess of ten percent (10%) of Gross Receipts as disclosed by such audit due to Tenant's intentional, willful or fraudulent act or omission, Landlord may declare this Sublease terminated and the Term ended, in which event this Sublease shall cease and terminate on the date specified in such notice with the same force and effect as though the date set forth in such notice were the date set forth in this Sublease for expiration of the Term, and Tenant shall vacate and

surrender the Premises on or before such date in the condition required by this Sublease for surrender upon the expiration of the Term. If upon examination or audit the auditor or accountant reasonably determines that sufficient documentation is not maintained, retained, recorded, or available in accordance with AAP to verify Gross Receipts, Tenant shall pay for the reasonable and actual cost of such audit; and, in addition, should the party who requested the audit deem it necessary, Tenant shall reconstruct, at its sole cost and expense, all records for the determination of Gross Receipts for any period being audited. Should such records not be made available at the designated location within the Port of New York District within such fifteen (15) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

ARTICLE V. CONSTRUCTION OF PREMISES

Section 5.01 **CONSTRUCTION OF PREMISES.** (a) All improvements to the Premises shall be made as set forth in **Exhibit D**, the Tenant Construction Review Manual (as defined herein), the Design Guidelines (as defined herein) and otherwise in compliance with the Tenant Construction and Alteration Application Authority Form 531, as the same may be amended or modified, from time to time ("**Alteration Application**"), the Authority Requirements and any other reasonable requirements of Landlord and American. Tenant shall install the Fixed Improvements (as herein defined) and Operating Equipment (as herein defined) on or before the Latest Rental Commencement Date so that the Premises will provide attractive, well-designed facilities that promote the display and sale of merchandise, products and/or services and present a positive image to the public. Each of the parties hereto shall perform the obligations imposed upon such party in **Exhibit D** at the times and in the manner provided. It is understood and agreed by Tenant that any non-material changes from any plans and specifications covering American's Work (if any), as described in **Exhibit D**, shall not affect or invalidate this Sublease. The term "**Fixed Improvements**" shall mean the permanent improvements, structures and fixtures (other than the work ("**Base Building Work**") American is obligated to perform under the Authority Lease and the Concession Area Lease to deliver the Premises in "shell" condition as set forth in **Exhibit D**) initially installed by Tenant in the Premises to prepare the Premises for issuance of an occupancy permit and otherwise to complete it for the operations of Tenant and any Refurbishments which may be made subsequently to the Premises in accordance with this Sublease. "**Refurbishments**" shall mean the repair, replacement or upgrade of Fixed Improvements as required and approved under Section 5.03(b). Fixed Improvements may include, but are not limited to, finish-out work on floors, ceilings, demising walls and store facades, storefront signage, the panel box for and hook-ups to utility wires and conduits infrastructure, decorations, shelves, counters, lighting and interior design and construction work necessary in general to accommodate the operation of a Tenant. The Fixed Improvements shall be satisfactory to Landlord and American in all respects and shall be installed in a timely manner in accordance with this Article V. The term **"Operating Equipment"** means any trade furniture, trade furnishings, trade equipment, signs, trade appliances and trade fixtures that are fabricated, furnished, installed and used by Tenant in the Premises. The term "**Tenant Construction Review Manual**" means the Tenant Construction Review Manual, Port Authority Design Guidelines and other construction manuals promulgated by the Authority, as may be amended or modified from time to time. The term "**Design Guidelines**" means Landlord's Tenant Design Handbook and American's Design Guidelines as may be amended or modified from time to time.

(b) Tenant shall furnish conceptual drawings and plans ("**Conceptual Plans**") and final drawings and specifications ("**Final Drawings**") for the Premises as follows: Tenant shall submit Conceptual Plans to Landlord and American for approval no later than twenty (20) days after execution of this Sublease. Landlord shall promptly review the Conceptual Plans, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Conceptual Plans. Following Tenant's receipt thereof, Tenant shall submit Final Drawings conformed to the approvals or comments

received within twenty (20) days to Landlord and American for prior written approval. Landlord shall promptly review such Final Drawings, and Landlord shall provide consolidated comments or approvals to Tenant within ten (10) days following receipt of the Final Drawings. In the event of disapproval, Tenant shall immediately revise the Final Drawings and promptly resubmit them for approval until such approval is obtained. Following approval of the Final Drawings, Tenant shall immediately prepare so that American can immediately file the Tenant Alteration Application as soon as possible thereafter (and in no event more than five (5) days thereafter) with the Authority pursuant to the Authority's Tenant Alteration Application Process ("**TAA Process**"). It is anticipated that the Authority will provide its comments, approval and/or disapproval no later than thirty (30) days after submission of the Alteration Application and to issue all required construction permits within such time period. Obtaining all approvals required by the Authority's Requirements is the sole responsibility of Tenant. The failure of Landlord to provide comments and/or approvals within the time periods set forth herein for Conceptual Plans and Final Drawings and/or the failure of the Authority to provide its comments, approval and/or disapproval and issue permits within thirty (30) days following the initial submission and ten (10) days following any subsequent submittal shall extend the Latest Rental Commencement Date on a day-for-day basis for each day so delayed; provided, however, no such extension shall be granted to Tenant unless the Conceptual Plans and Final Drawings are submitted substantially in accordance with all of the requirements of the Tenant Construction Review Manual, the Design Guidelines, **Exhibit D** and the Alteration Application. Tenant's failure to furnish or revise the Conceptual Plans and Final Drawings within the time frames and in the form required herein, or failure to perform any other obligation under this Section, shall constitute a material default by Tenant hereunder, which shall entitle Landlord to all remedies set forth in Article XIX. If Landlord reasonably determines that the parties are unable to agree upon the Conceptual Plans and/or the Final Drawings or if Tenant fails to timely provide the Preliminary Plans and Final Drawings, including any revisions required thereto within ten (10) days from the dates required, Landlord may terminate this Sublease upon twenty-four (24) hours written notice to Tenant, in which event this Sublease shall terminate on the date specified in such notice and thereafter neither party shall have any further obligations to the other party. No deviation from the Final Drawings, once approved pursuant to the TAA Process (and once so approved they are incorporated by reference herein), shall be made by Tenant without Landlord's, American's and the Authority's prior written consent. Approval of Conceptual Plans and Final Drawings by Landlord, American or the Authority shall not constitute any representation or warranty or the assumption of any responsibility or any liability by Landlord, American or the Authority for their accuracy, efficacy or sufficiency and Tenant shall be solely responsible for such items. Storefront barricades, reasonably acceptable to Landlord, attractively screening the Premises from view during construction shall be erected and maintained by Tenant at all times prior to Tenant's opening for business and shall be removed and properly disposed of by Tenant prior to such opening, all at Tenant's sole cost and expense. If Landlord originally erects such storefront barricades or if Tenant fails to construct, erect, maintain, remove and dispose any such storefront barricades, Tenant shall reimburse Landlord for all reasonable and actual costs incurred by Landlord in performing any of the same.

(c) Tenant expressly acknowledges that it is familiar with the TAA Process and its design and construction guidelines. Delays in obtaining Authority approvals in regard to these processes shall not be considered an excusable delay or Force Majeure (as defined in Section 27.04) except, and only to the extent, that the Authority fails to respond at all to a conforming Alteration Application for more than thirty (30) days after delivery of such initial application and for more than fifteen (15) days after delivery of any modification. In the latter case, the Latest Rental Commencement Date will be extended one (1) day for each day beyond the 30th day that the Authority has failed to respond to an Alteration Application. No work may commence until an Alteration Application has been approved by the Authority, pre-construction meetings, as scheduled and directed by the Authority, are concluded and the Authority has issued a construction permit, permitting the work to be performed, if applicable. Within one hundred twenty (120) days of the completion of construction, Tenant shall submit "as-built" drawings and

specifications of the construction work and installation of equipment and trade fixtures; and Tenant shall keep such drawings current showing therein any changes or modifications made during the Term. **Tenant shall also factor in any length of time required to obtain all security clearances, identification badges, pre-construction coordination meetings, permitted times in which construction activities shall be allowed in the Terminal and all other Authority Requirements in order to ensure that Tenant shall be open for business no later than the Latest Rental Commencement Date.**

(d) Tenant shall spend and invest, in a manner previously approved by Landlord and American, an amount not less than Two Hundred Dollars ($200.00) per square foot of the Floor Area in the Premises (as the minimum capital expenditure and investment) for the construction and installation of Fixed Improvements ("**Construction Cost**"), which sum shall be comprised of the types of any investments that qualify as Eligible Costs (as defined below).

(e) Within ninety (90) days following completion of the Fixed Improvements or any Refurbishments, Tenant's construction manager and/or architect shall duly execute and deliver to Landlord, as evidence of the completion of such work, a certificate to the effect that: (1) the design, construction, and equipping of the Fixed Improvements have been substantially completed in strict accordance with the Final Drawings and the time schedule to complete if not fully complete (which in no event shall exceed thirty (30) days); (2) all costs and expenses for labor, services, materials, and supplies used in designing, constructing, and equipping the Fixed Improvements for which payment is due have been paid in full (specifying, in reasonable detail, the Construction Cost expended in the completion of the Fixed Improvements which are to be applied toward the minimum investment requirement established in Section 5.01(d)) together with executed copies of all mechanics' lien waivers and/or releases or other lien waivers and/or releases on account of Tenant's Work, notarized and unconditional, in such reasonable form as Landlord shall have reasonably approved; (3) a certificate of occupancy, a consent to occupy or a permit to use or occupy, as applicable, and all other necessary licenses, permits and other required documents for operation of Premises affected by the Fixed Improvements have been issued by the appropriate governmental agency; and (4) final and complete set of "as-built" Final Drawings on the most recent version of AutoCad (which version shall not predate Version 12.0), duly certified by a registered architect or registered engineer licensed in the State of New York. Tenant shall not begin sales to the public until all the requirements regarding inspection and certification by Landlord, American and/or the Authority have been fulfilled pursuant to the TAA Process. If Tenant shall fail to provide any of the foregoing within such ninety (90) days for reasons which are within the control of Tenant or Tenant's contractor's or subcontractors' control, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Two Hundred Fifty Dollars ($250.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

(f) Within ninety (90) days following completion of the Fixed Improvements or any Refurbishments, Tenant shall duly execute and deliver to Landlord and American, as evidence of the cost of such work, a certificate issued by the chief executive officer, chief financial officer or equivalent representative of Tenant, detailing the Eligible Costs actually incurred in connection with the installation of the Fixed Improvements together with a Depreciation Schedule (as hereinafter defined) for each Fixed Improvement. Tenant shall provide to Landlord copies of invoices and canceled checks or other reasonable evidence of expenditures for labor and materials covering all Eligible Costs; and Landlord and American shall have the right to audit such records. If there is a discrepancy of five percent (5%) or more, Tenant shall pay, as Additional Rent, the cost of the audit. If Tenant shall fail to provide any of the

foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Five Hundred Dollars ($500.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

"**Eligible Costs**" means, with respect to any investment in Fixed Improvements or Refurbishments, the following: (1) directly contracted construction costs, (2) architectural and engineering fees, construction management fees and the cost to obtain the applicable permits, which amounts under this clause (2) shall not exceed fifteen percent (15%) of the contracted construction costs, unless otherwise approved by Landlord in writing, and (3) permanent fixtures, including any furniture and equipment and custom-built "trade fixtures" which constitute fixtures under applicable law, installed for direct use in the Premises. Notwithstanding the foregoing, Eligible Costs shall not include: (1) costs for Base Building Work incurred by Landlord or American, (2) costs in excess of one hundred thirty-five percent (135%) of the estimated costs for Fixed Improvements provided by Tenant in the letter of intent or proposal term sheet for this Sublease unless otherwise specifically approved by Landlord in writing, (3) any overhead, financing costs (e.g., loan origination fees or interest, legal fees or any non-construction-related costs), or (4) amounts paid to any Affiliate of Tenant. In addition, to qualify as Eligible Costs, disbursements must be supported by the certificate referenced in Section 5.01(e) and the documentary evidence of payment as described in this Section 5.01(f).

"**Depreciation Schedule**" means a schedule reflecting the monthly amortization of the Eligible Costs for Fixed Improvements, which schedule must be approved by Landlord and American and shall reflect amortization on a straight-line basis during the lesser period of either: (1) the useful life of such Fixed Improvement, calculated in accordance with "GAAP"; or (2) the length of time remaining in this Sublease from the date such Fixed Improvement is completed and begins to be depreciated. "**GAAP**" means generally accepted accounting principles in the United States of America, as set forth in the opinions and pronouncements of the American Institute of Certified Public Accountants' Accounting Principles Board and Financial Accounting Standards Board or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, to the extent such principles are applicable to the facts and circumstances on the date of determination. Any schedule submitted by Tenant for this purpose shall not be deemed a Depreciation Schedule until such schedule is approved by Landlord and American in writing, which approval shall not be unreasonably withheld, delayed or conditioned. If Landlord does not respond at all within ninety (90) days of the submission of a Depreciation Schedule, the schedule shall be deemed accepted and approved by Landlord.

Tenants who fail to properly and timely submit the certificates and documentary evidence of Eligible Costs and the Depreciation Schedule to Landlord and American for approval within one hundred eighty (180) days after the completion of the Fixed Improvements or Refurbishments shall forever waive and release Landlord and American for reimbursement of any portion of Tenant's Eligible Costs in the event of a relocation and/or early termination of this Sublease.

(g) Subject in all events to the Authority Lease and the Authority's lease with the City of New York, all alterations, additions, improvements and fixtures (including, without limitation, all floor, wall and/or ceiling coverings and any Tenant-installed heating and air conditioning equipment, but excluding Tenant's readily movable decorations, trade fixtures, furniture and office equipment) that are installed by any party in the Premises shall remain upon and be surrendered with the Premises and become the property of American, if permitted under the Authority Lease, or the City of New York, as the same or any part thereof is erected, constructed or installed; provided, that Tenant shall be permitted to remove its

logo and trademark from any such items.

(h) All contracts for the construction or installation of Fixed Improvements shall require: (1) that all contractors and subcontractors provide labor that can work in cooperation with other elements of labor employed or to be employed at the Airport; (2) insurance coverage and suretyship reasonably satisfactory to Landlord, the Authority and American for the protection of their employees, laborers, suppliers, contractors, subcontractors, agents, invitees and the public; (3) that all contractors and subcontractors comply with all provisions of this Sublease applicable to them; and (4) performance bonds and payment bonds from Tenant or Tenant's general contractor, in form and substance satisfactory to Landlord, each of which shall name Landlord, the Authority and American, as additional obligees and/or loss payees and which shall be in a sum equal to the amount of the applicable construction contracts. Tenant shall designate a qualified construction project manager (which may be Tenant's general contractor) with experience in projects of similar size and scope (**"Tenant's Project Manager"**) reasonably acceptable to Landlord to coordinate construction of the Fixed Improvements with Landlord pursuant to the Authority's TAA Process. Landlord reserves the right to require Tenant to provide its list of selected architects, interior designers and construction managers for prior written approval, which approval shall not be unreasonably withheld by Landlord.

(i) During the performance of Tenant's Work, the Premises shall, at Tenant's sole cost and expense, be kept free and clear of all trash and debris and shall be broom swept daily. No work which Tenant is permitted to do or which Tenant is obligated to perform pursuant to this Sublease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord, American or the Authority. Tenant has no authority, express or implied, to, and shall not, create, place or permit the placement of any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord, American or the Authority in the Concession Area, the Terminal or the Airport, or to assign or encumber either the Rentals or any other payment obligations for any claim in favor of any Person including, without limitation, those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will promptly pay or promptly cause to be paid all sums legally due and payable by Tenant on account of any labor performed or materials furnished in connection with any work performed in, under, on and upon the Premises, by or on behalf of Tenant. **Tenant will indemnify and hold Landlord, American, the Authority, the City of New York and the commissioners, employees, officers, agents and representatives of Landlord, American, the Authority and the City of New York harmless from any and all losses, costs and expenses of any asserted claims or liens against the respective rights, title and interests of Landlord, American, the Authority and the City of New York in the Airport, and any part thereof, or under the terms of this Sublease based on or arising out a breach of the covenants of this Section 5.01.** Tenant agrees to give Landlord immediate written notice of the placing of any lien or encumbrance against the Concession Area or the Terminal.

(j) Tenant's failure to complete the Fixed Improvements and install its Operating Equipment in a timely manner will result in damages that are difficult to ascertain in light of operations, scheduling and public service factors at the Terminal. **Therefore, if the Fixed Improvements are not completed and the Operating Equipment not installed for more then twenty (20) days following the Latest Rental Commencement Date, Tenant shall pay to Landlord as liquidated damages the sum of Five Hundred Dollars ($500.00) for each day that the Fixed Improvements are not completed and the Operating Equipment not installed beyond such time period.**

Section 5.02 **CONDITION OF PREMISES.** Except as otherwise specifically provided herein, Tenant hereby agrees that upon delivery of possession of the Premises to Tenant, Tenant shall accept such delivery of possession of the Premises in its then existing **"AS IS" "shell condition"** (as described in **Exhibit D**)and

Tenant acknowledges: (a) that Tenant shall have inspected the Premises and shall be fully aware of the condition of the Premises as of delivery of possession and the suitability thereof for Tenant's permitted use or the conduct of Tenant's business; (b) that Landlord shall have no obligation to improve or alter the Premises for the benefit of Tenant; (c) that, Tenant shall assume all risks in connection therewith without representation or warranty by Landlord, American or the Authority, express or implied, in fact or by law, on the part of Landlord, American and the Authority and without recourse to Landlord, American and the Authority. Tenant irrevocably waives any claim based upon or related to any such claimed representation by Landlord or any claimed representation by Landlord as to public traffic to be expected at the Premises or sales to be expected at the Premises. Tenant's taking possession of the Premises shall constitute Tenant's formal acceptance of the same and acknowledgment that the Premises are in the condition required hereunder. Tenant waives any right to rescind or terminate this Sublease, whether under Section 223-a of the New York Real Property Law or any successor statute of similar import then in force or otherwise, and further waives the right to recover any damages or obtain any other compensation from Landlord which may result from Landlord's failure to deliver possession of the Premises on the date set forth in the Data Sheet and/or in the condition provided herein.

Section 5.03 **ALTERATIONS AND REFURBISHMENTS TO THE PREMISES.** (a) In the event Tenant desires to make any future modifications to the Premises or the Fixed Improvements during the Term, Tenant shall not make such modifications without first obtaining the prior written consent of Landlord, American and the Authority, and otherwise complying with the terms and conditions outlined in this Article V for the initial Fixed Improvements.

(b) If the Term of this Sublease will exceed seven (7) years, whether under the original term or any extension thereof, Tenant agrees that by no later than seven (7) years after the date of beneficial occupancy of its Premises, Tenant will spend and invest as a mid-term reinvestment (in each case with the manner and source of such expenditure and investment being subject to the same procedures applicable to initial Fixed Improvements, including the prior approval of Landlord and American) a minimum of One Hundred Fifty Dollars ($150.00) per square foot for each food and beverage concession and Seventy-Five Dollars ($75.00) per square foot of each other type of concession (e.g., retail or service) for such Refurbishments or other upgrades to the Fixed Improvements. Tenant shall provide to Landlord and American such back-up data as Landlord and American may reasonably request to confirm that such Refurbishment and upgrade to the Fixed Improvements has been made.

ARTICLE VI. RESERVATION OF RIGHTS TO RELOCATE, CONTRACT, TERMINATE, SURRENDER AND WAIVER OF CLAIMS

Section 6.01 **RESERVATION OF RIGHTS.** (a) Tenant acknowledges that American has the right, at any time and from time to time during the Term, in the interest of the efficient operation of the Terminal, to close, move or alter any common corridor, passageway, walkway or common area, including, without limitation, entrances, exits, passages, halls, corridors, aisles, stairways, elevators and escalators, or to restrict or change the traffic on or through any such common corridor, passageway, walkway or common area, with due regard to not unreasonably restricting the use and occupancy of the Premises by Tenant. Tenant shall not have any claim against Landlord, American or the Authority for such action, nor shall such action by American release Tenant from any of its obligations under this Sublease, the Consent Agreement or any other agreement in connection herewith, except as expressly set forth in this Sublease.

(b) Landlord, American and the Authority, and their respective directors, officers, employees, agents, representatives, contractors, and furnishers of utilities and other services, have the right from time to time, at their own cost and expense, for their own benefit or for the benefit of others at the Terminal and/or Airport: (1) to construct and maintain existing and future utility and other systems throughout the

Premises; (2) to enter the Premises at all reasonable times and upon reasonable notice (provided no notice shall be required during any real or threatened emergency) to inspect any part of the Premises, Fixed Improvements and Operating Equipment and to make such repairs, replacements or alterations thereto as may, in the opinion of Landlord, American or the Authority, be necessary or advisable (and, if Tenant is otherwise obligated under this Sublease to perform such work and/or take such action, the cost thereof shall be due and payable by Tenant on demand, as Additional Rent, along with an additional charge in an amount equal to fifteen percent (15%) of the cost thereof); (3) to construct or install facilities over, in or under parts of the Premises otherwise not conveniently accessible; and (4) to install, operate, maintain, recover and repair the property used in connection with their respective rights to the Premises provided, in each case in the exercise of such rights of access, maintenance, repair, replacement, alteration or new construction, Landlord shall use reasonable efforts not to unreasonably interfere with the use and occupancy of the Premises by Tenant.

(c) In the event that any movable property of Tenant shall obstruct the access of Landlord, American and/or the Authority, their employees, agents and/or contractors to any of the existing or future utility, mechanical, electrical and/or other systems and thus shall interfere with the inspection, maintenance or repair of any such system, Tenant shall move such property, as directed by Landlord, American or the Authority, in order that access may be had to the system or part thereof for its inspection, maintenance and/or repair; and, if Tenant shall fail to so move such property after direction from Landlord, American or the Authority to do so, Landlord, American or the Authority may move it; and Tenant shall pay the cost of such moving upon demand. In the case of Fixed Improvements installed by or on behalf of Tenant that were approved by Landlord, American and/or the Authority, and thereafter are required to be moved for the reasons provided above, Landlord or American, at their cost, may move the same and, upon completion of the inspection, maintenance and/or repair; and, to the extent American is obligated pursuant to the Concession Area Lease, Landlord or American shall restore such permanent Fixed Improvements and repair any damage caused by such removal and restoration to the same condition as existed immediately prior to such removal.

(d) If as a result of the foregoing, Tenant is prevented from conducting its business or access to the Premises is materially impaired to the extent that Tenant is forced to close for business to the public for 4 or more complete and consecutive days due to any such construction or modifications, then only the portion of Tenant's Guaranteed Rent representing "**American's Allocated Share**" (as such term is defined in the Concession Area Lease) shall be abated for the period commencing on the date in which Tenant is forced to close its business within the Premises and shall continue until the date in which Tenant is able to resume its business in the Premises, provided Tenant shall immediately reopen on the date following the cessation of the construction or modifications.

Section 6.02 **RELOCATION, CONTRACTION OR TERMINATION.** (a) Tenant acknowledges that, pursuant to the Concession Area Lease, American may require Landlord to relocate or reduce the size of the Concession Area and American may exercise its rights by giving not less than one hundred twenty (120) days prior written notice to Landlord or at least as much notice as reasonably possible for reasons and timing which are not within American's control. If American shall exercise such right, Landlord shall have the right to relocate or reduce the size of the Premises, and, if relocated or reduced, the portion of the Premises eliminated shall cease to be leased to Tenant and shall no longer be subject to the terms of this Sublease, and, if relocated, the relocated space, shall automatically be subject to the terms of this Sublease. Pursuant to the Concession Area Lease, if American desires to relocate all or a portion of the Premises to other space within the Terminal, such relocated space shall be reasonably comparable to the Premises in terms of passenger traffic, size and potential for generation of Gross Receipts and any Base Building Work required to make the new space suitable for concession operations is the responsibility of American. If Tenant is unable to operate its business in the Premises as a result of

the exercise of any of such rights, Tenant's payment of Rentals shall be abated during the period which Tenant is unable to operate. Further, if the net contraction of the Premises exceeds ten percent (10%), and Tenant demonstrates that such contraction is having a material adverse impact on its Gross Receipts that is distinct from other conditions that may be adversely affecting Tenant's business operations, then, at Tenant's request, Landlord will engage in good faith negotiations with Tenant and grant to Tenant an equitable reduction of the Guaranteed Rent and/or corresponding adjustments to the applicable Percentage Rent Rates. Any such equitable reductions/adjustments are subject to American's and the Authority's approval, determined in their respective sole and absolute discretion.

(b) If Landlord desires to relocate Tenant to a substitute area as provided in Section 6.02(a), Tenant shall have the right, in its sole discretion, to terminate this Sublease within thirty (30) days after receipt of Landlord's relocation notice, provided, however, Landlord can negate Tenant's election to terminate within twenty (20) days after receipt of Tenant's termination notice by revoking Landlord's election to relocate the Premises and thereafter this Sublease shall continue to remain in full force and effect in accordance with its terms. If Tenant elects to so terminate this Sublease due to the proposed relocation of the Premises, this Sublease shall terminate on the effective date thereof as reasonably specified by Landlord and Tenant shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Tenant under this Sublease up to and including the effective date of such termination. **Under no circumstances shall Landlord or any other third party including American or the Authority have any obligation to Tenant, nor shall Tenant be entitled to any payment from either Landlord or any other third party including American and the Authority for Tenant's Eligible Costs (as defined below) or any other sums if Tenant so elects to terminate this Sublease.**

(c) If American exercises its right to cause a contraction or relocation of the Premises (not including carts and other temporary facilities) from one (1) location to another after Tenant has commenced construction of the Premises or the Premises have been opened for business: (1) the Concession Area Lease provides that American shall in the case of a relocation, reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days for reasonable and actual moving costs, and for reasonable and actual costs incurred to construct Fixed Improvements in the new space according to Final Drawings approved by Landlord and American; and (2) if Tenant does not relocate to other space or if this Sublease is terminated by American or the Authority without cause under Section 6.03 and Tenant, in either case, does not have any outstanding uncured material defaults under this Sublease beyond applicable notice and cure periods, the Concession Area Lease provides that American shall reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days after the effective date thereof, an amount equal to the then unamortized portion of Tenant's Eligible Costs (based upon the Depreciation Schedule previously submitted by Tenant and approved by Landlord and American) detailing such investment in Tenant's Fixed Improvements or Refurbishments, if applicable. Within twenty (20) days after request by Landlord, and in any event not later than the effective date of such contraction or termination, Tenant shall provide Landlord with its calculations in reasonable detail, together with appropriate back-up or confirmatory data, of the amount which Tenant claims to be due pursuant to this Section 6.02 based upon the approved Depreciation Schedule. **If Tenant fails to provide such information within the time frame provided herein, Tenant shall have forever waived its right to any such reimbursement from Landlord and American and forever released Landlord and American from any obligations under this Section 6.02.**

Section 6.03 **TERMINATION BY AMERICAN OR THE AUTHORITY.** (a) Tenant acknowledges that this Sublease may be terminated, without cause for any reason and at any time, by the Authority upon thirty (30) days notice by means of revocation of the Consent Agreement, or by American upon one

hundred eighty (180) days notice; and in neither event shall the Authority be responsible, directly or indirectly, for any portion of Tenant's investment (amortized or un-amortized) in, at or to the Premises. It is hereby acknowledged by Tenant that the Authority shall have no obligation or liability to Tenant with respect to such termination, including without limitation any reimbursements, credits, offsets or otherwise for investments in the Fixed Improvements. In such event, Tenant shall be reimbursed for the unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

(b) If Landlord's leasehold interest under the Concession Area Lease is terminated by either American or the Authority in accordance with their respective rights under the Concession Area Lease and Landlord's Operator Permit with the Authority, then, in such event, at the option of American determined in accordance with the applicable provisions of the Concession Area Lease: (1) this Sublease shall be assigned by Landlord to and assumed by American (or its designee) and this Sublease shall remain in full force and effect and Tenant shall not have any approval or rejection rights with respect to any such assignment/assumption and, in the event of such an assignment/assumption, Tenant shall attorn to American or its designee and recognize American or its designee as landlord for all purposes hereunder; or (2) this Sublease shall immediately terminate upon termination of the Concession Area Lease without direct recourse of any kind, except as specifically provided in this Section 6.03(b) below, against Landlord, American or the Authority and thereafter neither party shall have any further obligations or liabilities to the other party except for any accrued obligations or liabilities of Tenant, whether monetary or non-monetary, which have arisen prior to the effective date of such termination and have not yet been fully performed and/or paid by Tenant or which are expressly stated to survive the expiration or earlier termination of this Sublease. Within sixty (60) days following the date that Tenant shall have vacated and surrendered the Premises in the condition required under this Sublease, paid all Rentals and performed all of its other accrued obligations under this Sublease through the effective date of such termination, Tenant shall be reimbursed by Landlord for any unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

Section 6.04 SURRENDER OF PREMISES. Tenant shall quit and deliver peaceably to Landlord possession of the Premises, and Tenant shall release and not attempt to retain any interest in the Fixed Improvements and Refurbishments, on the date that the Term expires, whether by early termination, expiration, or otherwise. Prior to the expiration of the Term or earlier termination of this Sublease, Tenant shall, at its sole expense, remove signs and trade fixtures (other than trade fixtures and other property which it is otherwise prohibited from removing under the Authority Lease) from the Premises and shall surrender the Premises and appurtenances thereto in broom-clean and sightly condition and in good repair, except for reasonable wear and tear arising from use of the Premises to the extent permitted elsewhere in this Sublease. Tenant shall deliver to Landlord all keys to the Premises. Any personal property of the Tenant placed on or kept at the Premises as to which the letting pursuant to this Sublease has ceased shall be removed as soon as practical but in no event later than the expiration or earlier termination of this Sublease. If Tenant shall fail to so remove its personal property at the end of the Term or any earlier termination, Landlord may at its option, and at the risk and expense of the Tenant, remove such property to a public warehouse, or may retain the same in its own possession, and, in either event, after the expiration of thirty (30) days, may sell the same at public auction or, at Landlord's or American's discretion, the personal property will be deemed abandoned and ownership thereof will be vested in American; the proceeds of any such sale shall be applied first to the expenses of removal, sale and storage, second to any sums owed by Tenant to Landlord, American or the Authority; and any balance remaining shall be paid to the Tenant.

Section 6.05 WAIVER OF CLAIMS BY TENANT. **Tenant specifically acknowledges that the relocation, contraction and termination provisions are a material inducement to Landlord in entering into this Sublease with Tenant. Except as specifically provided in this Article VI, such**

termination and the removal and surrender obligations of Tenant, shall in no event give rise to any claims, causes of actions, suits, or damages that Tenant may have or rights to payment to Tenant by either Landlord, American or the Authority including, without limitation: (a) any and all awards in the nature of land damages under all applicable laws; and (b) any and all rights under the terms of this Sublease; and (c) incidental, consequential, special or severance damages as a result of Tenant's use and occupancy of the Premises. Tenant hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and claims for relocation and termination benefits under any Federal, state or local law, ordinance or regulation or otherwise.

ARTICLE VII. CONDUCT OF BUSINESS BY TENANT

Section 7.01 **PERMITTED USE.** Tenant shall use the Premises only for the purpose of conducting the business specifically set forth in the Data Sheet ("**Permitted Use**") and for no other use or purpose. Notwithstanding anything to the contrary contained herein, including Tenant's Permitted Use, if Landlord, American or the Authority reasonably determine that any item displayed, offered for sale or sold by Tenant is objectionable or inappropriate for display or sale at the Terminal, Tenant shall, upon delivery of Landlord's written notice to the Premises, immediately remove such item from display and its inventory (if the objectionable item and/or service displayed, offered for sale or sold shall be deemed to be potentially dangerous to the public or violate any security regulations, as determined by Landlord, American or the Authority from time to time, Tenant shall remove such potentially dangerous item and/or service or violation immediately upon verbal notice from Landlord) and Tenant shall not thereafter display, offer for sale or sell any such item or service. If Tenant shall fail to remove any such item from display or cease providing such service as may be required from time to time as provided herein, then Tenant shall pay as liquidated damages and not as a penalty the amount of Fifty Dollars ($50.00) per day for the first (1st) violation in any twelve (12) month period and the amount of One Hundred Dollars ($100.00) per day for the second (2nd) and any subsequent violations in any twelve (12) month period until such time as Tenant has complied. Further, Landlord shall be entitled to remove such item without any liability. This remedy shall be in addition to any and all other remedies provided in this Sublease or by law to Landlord, including, but not limited to the graduated fines listed in **Exhibit K**. Tenant represents and warrants to Landlord that it holds all certificates, meets all Authority Requirements, licenses and other entitlements required by federal, state and local, laws, rules and regulations in order to enable Tenant to conduct its operations and to engage in its Permitted Use and that such certificates, Authority Requirements, licenses or other entitlements are and shall be kept current, valid and complete at all times during the Term. Tenant shall submit any/or all of the foregoing for inspection by Landlord from time to time. Tenant, at Tenant's expense, shall at all times comply with the requirements of each such certificate, permit, license and other entitlement. Tenant shall not conduct or permit operations in the Premises that in the reasonable judgment of Landlord or American or the judgment of the Authority that (a) interfere or might interfere with the reasonable use by others of common facilities at the Terminal or the Airport, (b) hinder or might hinder police, firefighters or other emergency personnel in the discharge of their duties, (c) would or would be likely to constitute a hazardous condition at the Airport, (d) would increase the premium for insurance policies maintained by Landlord, American or the Authority, unless such operations are not otherwise prohibited hereunder and Tenant pays the increase in insurance premiums occasioned by such operations, (e) would involve any illegal purposes, or (f) are not in accordance with the commitment of Tenant to operate first-class concessions in the Concession Area. Prohibited uses which are expressly agreed to include all "**American Reserved Uses**" and "**Port Authority Reserved Uses**" as such terms are defined in the Concession Area Lease.

Section 7.02 **OPERATION OF BUSINESS.** (a) General. Tenant and its Operating Staff (as defined below) agree to actively and diligently conduct business at all times in a first-class, professional and business-like reputable manner, using best efforts so as to maximize revenues in accordance with best

industry practices and standards observed generally by first-class business enterprises of local, regional and national scope which operate at other major US airports, provide superior customer satisfaction and maintain at all times a complete stock of high-quality merchandise and products. Tenant agrees not to divert or allow or cause to be diverted any business from the Terminal and/or Airport. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements and Operating Equipment shall be maintained in good condition and repair. Tenant shall accept at least two (2) nationally recognized credit cards for payment, shall offer all of its customers shipping, delivery and gift wrap services (if appropriate for the type and size of merchandise or product being requested) at cost and shall provide, without charge, change making service at each cashier's location in the Premises, regardless of whether a purchase is made. At all times from and after the Rental Commencement Date, Tenant covenants that it shall continuously and uninterruptedly occupy and use the Premises for the Permitted Use and shall keep the Premises open for business during all required Terminal concession hours unless otherwise agreed to by Landlord and American or prevented by Force Majeure (as defined in Section 27.04). Tenant shall install and maintain at all times a display of non-perishable merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises. Tenant shall not permit the installation or operation of any coin or credit/debit-card operated vending machines or pay telephones in the Premises, including, but not limited to, the rental of cellular phones, facsimile machine services, other public communication devices, sales of entertainment event tickets, reservations for ground transportation, hotels or other lodging and the sale of pre-paid telephone calling cards without the prior written consent of the Authority. Tenant shall not sell or display any items except within the areas outlined in the Design Guidelines unless such sale or display shall be expressly approved on the Final Drawings or otherwise approved by Landlord, in writing and in accordance with the TAA Process except that Tenant shall be permitted to display merchandise in the display windows, if any. Tenant shall not use the areas adjacent to or outside the Premises for business purposes or any other purposes, including the display or sale of merchandise, products or services in any areas outside the Premises without Landlord's advance written approval, which approval may be withheld in Landlord's sole discretion. Tenant shall not store anything in service or exit corridors. All receiving and delivery of items for the Premises, and all removal of supplies, equipment, trash and debris and all storage of trash and debris from the Premises shall be made only by way of, or in, the areas provided therefor. No trash, trash containers, hand trucks, carts, racks or movable fixtures designed for the movement of products and/or trash within the Premises or to or from the Premises may be left unattended in the storefront, corridors or other public areas; nor may such items or devices in non-public areas be visible from public areas of either the Premises or the Terminal. Tenant shall be solely responsible for prompt disposal within the Premises, or in such areas as may be provided by Landlord, of all trash and debris from the Premises. Tenant shall not install any radio, television, communication dish or other similar device or related equipment exterior to the Premises except as otherwise specifically approved as part of Tenant's Final Drawings and TAA, shall not cause or make any penetration of the roof of the Premises or the building in which the Premises is located and shall not erect any aerial or antenna on the roof or exterior walls of any building within the Terminal without the prior written approval of Landlord, American and the Authority, determined in their discretion. Tenant shall not abandon or permanently vacate the Premises without the prior, advance written approval of Landlord. For the purposes of this Sublease "abandonment" shall mean closing the Premises to customers for two (2) or more consecutive days, unless such closing is permitted by other provisions of this Sublease. Notwithstanding the requirements set forth herein, Landlord shall have the right to make reasonable objections to the number or quality of staff used by Tenant, the prices for merchandise or products sold or services rendered, the number or quality of items sold, the character of the service offered to the public, responses to customer complaints and the appearance and condition of the Premises. Tenant agrees to take reasonable steps to promptly comply with Landlord's reasonable objections.

(b) Continuous Operations and Service Hours. Tenant agrees to be open for business during the hours of operation specified in the Data Sheet and such other hours as may be required hereunder and to continuously and uninterruptedly operate in all of the Premises during the entire Term. The Airport is open for business every day, three hundred sixty-five (365) days per year and is busy during non-traditional working and shopping hours. Accordingly, service hours shall include the hours the Terminal's concession program shall be open as directed by Landlord from time to time, including without limitation, the hours necessary to provide service for the earliest daily incoming and outgoing flights (including the provision of service to passengers who arrive in advance of same) and the latest daily incoming and outgoing flights, including non-scheduled activity by charter airlines as Landlord may notify Tenant verbally from time to time. To that end, Tenant shall open and operate its business in the Premises during hours directed by Landlord; provided that, if passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the opinion of Landlord or as Landlord is directed by American, the Terminal's concession program, including the Premises, shall be open at times not then scheduled. The following are the minimum operating hours: (1) for newsstand concessions, a minimum of sixteen (16) hours per day, each day of the year, with the opening for business each day at least one (1) hour prior to the first scheduled flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (2) for all food and beverage concessions, at a minimum, opening at 5:30 a.m. and closing at 10:00 p.m., each day of the year, or at least one (1) hour prior to the first flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (3) for duty-free and foreign currency exchange concessions, at a minimum, opening at 7:00 a.m. and closing at 10:00 p.m., each day of the year, or other hours necessary to service the earliest scheduled international flight departure and the latest scheduled international flight departure from the Terminal on the respective day, whichever constitutes the earlier opening and later closing; and (4) for all other concessions, 7:00 a.m. to 10:00 p.m., each day of the year. Landlord reserves the right to direct Tenant to change or adjust the service hours at any time, and Tenant agrees and covenants to adequately staff the Premises and be open for business during the hours directed by Landlord. In addition, in an emergency, as determined by Landlord or American, Tenant shall open or keep open the Premises upon two (2) hours prior verbal notice. Tenant expressly acknowledges the need for flexibility in the service hours from time to time. Any modifications to the required operating hours that may be requested from time to time by Tenant shall be subject to Landlord's prior written approval determined in its discretion. Tenant agrees to otherwise abide by all service hours of operation as set by Landlord. Tenant acknowledges that the concession program and its business operations are essential services at the Terminal and Tenant's failure to cause continuous operation of its business in the Premises will result in damages to Landlord, American and the Authority that are difficult to quantify in light of airport operational and customer service factors. Therefore, in addition to any other remedies set forth herein, including, but not limited to the graduated fines listed in **Exhibit K,** Tenant shall pay to Landlord as liquidated damages and not as a penalty, the amount One Hundred Dollars ($100.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the first (1st) violation in any twelve (12) month period, and the amount of Two Hundred Fifty Dollars ($250.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the second (2nd) and any subsequent violations in any twelve (12) month period. Failure by Tenant to be open for business and to operate shall entitle Landlord, in addition to other remedies provided in this Sublease or by law, including, but limited to, a mandatory injunctive relief if awarded by a court of competent jurisdiction.

(c) Staffing/Personnel. Tenant shall employ a full-time professional staff ("**Operating Staff**") at all times during the Term of sufficient size, expertise, ability, suitability, and experience in sales and customer service to carry out all of its obligations under this Sublease. Tenant shall maintain a sufficient number of Operating Staff on site at the Premises (including, without limitation, on-site sales, cashiers, management and supervisory personnel) to provide good, friendly, prompt and efficient service adequate to fully meet the demands of all customers at all times and shall furnish said service on a fair, equal and nondiscriminatory

basis to all users thereof and shall increase such number of Operating Staff, upon the reasonable request of Landlord, to provide outstanding customer service and satisfaction. All such personnel shall be knowledgeable, helpful to the public, courteous, efficient, neat in appearance and appropriately attired and shall not act in a loud, offensive or otherwise objectionable manner. Tenant's employees shall wear appropriate uniforms and name tags and security identification badges at all times. Tenant shall not employ at or about the Premises any person who shall use offensive language, makes persistent announcements of its merchandise and products and/or services over loud speakers or whose conduct is loud or offensive or otherwise detrimental to the best interests of the Terminal and/or Airport. Tenant's Operating Staff shall be available by telephone and such other communication device as Landlord may require during the operating hours. Tenant's Operating Staff and employees shall have sufficient knowledge of the Terminal and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

(d) Store Manager/Emergency Contact. In order to assure compliance with the terms, covenants and conditions of this Sublease, Tenant shall retain a qualified, competent manager suitably experienced to provide on-site management of Tenant's business on a full-time basis to manage all of Tenant's obligations and responsibilities under this Sublease ("**Store Manager**"). Tenant shall notify Landlord of the identity of its Store Manager and of any changes in such identity. Tenant shall assure that the Store Manager or his or her designee, is available on-site during all required operating hours and by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies. Tenant shall notify Landlord of the name and telephone number or such representatives and shall update such information as necessary. The Store Manager or his or her designee must be able to arrive by car at the Airport within two (2) hours of being called in an emergency situation.

(e) Customer Complaints. Tenant agrees that it will reasonably and promptly respond to all customer complaints regarding unsatisfactory service and/or unsatisfactory quality of merchandise, products and/or service, including all refunds as appropriately requested from time to time by any customer. In the event that Tenant receives any written complaint concerning its operations, Tenant shall within twenty-four (24) hours of receipt of such complaint by Tenant forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint. Tenant shall submit a copy of the response to complaint to Landlord upon issuance of said response. If Landlord receives a written complaint regarding Tenant, it shall forward a copy of the same and Tenant shall respond as set forth herein. Tenant shall provide copies of the complaints and answers to American and the Authority not less than one (1) time during any calendar month.

(f) Compliance with Laws. Tenant, at its expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations ("**Legal Requirements**"), applicable business licenses and requirements of Landlord, American, the Authority and all governmental authorities having jurisdiction over the Premises or the cleanliness, safety, occupancy and use of the same, whether or not any such law, ordinance, order, rule, regulation or requirement is foreseen or unforeseen, ordinary or extraordinary, necessitates changes or improvements (other than structural changes or structural improvements) and/or interferes with the use and/or enjoyment of the Premises. Tenant shall promptly correct any deficiencies reported by Landlord, American, or any other governmental authorities having the aforesaid jurisdiction. Tenant shall not do or permit anything to be done in or about the Premises, nor bring anything therein, which will in any way conflict with any such Legal Requirements or requirement affecting the occupancy or use of the Premises or the Terminal which has been or may hereafter be enacted or promulgated by

Landlord, American, the Authority or any governmental authorities, or in any way obstruct or interfere with the rights of others; nor shall Tenant use or allow the Premises to be used for any improper, immoral or objectionable purposes or do any act tending to injure the reputation of the Terminal and/or Airport. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive and unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord, American, and the Authority and in accordance with any and all Legal Requirements that may be promulgated from time to time by governmental agencies or authorities. All apparatus, utensils, devices, cooking equipment, machines and piping used by Tenant shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and/or serving of all food and/or beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. If Landlord or American does not contract for pest control service for all concessions in the Terminal, then Tenant, at its sole cost and expense, shall contract directly with a pest control service reasonably acceptable to Landlord at such reasonable intervals as Landlord may require.

(g) Street Pricing. Tenant shall not charge prices to its customers in excess of Street Prices (as hereinafter defined) and shall conspicuously display notices, in form and substance satisfactory Landlord in the Premises, to the effect that the Tenant adheres to the Authority's Street Prices policy. The term "**Street Prices**" means: (1) if Tenant conducts a similar business in off-airport location(s) in the Greater New York City – Northern New Jersey Metropolitan Area ("**Metro Area**"), the price regularly charged by Tenant for the same or similar item or service in those off-airport locations; (2) if Tenant does not conduct a similar business in off-airport location(s) in the Metro Area, the average price regularly charged in the Metro Area by similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar items or service; (3) if neither Tenant nor any other similar retailers sell a particular item or provide a similar service in the Metro Area, the price regularly charged by Tenant or similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar item or service in any other geographic area with a reasonable adjustment for any cost-of-living variance between such area and the Metro Area; and (4) if Tenant is in the business of selling duty-free goods, the price regularly charged by Tenant or other similar retailer (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar duty-free item or service at other major airports serving large urban areas in the northeast region of the United States, including, without limitation, the Airport. Tenant agrees to adjust its prices to ensure that they meet the Street Prices without any further notice or immediately upon written notice from Landlord if Tenant is not in compliance therewith. Prior to opening for business, Tenant agrees to supply to Landlord a detailed list of all merchandise, products and services to be offered at the Premises and the prices to be charged therefor. Tenant agrees to continue to provide this data on a quarterly basis throughout the Term hereof. Tenant shall, at all times, observe and comply with the pricing policy as set forth in **Exhibit E**. Further, for the benefit of the users of the Terminal, Landlord has the obligation to promote a "free market" competitive environment within the Terminal and, to the extent possible, Landlord may cluster concession operators with similar products and services in groups to help stimulate competition, provide superior service and competitive pricing.

(h) Coordination of Operational Matters with Landlord and Performance Standards. Tenant shall: (1) cooperate in the testing of pressure, water-flow, and other appropriate tests of the fire-extinguishing

system and apparatus located within the Premises (and elsewhere in the Concession Area to the extent Tenant's cooperation is required for such testing) from time to time and as often as reasonably required by Landlord, American or the Authority, and if requested by Landlord, furnish Landlord with copies of written reports of such tests; (2) keep in proper functioning-order all fire-fighting equipment in the Premises and at all times maintain in the Premises adequate stocks of fresh, suitable chemicals for use in such system and apparatus; and (3) notify Landlord prior to conducting such tests. Tenant agrees that, after it has taken delivery of the Premises, it will contact Landlord on all operational matters pertaining to its occupancy including but not limited to the following areas (1) hours of operation, (2) employee parking and security requirements, (3) customer inquiries and complaints, (4) facility maintenance issues, (5) utility services, and (6) staffing issues. To ensure that Tenant is in compliance with the quality of products, pricing and service standards set forth in this Section 7.02 and in the Service and Operating Performance Standards ("**Performance Standards**") attached hereto as **Exhibit K**, and that Landlord's, American's and the Authority's objectives are met, Landlord or an agent shall perform service audits, such as surprise shopper programs and inspections, of the conduct of Tenant's operation of its business in the Premises at any time during the Term of this Sublease. The results of such service audits performed on behalf of Landlord may be employed by Landlord to enforce Tenant's obligations under this Sublease. The Performance Standards address three (3) main categories of performance: product and service quality/price, customer service/personnel, and Premises cleanliness and maintenance (collectively, the "**Performance Categories**"), among other matters and includes a set of minimum performance standards ("**Minimum Performance Standards**") for each of the Performance Categories. Tenant acknowledges the desires of Landlord and American, as part of their obligation to ensure the highest level of public service, to provide the public and passengers with the level and quality of service as described herein. Pursuant to the Concession Area Lease, American may monitor, test or inspect the requirements imposed on tenants for applicable business operations standards at any time and to consult with Landlord to correct any deficiencies in standards required hereunder.

(j) Liquidated Damages and Fines. If Tenant fails to comply with any of the provisions of this Section 7.02 or any of the provisions of the Performance Standards, Tenant shall pay as liquidated damages and not as a penalty, or as a series of graduated fines on a daily basis for such failure in the correction of deficiencies of the Performance Standards, the amounts set forth in **Exhibit K** until such time as Tenant is in compliance with any such requirements. The liquidated damages and fines set forth in **Exhibit K**, are in addition to the liquidated damages for failure to provide continuous operations during all Terminal concession service hours as set forth in Section 7.02(b) above. This remedy shall be in addition to any and all other remedies provided herein or by law to Landlord. The provisions of this Section 7.02 shall survive the expiration or earlier termination of this Sublease.

(k) Tenant acknowledges that although it is subleasing the Premises directly from Landlord (1) American and the Authority control the Terminal, (2) the Authority controls the overall operations at the Airport, and (3) pursuant to the Authority Lease and the Concession Area Lease, as well as the Consent Agreement and state and federal laws and regulations, including the Authority's rules and regulations, American and the Authority have the right to regulate and control certain aspects of the operations at the Premises including but not limited to the matters listed in this Section 7.02. In the event any question or dispute arises as to the sale of any specific item or category of items in the Concession Area and whether such sale violates the Street Prices policy or does not comply with the Performance Standards, Tenant may submit a request in writing to Landlord and American asking that the matter be reviewed. American is obligated under the Concession Area Lease to render a decision in writing, after consultation with the Port Authority, within fifteen (15) days after such submission and such determination shall be considered final. Tenant shall, as of the date of the decision, immediately abide by and conform to the decision of American.

Section 7.03 **HAZARDOUS MATERIALS.** (a) As used herein, the term "**Toxic or Hazardous**

Materials" means hazardous or toxic chemicals or any supplies, materials and wastes containing hazardous or toxic chemicals or substances at levels or content which cause such materials to be classified as hazardous or toxic as then prescribed by the highest industry standards or as set from time to time by the United States Environmental Protection Agency ("**EPA**") or the United States Occupational Safety and Health Administration ("**OSHA**") or as defined under 29 CFR 1910 or 29 CFR 1925 or other applicable governmental laws, rules or regulations in any way applicable to Toxic or Hazardous Materials (collectively, "**Environmental Laws**"). Tenant shall never incorporate into, or dispose of, at, on or under the Terminal or elsewhere at the Premises or at the Airport, or any portion thereof, any Toxic or Hazardous Materials. Tenant agrees not to use at, place on, or store at the Premises or at the Airport any Toxic or Hazardous Materials, except for those Toxic or Hazardous Materials that are either (1) office supplies, or (2) cleaning materials that are generally considered to be a household cleaner and are purchased in a container not larger than one (1) gallon, and then only if: (i) all such Toxic or Hazardous Materials arising therefrom, are properly labeled and contained; (ii) all such Toxic or Hazardous Materials arising therefrom, are stored, handled, transported and disposed of in accordance with highest accepted industry standards and all Environmental Laws; and (iii) if a material safety data sheet or other reporting or registration document is required under applicable Environmental Laws to accompany the Toxic or Hazardous Materials, supplies or materials or wastes or to be filed with any federal, state or local authority, a copy of such current material safety data sheet or other reporting or registration document shall be provided to Landlord. If there is a spill or other discharge of a Toxic or Hazardous Materials in the Premises which spill or discharge is required to be reported to any federal, state or local authority by applicable Environmental Laws, Tenant shall immediately notify Landlord and American of the method, time and procedure for any clean-up and removal of such Toxic or Hazardous Materials; and Landlord and American shall have the right to require reasonable changes in such method, time or procedure (provided that such changes may not contradict applicable law). Tenant shall further notify Landlord and American if any such spill or other discharge, whether reportable or otherwise, would in any way endanger or pose a threat to any employees, Terminal maintenance or custodial personnel or the general public. In the event there is a spill or other discharge of any Toxic or Hazardous Materials outside the Premises, which spill or discharge is required to be reported to any federal, state or local authority by applicable laws, rules or regulations, and upon being so notified American is required under the Concession Area Lease to undertake to clean-up, remove and abate the condition at its cost initially, reserving the right to seek indemnification of its costs for failure of Tenant to abide by the requirements of this section. In the event Tenant fails to comply with this Section 7.03 in respect of any contamination within the Premises, or in the event of a contamination of any other part of the Terminal and/or Airport caused by Tenant, in addition to any other consequences thereof, Tenant shall pay or reimburse to Landlord and/or American, as the case may be, all of such party's costs for the removal, abatement and clean-up of the involved Toxic or Hazardous Materials. Similarly, if a contamination was caused by Landlord or American in the Premises, Landlord (or American as required under the Concession Area Lease), as the case may be, shall reimburse all costs incurred by Tenant for the removal, abatement and/or clean-up of the involved Toxic or Hazardous Materials.

(b) If a lien is filed against Tenant's leasehold interest, the Premises, the Terminal or the Airport relating to Tenant's violation of any Environmental Laws, then Tenant shall, within ten (10) days or such shorter period as may be required under any Environmental Laws, or such even shorter period as is prior to a governmental authority commencing steps to cause any of the foregoing to be sold pursuant to such lien, either: (1) immediately pay the claim and remove the lien; or (2) immediately furnish a cash deposit, bond or such other security as is satisfactory in all respects to Landlord and legally sufficient to effect a complete discharge of such lien.

(c) Landlord at its cost, reserves the right to conduct annually an environmental audit of the Premises and Tenant's operations, equipment, facilities and fixtures thereon. It shall be a material default and breach

hereunder if the resulting audit report reveals non-compliance or violations by Tenant of any Environmental Laws. American shall have the same rights as Landlord under this sub-section (c).

(d) Except with respect to Landlord's, American's or the Authority's direct violation of Environmental Laws (and, in such case, such exception only applies to the party that is in direct violation) Tenant hereby agrees to indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York), their respective Affiliates, parent corporations, subsidiaries, partners, management companies, and the agents, employees, officers, commissioners, directors and contractors of any and all of them from and against any and all losses, claims, demands, penalties, causes of action, fines, settlements, damages, costs and expenses of whatever kind or nature (including reasonable attorneys' and consultants' fees and expenses, investigation and laboratory fees and expenses, court costs and litigation expenses) arising directly or indirectly out of or in any way related to: (1) any default by Tenant of this Section 7.03; (2) any violation or failure to comply by Tenant with any of the Environmental Laws; (3) any personal injury (including death) or property damage as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (4) any litigation brought or threatened by any governmental authority as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (5) the presence of Toxic or Hazardous Materials at, above, in and/or the Premises; and (6) the use of Toxic or Hazardous Materials by Tenant. As used herein "costs and expenses" shall also include, in addition to those set forth above, costs associated with administrative and judicial proceedings, costs arising from any lien, costs of any remedial actions and business interruption resulting from any remediation, or any executive, administrative or judicial order. This indemnification shall constitute the personal recourse undertaking, obligation and liability of Tenant. The obligations set forth in this Section 7.03 shall survive the expiration or earlier termination of this Sublease.

ARTICLE VIII. USE OF TERMINAL, PUBLIC AREAS, LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE

Section 8.01 OPERATION AND MAINTENANCE OF TERMINAL. Tenant acknowledges that American is required to cause to be operated and maintained during the Term all public areas to the extent required in the Concession Area Lease and the Authority Lease. The manner in which such public areas and facilities are operated and maintained, and the expenditures therefor, are at American's sole discretion. Accordingly, the use of such public areas and facilities is subject to reasonable rules and regulations, including security directives as American, the Authority or authorized regulatory agencies may make from time to time.

Section 8.02 USE OF PUBLIC AREAS IN TERMINAL. The term "**public areas**" as used herein shall mean all improved areas within the Terminal which are not devoted to the exclusive use by any airline, tenant or other occupant occupying space in the Terminal including, without limitation, public transportation, loading and unloading facilities, pedestrian walkways and horizontal pedestrian movers, delivery areas, landscaped areas, community rooms, elevators, escalators, stairs and ramps, public restrooms and comfort stations, service areas, service and fire exit corridors, passageways and those areas adjacent to the Terminal containing parking facilities, if any. Tenant shall have as appurtenant to the Premises the right to the non-exclusive use in common with others of all public areas and facilities in the Terminal as designated as such by Landlord from time to time, and such reasonable access, during Tenant's normal

operating hours, to the Premises. Landlord, the Authority and American each shall have the right, but not the obligation, from time to time, to modify the public areas, remove portions of the public areas from common use, permit entertainment events, advertising displays, educational displays and other displays in the public areas and lease retail merchandising units or temporary pushcarts or carts ("**RMUs**"). If Landlord determines in its discretion to place RMUs in the public areas near the Premises, such placement shall not be within fifteen (15) feet of Tenant's storefront entrance and shall not materially interfere with ingress or egress to the Premises by the public. Tenant shall not be entitled to any credit for income earned by Landlord with respect to the public areas. Tenant and its employees shall not park their cars or any other vehicles in the parking facilities except in the areas specifically designated by Landlord for employee parking. There is no free parking at the Airport for Tenant or any of Tenant's employees, contractors or customers. Tenant and its agents, employees, contractors and subcontractors shall comply with the rules and regulations with respect to parking as the same may be amended or modified from time to time and will be subject to any enforcement action (including towing) pursued by the Authority's airport police without any notice thereof. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York and their employees, agents, and representatives from and against any and all claims of the employee and/or owner of any vehicle so towed.** Landlord, American or the Authority may at any time close any public areas to make repairs or changes, to prevent the acquisition of public rights in such area, to use areas for attendant or valet parking, and to do such other acts in and to the public areas as in its judgment may be desirable.

Section 8.03 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE.** (a) All deliveries of equipment, supplies, materials, inventory, merchandise or products required to support the operations of Tenant shall be made to the designated loading dock areas of the Terminal. American has developed food courts and public seating areas in various locations in the Terminal which are intended to benefit all Tenants, their patrons and the public. For purposes of this Sublease "**public seating areas**" means a non-exclusive, common public seating area for patrons of both retail and food service concession facilities and for the traveling public. All sanitation, cleaning, maintenance and trash removal services for such food courts and public seating areas shall be controlled by Landlord. Such responsibilities shall include, but not be limited to, cleaning including floors, trash removal, trash receptacles, food court trays (operating food court tray washing equipment and well as retrieval and distribution of food court trays to food court concession facilities), public seating area tables and chairs, related public seating area furniture and fixtures, if any, and repair, maintenance and/or replacement thereof. No deliveries of any items shall be made by any Person directly to the Premises without the prior written authorization of Landlord; and, if given by Landlord, Landlord shall have the right to revoke any such authorization at any time and for any reason. Tenant shall be advised by Landlord of all shipments for all items received at the loading dock area and Tenant shall be responsible, at its sole cost and expense, for promptly transporting all such items from the loading dock area to the Premises or to any related Storage Premises leased by Tenant. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of Landlord for such items which may include, but not limited to, the transporting of equipment, supplies, materials, inventory, merchandise or products in the Terminal, pest control extermination services, trash removal, refuse, recycling and compactor services, grease trap maintenance and cleaning (including waste grease removal) to the extent not required to be performed by Tenant, repair and maintenance of food courts and public seating areas furniture, fixtures and equipment maintenance and cleaning (including exhaust hood, duct and roof top maintenance and cleaning and exhaust hood fire suppression equipment inspection and maintenance to the extent not required to be performed by Tenant), all of which shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances including, but not limited to, FAA and TSA rules and regulations as well as all Airport rules and regulations promulgated from time to time by Landlord, American or the Authority. Tenant shall comply with all rules, regulations and directives of Landlord, American the Authority, the FAA, the TSA or any other federal or state agency of competent jurisdiction with respect to deliveries which may include, but not be limited to: (1) restrictions

on delivery times (days and hours) and the time in which any vehicle may remain in the loading dock areas; (2) methods of delivering equipment, supplies, materials, inventory, merchandise or products from the loading dock areas to the Premises such as rolling carts, wheels, pallet or plastic wrap requirements; (3) delivery escort guidelines, badging, background checks, rules, instructions and training if so required which must be complied with by Tenant and all transportation companies and vendors delivering any such items to the loading dock areas; and (4) security screening of equipment, supplies, materials, inventory, merchandise or products. Landlord, American and the Authority may deny access or require any vehicle to be removed for failure to follow any such rules, regulations, directives and guidelines that may be established by Landlord, the Authority or applicable governmental agencies from time to time. The foregoing is in addition to the requirements of Section 27.24.

(b) Tenant shall have the non-exclusive use, in common with other tenants and users of the Terminal, to the loading dock areas as provided in this Section 8.03 and to the food courts, public seating areas and other designated common areas of the Concession Area subject to the control and management thereof at all times by Landlord, provided that Landlord and American, at their sole cost, each reserves the right to make any changes which they deem appropriate to the loading dock areas and the food courts, public seating areas and other designated common areas of the Concession Area, including relocating and/or eliminating all or any part thereof to assure public safety and convenience or to assure efficient operation of the Concession Area or the Terminal.

(c) Pursuant to the Concession Area Lease, (1) American is generally responsible for all structural maintenance, repair and/or replacement of the Base Building Work in the Concession Area and the Terminal, and (2) Landlord is otherwise generally responsible for the maintenance, upkeep and repair of the Concession Area to the extent not the obligation of the tenants of the Concession Area.

Section 8.04 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE FEE.** (a) Tenant and all of Landlord's other subtenants, shall use and share the prorated cost of common logistical support and common operation maintenance service providers provided by various independent contractors selected and contracted with in the sole discretion of Landlord. Tenant shall pay to Landlord, as Additional Rent, a fee (the "**Logistical Support and Maintenance Fee**") equal to Tenant's proportionate share (as described in Section 8.04(b) below) of Landlord's actual and commercially reasonable out-of-pocket costs and expenses incurred in order to manage the loading dock areas and maintain and service the food courts, public seating areas and other designated common areas of the Concession Area ("**Operating Costs and Expenses**"). These expenses include, without limitation: all costs and expenses of every kind and nature, foreseeable or unforeseeable, paid or incurred by Landlord for any service providers with respect to the food courts, public seating areas, purchase of tray wash equipment; floor cleaning (sweeping and mopping) and storefront cleaning services and cleaning of food court amenities, furnishings and equipment; food tray retrieval, washing and distribution; management of the loading dock areas for Tenant deliveries and distribution and delivery vehicle escort services; trash removal; repair and replacement of tray wash equipment and food court chairs, tables, and food trays. By way of example, Operating Costs and Expenses shall include, but not be limited to, the full cost of all labor costs (including both on-site and independent third party off-site supervisory personnel) as well as the cost of uniforms and identification badges for all such personnel employed to: (1) provide centralized trash, refuse and recycling material removal services in the Terminal for all concession facilities, and in loading dock areas and storefront façade cleaning services for all concession facilities; (2) manage, operate, maintain, repair, clean and replace the loading dock areas and equipment and the areas surrounding the trash dumpsters; (3) operate the vehicle escort delivery service across the airfield and to maintain, repair and/or replace the escort delivery service equipment; (4) assist in the delivery of equipment, supplies, goods, inventory, merchandise and products (which may need to include a central commissary system); (5) to the extent not otherwise charged directly to subtenants, provide security screening services for equipment, supplies, goods, inventory, merchandise and

products; (6) operate, maintain and clean the food courts and public seating areas, cleaning and maintenance of the grease trap system, waste grease removal, cleaning and maintenance of exhaust hood, duct and roof top systems and inspection and maintenance of exhaust hood fire suppression equipment; (7) provide pest extermination services for all concession facilities; (8) the cost of all supplies and equipment utilized to clean the food courts and public seating areas; (9) cost of all trash removal receptacles and equipment for the food courts and public seating areas; (10) the cost to purchase, maintain, repair and/or replace all public seating areas tables, chairs, trash removal receptacles and equipment, furniture and fixtures; (11) the cost to purchase, clean, maintain, repair and/or replace the food trays used by patrons and to operate, maintain, repair and/or replace the food tray washing facilities and equipment; (12) any and all other direct costs and expenses which Landlord deems reasonably necessary or desirable in order to properly maintain and provide such services described herein in an efficient and acceptable manner. The preceding is for definitional purposes only and shall not impose any obligation upon Landlord to incur such expenses or provide such services. Tenant shall comply in all respects with such procedures and the policies established by Landlord with respect to common logistical support and common operation maintenance services.

(b) The proportionate share to be paid by Tenant shall be that portion of Operating Costs and Expenses which the Floor Area in the Premises bears to the total Floor Area in the Concession Area which has been leased to subtenants who are in occupancy and contributing to the Logistical Support and Maintenance Fee; provided, however, any Floor Area in the Concession Area which is excluded from the foregoing calculation shall not exceed twenty percent (20%) of the gross leaseable Floor Area of all concession facilities in the Concession Area but such restriction shall not be applicable until Landlord has completed the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Tenant's proportionate share shall only include those items passed through by Landlord for specialty retail uses and shall not include any such items applicable only to food and beverage uses or with respect to any public food court areas. Annual increases in Tenant's proportionate share shall not exceed fifteen percent (15%) other than extraordinary costs imposed by local, state or federal regulations or as may otherwise be requested by Tenant from time to time as compared to the immediately preceding Lease Year following completion of the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Tenant's proportionate share of Operating Costs and Expenses for the first partial Lease Year (2007 calendar year) is estimated to be in the amount of $9.00 per square foot of Floor Area in the Premises calculated on an annual basis and pro-rated for the number of days in such first partial Lease Year.

(c) The Logistical Support and Maintenance Fee following the Rental Commencement Date shall be paid to Landlord as Additional Rent in equal, consecutive monthly installments on or before the first (1st) day of each calendar month, in advance, in an amount estimated by Landlord from time to time. All sums not received within five (5) days after written notice from Landlord shall be delinquent and shall be a default as defined in Article XIX. Subsequent to the end of each Lease Year, Landlord shall furnish Tenant with a detailed statement of Tenant's proportionate share of such Operating Costs and Expenses for such period showing the general method of computing such proportionate share. Tenant shall not have any inspection or audit rights of any of Landlord's books and records pertaining to Operating Costs and Expenses and the Logistical Support and Maintenance Fee. Tenant hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on Landlord's statement, Tenant shall pay the difference between the amount paid and the actual amount due within thirty (30) days after the furnishing of each such statement. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Tenant to Landlord for Operating Costs and Expenses under this Sublease. If at the end of the Term of this Sublease, the total amount paid by Tenant under this Section 8.04 for such final Lease Year shall exceed the actual amount due for such final Lease

Year, such excess shall be refunded to Tenant within sixty (60) days after Tenant has vacated the Premises in the condition required at the conclusion of this Sublease and after all Rentals and other sums due Landlord from Tenant under this Sublease have been paid in full; or Landlord shall be entitled to deduct any such remaining sums due from any such excess. Landlord may estimate the annual budget and charge the same to Tenant on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Operating Costs and Expenses for the Logistical Support and Maintenance Fee.

(d) If Tenant suffers damages to equipment, materials, supplies, inventory, merchandise and products or any injuries to persons as a result of the activities of the various independent contractor service providers, Tenant shall only look to the independent contractor service provider who caused such damage or injuries for any recovery. Landlord, American and the Authority (including their members, shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits arising out of or relating to the activities of the various service providers, except to the extent that any such damage is due solely to the negligence or willful misconduct of Landlord or the gross negligence or willful misconduct of American.

ARTICLE IX. SIGNS

Section 9.01 **TENANT'S SIGNS.** The design, construction, location, use and maintenance of Tenant's signs (whether blade or band signs) are subject to the provisions of the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall affix a sign to the exterior surface of the storefront of the Premises subject to the advance approval of Landlord, American and the Authority in compliance with the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall pay all costs of fabricating, constructing, operating and maintaining such exterior storefront sign(s). Tenant shall keep said sign(s) well lit during such hours as Landlord shall designate and shall maintain said sign(s) in good condition and repair during the entire Term hereof. Said sign(s) shall conform to the criteria for signs contained in the Tenant Construction Review Manual, the Design Guidelines; and the size, content, design and location thereof shall be subject to the prior written approval of Landlord, American and the Authority pursuant to the TAA Process. Except as hereinabove mentioned, Tenant shall not place or cause to be placed, erected or maintained on any exterior door, wall, window or the roof of the Premises, or on the interior or exterior surface of the glass of any window or door of the Premises, or on any sidewalk or other location outside the Premises, or within any display window space in the Premises, or within one (1) foot of the front of the storefront leaseline, whether or not there is display window space in the Premises, or within any entrance to the Premises, any sign (flashing, moving, hanging, handwritten, or otherwise), decal, placard, decoration, flashing, moving or hanging lights, lettering, or any other advertising matter of any kind or description; provided, that subject to the prior written approval of Landlord with respect to design and placement, Tenant may place decals relating to charge cards accepted and alarm system used for safety purposes on glass storefronts where warranted. No symbol, design, name, mark or insignia adopted by either Landlord, American or the Authority for the Terminal or the Airport shall be used without their prior written consent. Notwithstanding the foregoing, if Landlord or American, in their reasonable business judgment, determines that any such materials are unacceptable, improper or inappropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter without any liability. Tenant, upon obtaining Landlord's prior consent not to be unreasonably withheld, may utilize its customary interior signs, placards and decorations provided they are professionally prepared and in good taste and are utilized in a manner substantially similar to the manner which Tenant employs in its first-class stores located in large, urban airports and regional shopping centers in the United States, and, further, so long as the same comply with American's and the

Authority's requirements and the Authority's TAA Process. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.01 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Fifty Dollars ($150.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

Section 9.02 **TENANT'S INTERIOR ADVERTISING AND DISPLAY WINDOWS.** Tenant acknowledges and agrees that the condition and appearance of its interior advertising and display windows facing into or in any manner visible from the Terminal property including exterior glass windows (if any) is important to Landlord, American and the Authority. If Tenant installs such interior advertising displays or window displays or any signs in the window display facing into or in any manner visible from the public areas of the Terminal which any of Landlord, American or the Authority reasonably determines to be objectionable to the general character and appearance of the Terminal, Tenant agrees to remove the stanchions, window display and/or signs within forty-eight (48) hours after notice. If Tenant fails or refuses to remove such advertising, window displays or signs, Tenant hereby grants Landlord the right to remove the objectionable advertising, displays or signs at Tenant's expense. Tenant agrees that its interior advertising displays and window displays will be designed and printed in a professional manner and will contain only first class products. Tenant shall not display any advertising, promotional or informational pamphlets, circulars, brochures or similar materials outside the Premises without the prior written consent of Landlord and American. No temporary signs or displays will be used by Tenant including any employment opportunity signs, except for temporary holiday decorations, which shall also be designed and printed in a professional manner. Notwithstanding the foregoing, if Landlord or American determine that any such materials are not appropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter, at Tenant's expense. At a minimum, Tenant shall refresh and change the interior advertising items and signs in the display windows on a quarterly basis during each Lease Year. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.02 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Fifty Dollars ($150.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

ARTICLE X. MAINTENANCE AND REPAIRS

Section 10.01 **TENANT'S OBLIGATIONS FOR MAINTENANCE.** (a) Except for American's obligations pursuant to the Authority Lease and the Concession Area Lease for structural maintenance, repair and/or replacement of the Base Building Work in the Premises, Tenant, at Tenant's sole cost and expense, shall keep and maintain in a first-class appearance, in a "like new" condition equal to or better than that which existed when Tenant initially opened the Premises for business, reasonable wear and tear excepted, and in a safe, clean, neat, sanitary and lawful order, good condition and repair (including replacement of parts and equipment, if necessary), the Premises and every part thereof and any and all appurtenances thereto wherever located, including, without limitation, surfaces of all walls, windows and window casings and sills (both interior and exterior), the interior and exterior portion of all doors, door frames and door checks, other entrances, plate glass (except outside surfaces of windows, window casings and sills located on the exterior of the Terminal building, if any), storefronts, wall coverings, floor coverings, ceilings, relamping and/or replacement of light fixtures, trade fixtures, Fixed Improvements, Operating Equipment, HVAC (as defined in Section 12.01(d)) and electrical and other utility systems and utility branch lines exclusively serving the Premises (whether or not located within the Premises), sprinkler systems and sprinkler heads exclusively serving the Premises (whether or not located within the Premises), and all other repairs, replacements, renewals, restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen that relate to all work by or on behalf of Tenant pursuant to Article V, **Exhibit D**

and the Design Guidelines. For the purposes of this Article, the installation, maintenance, repair and replacement of a sprinkler system, fire alarm system, communication system or any repairs or work involving asbestos or other hazardous materials or involving compliance with Local Laws #5 of 1973, #16 of 1984, #58 of 1987 and the Americans With Disabilities Act and any successor laws of like import shall be deemed to (a) be non-structural maintenance, repairs and/or replacements, and (b) not involve the Base Building Work.

(b) Tenant's maintenance and repair of the Premises is an obligation which runs directly to Landlord, American and the Authority and includes all of the following duties:

(1) Tenant, at its own expense, shall install and maintain fire extinguishers, fire hoses and other fire protection devices as may be required by Landlord, American, the Authority, the applicable fire marshall official, any agency having jurisdiction over the Premises or by the insurance underwriter insuring the Terminal.

(2) Tenant shall obtain Landlord's prior written approval of the materials used in any plate glass or window glass installation, repair or replacement and of the contractor performing any such repair or replacement (the foregoing is subject to Landlord's sole discretion).

(3) Tenant, at all times and at its sole cost and expense, shall use the Premises with care. Maintenance, repairs and replacements shall be accomplished as necessary to maintain the Fixed Improvements and Operating Equipment and trade fixtures in a first-class "like-new" condition. Tenant shall repaint, retile, recarpet or replace wall coverings, floor coverings and ceiling coverings as reasonably necessary; and high traffic areas shall be repainted, retiled, recarpeted on a regular basis or as otherwise reasonably directed by Landlord to maintain a high quality, first-class appearance; and all furniture and furnishings that become worn or torn shall be promptly replaced.

(4) Tenant, at its own expense, shall provide complete and adequate arrangements for the sanitary handling and disposal of all trash, garbage, recycling materials and other refuse generated in the Premises, including suitable receptacles situated in locations determined by Landlord. Such shall be removed at times and in a manner which will cause minimum interference with the use of the Terminal by the public and other authorized persons. Tenant shall be required to participate in American's recycling program, if any, as appropriate. Tenant shall also furnish, at its own expense, custodial services for the Premises. The piling of boxes, cartons, containers or other similar items in the public areas or in the Premises is not permitted.

(5) With respect to utility systems and lines servicing the Premises, (a) in areas where such utility systems and lines serve other areas in the Terminal in addition to the Premises, Tenant, at its own expense, shall only be responsible for the maintenance of the utility branch systems and utility branch lines located within or exclusively serving the Premises, (b) where utility systems and lines are installed by Tenant and solely for its use, Tenant shall have the sole responsibility, at its own expense, for the maintenance, repair and replacement thereof from the Premises up to the American-maintained main utility systems or lines or to the shut-off valves located in the Terminal, as appropriate, (c) Tenant shall have sole responsibility, at its own expense, for the maintenance, repair and replacement, as necessary, of all electrical, telephone, data transmission and other communication cables, conduits, wiring, fire alarm systems and protection devices, wiring panels and associated equipment located within or exclusively serving the Premises. American reserves the right to maintain, repair or replace any such utility systems and lines.

(6) Tenant shall prepare a comprehensive preventive maintenance program for all equipment and lines for which it is responsible to maintain and submit the same to Landlord and shall maintain such program on a current basis. Tenant shall report all malfunctions to all systems, lines, devices and equipment installed or located within the Premises to Landlord as promptly as possible after discovery and shall

provide timely notice to Landlord as required by this Sublease with respect to maintenance issues.

(7) All repairs, replacements and maintenance by Tenant hereunder shall comply with all of the applicable provisions of the TAA Process, as the same may be amended from time to time by the Authority in their sole discretion, shall be performed in accordance therewith and with the applicable provisions of the Design Guidelines and shall be subject to the Landlord's prior written approval, such approval to be determined in Landlord's sole discretion. All such maintenance, repairs and replacements shall be of a quality equal to the original in materials and workmanship; Landlord shall have the right to disapprove any improvements, replacements or alterations which, in its judgment, are of a design, quality, condition or in any color or in any other way deemed to be inconsistent with the Design Guidelines, the TAA Process or the general character and design of the Terminal.

(8) Landlord, American and the Authority each reserves the right to interrupt temporarily the heating, air conditioning, plumbing, fire sprinkler, electrical services and any and all other utility services when necessary to make repairs, alterations, replacements or improvements thereto; and no such party shall have any responsibility or liability to Tenant (including consequential damages and lost profits) for failure to supply heat, air conditioning, any other utilities or plumbing or, when prevented from doing so by laws, orders or regulations of any federal, state or local agency or as a result of strikes, accidents, force majeure or by any other cause whatsoever beyond their control. Landlord shall provide Tenant with as much advance notice as reasonably possible and under the circumstances shall use reasonable efforts to avoid interrupting Tenant's business operations except as deemed necessary by Landlord, American or the Authority.

(c) In no event shall Landlord be liable for consequential damages or Tenant's lost profits claimed to be caused by any failure of maintenance or repair. If Tenant does not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then Landlord, American or the Authority, in addition to any other remedy which may be available to them, may enter the Premises and perform such maintenance or repair, as they determine, in their sole and absolute discretion, is required. **Tenant shall indemnify and save harmless Landlord, American, the Authority and the City of New York from all injury, loss or damage to any Person or property occasioned by Landlord's, American's or the Authority's completion of such maintenance or repair, except to the extent such loss or damage is solely the result of the gross negligence or willful misconduct of Landlord, American, or their respective employees, agents or contractors.** Tenant shall reimburse Landlord for any and all reasonable costs incurred in completing such maintenance or repair (including without limitation an administrative fee equal to fifteen percent (15%) of such costs), together with Late Interest from the date Landlord, American or the Authority incurred such costs. Landlord, without prior notice to Tenant, may enter the Premises and make inspections as often as it considers necessary, to determine the proper maintenance of the Premises by Tenant. The provisions of this Section 10.01 shall survive the expiration or earlier termination of this Sublease.

ARTICLE XI. INSURANCE AND INDEMNITY

Section 11.01 TENANT'S INSURANCE. (a) Tenant, at its sole cost and expense, shall, during the entire Term hereof, procure and maintain the following insurance in not less than the following amounts: (1) commercial general liability insurance with respect to the Premises and the operations in, on or about the Premises, in which the combined limits shall be not less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, insuring for bodily injury, death and property damage and including, without limitation, premises operations, products-completed operations, explosion, collapse, underground property damage and independent contractors coverage, with such commercial general liability insurance containing a contractual liability endorsement covering the obligations assumed by

Tenant under Sections 7.03, 11.03 and all other of Tenant's indemnification obligations under this Sublease, such insurance not to contain any care, custody or control exclusions which would conflict with or in any way impair coverage under the contractual liability endorsement and business automobile liability insurance covering all owned, hired and non-owned vehicles, in which the limits for landside vehicle/mobile equipment operation shall be not less than Two Million Dollars ($2,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage and in which the limits for airside vehicle/mobile equipment operation, if applicable, shall be not less than Twenty-Five Million Dollars ($25,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage; (2) all risk property insurance, including plate glass coverage, against fire, extended coverage, vandalism, malicious mischief, water damage, which does not exclude backup from sewers or drains or sprinkler leakage, and such other additional perils including flood as now are or hereafter may be included in a standard extended coverage "ISO Special Form" policy or its equivalent from time to time in general use in the county in which the Terminal is located, insuring Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property of Tenant located on or in the Premises or the Terminal in an amount equal to the full replacement cost thereof; (3) statutory workers' compensation coverage as required by the State of New York from time to time and including Employer's Liability Insurance in the amount of One Million Dollars ($1,000,000.00) for each accident, One Million Dollars ($1,000,000.00) for each employee, by disease, One Million Dollars ($1,000,000.00) policy aggregate by disease; (4) builder's risk (ALL RISK) insurance covering construction and installation of the Fixed Improvements and Refurbishments and Operating Equipment during the performance thereof, including, without limitation material delivered to the site but not attached to the realty as more particularly described in **Exhibit D**, naming Landlord, American, the Authority, the City of New York, Tenant and their respective contractors and subcontractors as additional insureds or as loss payees (as applicable to the type of insurance provided) and provide that the loss shall be adjusted with and payable to Tenant and used for the repair, restoration or rebuilding of the Fixed Improvements and Refurbishments and Operating Equipment, as necessary; (5) business interruption insurance in amounts at least sufficient to cover, and applicable to, all Rentals, fees, charges and other payments that are payable by Tenant to Landlord under this Sublease for a period of not less than twelve (12) months for any business interruption losses in business revenue that occur when the Premises or any portion thereof is unusable or is out of operations due to fire or any other risks or hazards that are normally covered under a standard form of "ISO Special Form" policy or its equivalent or for any other reason; (6) the insurance required under the Authority's TAA Process; (7) such other insurance as may be required by Landlord, American or the Authority from time to time after suitable notice thereof based upon circumstances in the Terminal and imposed upon other concession operators in the Terminal; and (8) if the Permitted Use permits the sale of alcoholic beverages, Tenant shall also procure and keep in force liquor law liability insurance (on an occurrence basis), in which the limits shall not be less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, which shall insure against all claims, demands and actions for injury to, and/or death to, one (1) or more persons in one (1) or more accidents, and for property damage, as well as for damages due to time loss and means of support; so that at all times Landlord, American and the Authority will be fully and completely protected against any claims that may arise by the dispensing of beer, wine and/or other spirited or alcoholic beverages in the Premises; provided, however, that Landlord and Tenant acknowledge and agree that commercially available liquor law liability insurance coverage contains specific exclusions. **Tenant agrees to indemnify and hold harmless Landlord, American, the Authority and the City of New York, their respective Affiliates, parent corporations, subsidiaries, directors, officers, partners, shareholders, representatives, members, management companies, agents and employees, from and against any loss or claim arising under such exclusions.** Notwithstanding the foregoing, Tenant specifically understands and agrees that Landlord and American have the right, on their own initiative or as requested by the Authority, to require Tenant to make reasonable additions, deletions, amendments or modifications to the above minimum insurance requirements or may require such other and additional insurance, in such

reasonable amounts, against such other insurable hazards, as American may deem reasonably necessary or as the Authority may deem necessary. Landlord will not increase the above-required coverage amounts or limits in excess of five percent (5%) in any Lease Year during the Term, unless such increase is required for reasons beyond Landlord's control, and Tenant shall so adjust the amounts or limits of the insurance carried by Tenant hereunder and shall provide Landlord with Certificates indicating the adjusted amounts or limits as provided in this Section 11.01. All policies of insurance required to be carried by Tenant pursuant to this Sublease shall be written by insurance companies of adequate financial capacity (having a A.M. Best's rating and Financial Size Category of not less than A-VII or better) and qualified to do business in the State of New York. Any such insurance required of Tenant hereunder may be furnished by Tenant under any blanket policy carried by it, with any amendments or endorsements that may be necessary to conform to the requirements of this Article XI or under a new or separate policy therefor. An insurance certificate or certificates (and endorsements where same become necessary) from Tenant's insurer, certifying that such policy has been issued, provides the coverage required by this Section 11.01 and contains all of the provisions specified in this Section 11.01 (including, without limitation, naming of additional insured and/or loss payee entities as required by Section 11.01(b) below), shall be delivered to Landlord prior to the commencement of the Term hereof, and certificates in connection with all renewals (if any), not less than thirty (30) days prior to the expiration of the term of each such policy. In addition, if requested by American, Tenant shall promptly deliver to Landlord a certified copy of each policy bearing the endorsement of or accompanied by evidence of payment of the premium thereof. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant and certificates delivered to Landlord prior to any such expiration or termination.

(b) Each policy evidencing insurance required to be carried by Tenant pursuant to this Section 11.01 shall contain the following clauses and provisions: (1) a provision that such policy and the coverage evidenced thereby shall be primary and noncontributing with respect to any policies carried by Landlord, American or the Authority and that any coverage carried by Landlord, American or the Authority be excess insurance; (2) except for workers' compensation and employers' liability coverage, a provision including the parties set forth on **Exhibit F** and any other parties designated in writing by Landlord from time to time as additional insured and/or loss payee entities, as applicable; (3) a waiver by the insurer of any right to subrogation against Landlord, American and the Authority and other additional insured and/or loss payee entities, their respective agents, commissioners, directors, employees, insurance carriers, officers and representatives which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, American or the Authority, their respective agents, commissioners, directors, employees, insurance carriers, officers or representatives; (4) a severability of interest clause or endorsement; (5) a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving Landlord, American and the Authority at least thirty (30) days prior written notice; (6) a provision that such policy is an occurrence-form policy; and (7) a provision or endorsement that the insurer shall not, without obtaining the express advance written permission from the Authority's General Counsel, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Authority, the immunity of the Authority, its commissioners, officers, agents and employees, the governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority. Such liability policies shall also provide or contain an endorsement providing that the protections afforded Tenant thereunder with respect to any claims or actions against Landlord by a third Person shall pertain and apply with like effect with respect to any claim or action against Tenant by Landlord, American or the Authority, and that such protections shall also pertain and apply with respect to any claim or action against Landlord, American or the Authority, including by Tenant, but such endorsement shall not limit, vary or affect the protections afforded Landlord, American and the Authority thereunder or other named insureds as an additional insured. The "All Risk" property insurance coverage shall name Landlord, American and the Authority as additional loss payees to the extent of their respective interests and shall provide that any loss shall be adjusted with and payable to Tenant, Landlord and American (to the extent of Landlord's or

American's loss) and to the extent Landlord or American receives insurance proceeds from such policies or otherwise participates in the adjustment of claims thereunder, Landlord shall (and American is obligated under the Concession Area Lease to) cooperate with Tenant and shall make all of such proceeds available to Tenant to cover the cost of restoration of such Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property.

(c) In the event that Tenant fails to procure and to maintain, at the times and for the duration specified in this Section 11.01, any insurance required by this Section 11.01, or fails to carry insurance required by law or governmental regulation, Landlord may (but shall not be required to) at any time and from time to time, and upon five (5) days notice to Tenant, procure such insurance and pay the premiums therefor; and the cost of same shall be deemed Additional Rent and shall be payable by Tenant within ten (10) days after receipt of Landlord's written demand. Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's, American's, the Authority's or the Airport's policies of hazard or liability insurance or which will prevent Landlord, American or the Authority from procuring such policies in companies acceptable to Landlord, American and the Authority.

(d) If at any time any of Tenant's insurance policies shall be or become unsatisfactory to Landlord, American or the Authority, in their reasonable judgment, as to form or substance, of if any of the Tenant's insurers issuing such policies shall not maintain the minimum rating required above, Tenant shall promptly obtain a new and satisfactory policy in replacement.

Section 11.02 LANDLORD'S AND AMERICAN'S INSURANCE. Landlord has the obligation to carry the insurance set forth in the Concession Area Lease but only to protect the interests of Landlord, American and the Authority. Landlord, by virtue of this Sublease or otherwise, has no obligation to protect the interests of Tenant or to name Tenant as an additional insured under any of its insurance covering the Terminal. American is obligated to maintain the types of insurance required under the Authority Lease.

Section 11.03 INDEMNIFICATION. **(a) Tenant shall defend, indemnify and hold harmless Landlord, American, the Authority and the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York) and their respective directors, officers, employees, agents, commissioners, representatives and Affiliates (collectively, the "Indemnitees") from and against any and all claims, demands, actions, causes of action, suits, fines or judgments asserted, imposed or obtained by third parties, and the costs (including reimbursement of Indemnitees' reasonable costs and expenses of any related legal proceedings or attorneys' fees), expenses, losses, liabilities (including, without limitation, claims and demands for death or personal injuries, or for property damages) and damages of all kinds related to such third party claims, arising out of the construction of Fixed Improvements or Refurbishments or the improper use or occupancy of the Premises by Tenant or out of any other acts or omissions of, or any breaches or defaults under the terms or conditions of this Sublease by Tenant, its directors, officers, employees, representatives, contractors, guests and/or invitees in the Premises or other areas in the Terminal and/or elsewhere at the Airport including, without limitation, claims and demands of any of the occupants in the Concession Area or of the City of New York, from which the Authority derives its rights in the Airport (collectively, the "Claims"). The foregoing indemnification shall not apply to a particular Indemnitee, other than the Authority, to the extent that a Claim is caused or contributed to by the negligence or willful misconduct of such Indemnitee other than the Authority. As a condition to the foregoing indemnification with respect to Claims and demands for indemnification made by Landlord: (1) Landlord or the Indemnitee shall give Tenant prompt written notice specifying with**

reasonable particularity any Claim that Landlord or the Indemnitee reasonably believes may become the basis for indemnification pursuant to this Section 11.03; (2) Landlord, the Indemnitee and their directors, officers, employees and representatives shall cooperate fully in the defense of such Claim; (3) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the right to contest, defend or litigate, and to retain counsel of its choice in connection with any proceeding or litigation which would give rise to a claim for indemnification under this Section 11.03; and (4) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the sole and exclusive right to settle any proceeding or litigation which could give rise to a claim for indemnification under this Section 11.03 (provided such settlement would not result in any loss, cost, harm, expense, damage or liability to any of the Indemnitees). A failure by Landlord or an Indemnitee to timely notify Tenant of any Claim shall excuse Tenant's obligations hereunder only to the extent the defense of such Claim is prejudiced thereby.

(b) Tenant represents that it is the owner of or fully authorized to use or sell any and all intellectual property used or sold by it in its activities under or in any way connected with this Sublease. **Without in any way limiting its obligations hereunder, Tenant agrees to indemnify, defend and hold harmless the Indemnitees of and from any loss, liability, expense, suit or judgment in connection with any actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the activities of Tenant under or in any way connected with this Sublease.** With respect to claims or demands against Indemnitees for actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or for actual or alleged unfair competition or other similar theories arising out of the operations of Tenant, Tenant shall pay or reimburse Indemnitees all actual and reasonable attorneys' fees and costs of defense that Indemnitees may incur in defending any such intellectual property or unfair competition claims or demands.

(c) Tenant agrees to include in all franchise or license agreements and construction contracts and other agreements involving Tenant, a provision by which such franchisee, licensee or contractor agrees to defend, indemnify and hold harmless the Indemnitees, on at least the same basis and to the same extent as required of Tenant under this Section 11.03. The obligations set forth in this Section 11.03 shall survive the expiration or earlier termination of this Sublease.

Section 11.04 **INJURY CAUSED BY THIRD PARTIES.** Tenant covenants and agrees that Landlord, American and the Authority (including their respective agents, employees, officers, directors, commissioners, members and shareholders) shall not be responsible or liable to Tenant, or any entity or person claiming by, through or under Tenant, for any injury, death or damage to persons or property resulting from any latent defect in the Premises, the Terminal, the Airport or appurtenant areas; or from any acts or omissions of entities, persons, tenants or other occupants occupying adjoining premises in the Terminal or any other part of the Airport or the agents, servants, employees, contractors or invitees of such entities, persons, tenants or occupants; or from fire, electricity, water, snow or leaks from any part of the Terminal or Terminal systems or Airport, including sprinkler systems; or from any other cause of whatever nature, unless caused by or due to the direct gross negligence or direct willful misconduct of Landlord (or as American, as obligated under the Concession Area Lease), its agents and employees, in which case only the party that acted grossly negligent or with willful misconduct shall be responsible or liable.

ARTICLE XII. UTILITIES

Section 12.01 **UTILITY SERVICES AND CHARGES.** (a) Pursuant to the Concession Area Lease, American is obligated to provide access to reasonable and normal amounts (as determined by Landlord and

American) of electric, heat, air conditioning, domestic cold water (if applicable), high temperature hot water (if applicable), gas (if applicable) and sewage (if applicable) services to the Premises for use by Tenant provided by utility systems, connections and related equipment existing as of the Commencement Date; but neither Landlord nor American have any obligation to provide telephone or data transmission and communication services to the Premises. The types, capacities and amounts of the various utilities which are being provided by American to the Concession Area, including the Premises, are set forth on the Utilities Matrix, which is included as an exhibit to the Concession Area Lease. All of such utilities, except for electricity for all food & beverage concession locations, and telephone and data communication services, are to be provided without charge by American in accordance with the Concession Area Lease. Should Tenant require access to utility services over and above those provided by American as set forth on such Utilities Matrix, Tenant shall pay directly for the costs of extending those additional utilities to the Premises, if available. Tenant shall be solely responsible for all fees, deposits and charges, including use or connection fees, hook-up fees, standby fees, and the like, for fire alarm, burglar alarm, telephone, data transmission and communication and cable television used in or upon or furnished to the Premises, including, without limitation, any services to be supplied by American, irrespective of whether any of the foregoing are initially paid in advance by American, Landlord or otherwise.

(b) Tenants who operate a food & beverage concession facility shall be solely responsible for, and shall promptly pay for the construction and installation of, electric check meters required for all electricity to be consumed within the Premises. Any such check meters required for the conduct of business operations in the Premises shall be installed by Tenant, at its sole cost and expense, in locations approved by Landlord, American and/or the appropriate public utility service provider. If the Permitted Use provides for display and sale of food and beverages, Tenant shall pay to Landlord American's actual cost of purchasing the electricity consumed as measured by a separate check meter to be installed by Tenant pursuant to the Final Drawings. Any such charges shall be billed to Tenant in arrears and shall be paid, as Additional Rent, to Landlord with the next monthly installment of Guaranteed Rent following Tenant's receipt of the invoice therefor from Landlord.

(c) Landlord, American or the Authority shall not be liable for damages, loss of business, loss of profits or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, services from a central utility plant or any other utility or other service, or if either the quantity, quality or character thereof is changed or is no longer available for Tenant's requirements, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character will not excuse or relieve Tenant from its obligations hereunder, including but not limited to the payment of Rentals or all other sums, damages, fees, costs and expenses payable under this Sublease. Except as otherwise provided by applicable law, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character shall not constitute or be deemed to constitute actual or constructive eviction of Tenant. Any obligation of American to furnish utilities is conditioned upon the availability of adequate energy sources. American has the right to reduce heating, cooling and lighting within the Premises and the public areas as required by any mandatory or voluntary fuel or energy saving allocation, or similar statute, regulation, order or program. No such interruptions, reductions, disruptions, curtailments or failures shall entitle Tenant to any abatement of Rentals or relieve Tenant from fulfillment of any covenant or agreement set forth in this Sublease, except specifically provided in this Section 12.01(c). Notwithstanding the foregoing, if Tenant is prevented from opening to the public for more than five (5) days during any Lease Year by an interruption in utility services due to the negligence of Landlord or American, including, without limitation, electricity, gas, water, plumbing, sewage, telephone communications, heating, ventilation, or air conditioning, but American's operations and the flow of Enplaned Passengers nevertheless continue normally through such interruption of utility services in the Premises, Guaranteed Rent that would otherwise apply during such period will be reduced by the proportion that three hundred sixty-five (365) days bears to the actual number of days Tenant was able to operate during such calendar

year.

(d) If applicable, Tenant shall operate its additional heating, ventilating and air conditioning system(s) ("**HVAC**") serving the Premises so as to maintain comfortable conditions during its hours of operation. Temperatures in the Premises shall be compatible with temperatures in the Terminal. Tenant's obligation to connect to the services supplied by American, as set forth in this Section 12.01 and **Exhibit D**, as well as Tenant's operation and maintenance of its HVAC system(s) within the Premises, shall be as set forth herein, in **Exhibit D** and in any related document(s), such as the Design Guidelines or approved Final Drawings. If Tenant desires to install any equipment which shall exceed the capacity of any utility facilities or which shall require additional utility facilities, Tenant shall not have the right to do so without Landlord's and American's prior written approval of Tenant's plans and specifications therefor. If such installation is approved by Landlord and American, and if such additional facilities are provided to accommodate Tenant's installation, Tenant agrees to pay Landlord, on demand, the cost of providing such additional utility facilities or utility facilities of greater capacity. Tenant shall in no event use any of the utility facilities in any way which shall overload or overburden the utility systems at the Terminal and the Airport. Landlord and American shall have the right to impose reasonable restrictions and to require Tenant to comply with any and all state and local regulations and measures adopted from time to time with respect to conservation of any utilities, including water usage.

ARTICLE XIII. ATTORNMENT AND SUBORDINATION

Section 13.01 ATTORNMENT. Landlord shall be permitted to assign this Sublease to American or its designee; and, in the event of such assignment, Tenant shall attorn to American or its designee and recognize American or its designee as the landlord for all purposes hereunder.

Section 13.02 SUBORDINATION. Tenant further agrees that this Sublease shall be subordinate to the Concession Area Lease, the Authority Lease and to any and all mortgages, deeds of trust and ground leases that may now exist or at any time hereafter constituting a lien or charge upon the Concession Area or the Terminal or other improvements that constitute a part of the Concession Area and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacement and extensions thereof. Tenant, within no more than fifteen (15) days after written request, shall execute any and all instruments, releases and other documents that may be required by each and every mortgagee, trustee and holder thereof for the purpose of subjecting and subordinating this Sublease to the lien of any such mortgage or deed of trust.

Section 13.03 ESTOPPEL STATEMENT. Within twenty (20) days after request therefor by Landlord, Tenant shall execute, in recordable form, and deliver to Landlord a statement, in writing, certifying (a) that this Sublease is in full force and effect, (b) the Rental Commencement Date and the Expiration Date hereof, (c) that Rentals and all other charges hereunder are paid currently without any offset or defense thereto, (d) the amount of Rentals and all other charges hereunder, if any, paid in advance, (e) whether this Sublease has been modified and, if so, identifying the modifications, (f) that, to the best of its knowledge, there are no uncured defaults by Landlord or stating in reasonable detail those claimed by Tenant, and (g) such other matters as may be reasonably requested by Landlord.

ARTICLE XIV. ASSIGNMENT AND SUBLETTING

Section 14.01 RESTRICTIONS, PROCEDURES AND OTHER ASPECTS GOVERNING TENANT. (a) Tenant shall not transfer or assign this Sublease or Tenant's interest in or to the Premises or any part thereof without having first obtained the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion; provided, however, the transfer of Tenant's

securities in connection with Tenant becoming a publicly held company or issuing securities in connection with an additional public offering of securities shall not constitute a transfer or assignment of this Sublease. The public trading of Tenant's securities on a nationally recognized stock exchange or on the NASDAQ market shall not constitute or be considered to result in any such transfer or assignment of this Sublease. Each transfer, assignment or subletting to which there has been consent shall be by instrument in writing, in form satisfactory to Landlord, and shall be executed by the transferee, assignee or subtenant who shall agree in writing for the benefit of Landlord to be bound by and to perform the terms, covenants and conditions of this Sublease. Failure to first obtain in writing Landlord's consent, or failure to comply with the provisions herein contained shall operate to prevent any such transfer, assignment or subletting from becoming effective. The receipt by Landlord of rent from an assignee, transferee, subtenant or any other occupant of the Premises shall not be deemed a waiver of the covenant in this Sublease against assignment, transfers and subletting or an acceptance of the assignee, transferee, subtenant or any other occupant as a tenant or a release of the Tenant from further observance or performance by Tenant of the covenants contained in this Sublease.

(b) Notwithstanding the foregoing provisions of this Article 14, Tenant shall have the right to transfer or assign this Sublease, with Landlord's consent, such consent not to be unreasonably withheld, to: (1) a subsidiary of Tenant or its parent entity or to an entity that is an Affiliate of Tenant or its parent entity; (2) any entity with which Tenant shall merge, reorganize or consolidate; or (3) any entity acquiring all or substantially all of the assets of, or equity interests in, Tenant or which may succeed to a controlling interest in the business of Tenant; provided that in the case of any and each such transfer or assignment under clauses (2) and (3) above which is permitted hereunder, Landlord shall have the discretionary right to withhold its consent unless: (i) such transferee or assignee shall have a net worth equal to or greater than Tenant (or its guarantor, if any) as of the effective date of any proposed transfer or assignment; (ii) such transferee or assignee shall have proven airport concession operating experience and the ability to efficiently and effectively operate the business in the Premises consistent with at least as high a standard as then exists in the Premises; (iii) the business conducted in the Premises by such transferee or assignee shall be conducted under the same Permitted Use and under a trade name required to be used by Tenant hereunder; (iv) Tenant shall not be in default after the applicable notice and cure periods under any of the terms and provisions hereof; (v) the use of the Premises by such transferee or assignee shall not violate any agreements affecting the Premises, Landlord or other tenants or occupants in the Airport and shall not disrupt the concession mix within the Terminal as determined in the sole and absolute discretion of Landlord; (vi) if Tenant is a certified M/W/DBE or if Tenant's certified M/W/DBE participant is a member/partner of a limited liability company/general partnership or joint venturer of a joint venture with Tenant, any such transfer or assignment of this Sublease shall not effect, modify or otherwise jeopardize the required M/W/DBE participation interest under this Sublease; (vii) except as may otherwise be prohibited under federal securities laws, notice of any proposed transfer or assignment shall be given to Landlord at least thirty (30) days prior to its proposed effective date, and there shall be delivered to Landlord instruments evidencing such proposed transfer or assignment and the agreement of such transferee or assignee to assume and be bound by all the terms, conditions and covenants hereof, all in form reasonably acceptable to Landlord; and (viii) Tenant and its guarantor, if any, shall continue to remain fully liable for the payment of all sums due and the performance of all the terms and conditions hereof.

(c) Tenant shall not sublet the Premises or any part thereof without having first obtained the prior written consent of Landlord. In the event Tenant requests permission to sublease, the request shall be submitted to Landlord prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the subtenant, the area or space to be subleased, the rental to be charged, the type of business to be conducted, recent audited financial statements and history and all other information requested by Landlord shall be specified. In the event of an assignment or sublease where the rental per square foot established in the

sublease exceeds the rental per square foot established in this Sublease, Tenant shall pay to Landlord as Additional Rent the excess of the rental received from the transferee or subtenant over that specified to be paid by Tenant herein per square foot. Should any method of computation of rental to be paid by a transferee or subtenant, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Premises by Tenant exceeds the rental paid to Landlord for said proportionate area of the Premises.

(d) If Tenant is a corporation, limited liability company, association or partnership which, under the current laws, rules or guidelines promulgated by the governmental body or agency having jurisdiction and authority to promulgate the same, is not deemed a public corporation, or is an unincorporated association or partnership, the transfer, assignment or hypothecation, in the aggregate of more than a controlling interest of the total outstanding voting stock or voting interests in such corporation, limited liability company, association or partnership shall be deemed an assignment and transfer within the meaning and provisions hereof. Irrespective of the foregoing, the transfer of the membership or ownership interests among the existing members of Tenant or to their estates or heirs upon the death of any such existing member of Tenant shall not require the prior written consent of Landlord. Tenant shall promptly notify Landlord within ten (10) days thereafter of any such transfer of the membership or ownership interests in Tenant among the existing members of Tenant or to their estates or heirs upon the death of any such existing member of Tenant.

(e) Notwithstanding anything to the contrary set forth in this Article XIV and regardless of any Landlord approval noted herein, any and all proposed assignments, transfers and subletting and/or any other arrangement pursuant to which Tenant authorizes any other Person to use and occupy the Premises shall also be subject to the written consent of American and the Authority determined in their sole and absolute discretion and not be effective until any such required consents of American and the Authority have been obtained.

ARTICLE XV. WASTE OR NUISANCE

Section 15.01 WASTE OR NUISANCE. Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, invitees, subtenants or agents to, injure, deface or otherwise harm the Premises, Concession Area, Terminal or the Airport, nor commit any waste upon the Premises, Concession Area, Terminal or the Airport, and shall not place a load upon the floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry. Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, subtenants or agents to, commit any nuisance or other act or thing which may constitute a menace or which may affect either American's operation of the Terminal, Landlord's operation of the Concession Area or the Authority's operation of the Airport or which may disturb the quiet enjoyment of any other occupant or tenant of the Airport. Tenant shall not use or permit to be used any medium that might constitute a nuisance, such as loudspeakers, sound amplifiers, tape decks, compact disc players, radios, televisions, or any other sound-producing or other device which will carry sound or objectionable odors outside the Premises except as may otherwise be approved in advance in writing by Landlord and, upon notice from Landlord to Tenant's business representative at the Premises, Tenant shall cause any such noise or odors to cease immediately. Tenant shall not allow any use of the Premises or any other portion of the Concession, Area, Terminal and/or the Airport in a manner which is a source of annoyance, disturbance or embarrassment to Landlord, American and/or the Authority, or to the other tenants and occupants of the Concession Area, Terminal and/or the Airport or which is deemed by Landlord or American, in their sole discretion, as not in keeping with the character of the Concession Area, Terminal and/or Airport. The Premises shall not be used for any unlawful or immoral purpose or which will invalidate or increase the premiums on any of the Landlord's, American's or the Authority's insurance.

ARTICLE XVI. TRADE NAME, TRADEMARKS AND THE JOINT MARKETING FUND

Section 16.01 **TRADE NAME.** Tenant shall operate its business in the Premises under the name specifically set forth in the Data Sheet ("Trade Name") and shall not change the Trade Name or character of the business operated in the Premises, including, without limitation, Tenant's Permitted Use, without the prior written approval of Landlord, which may be withheld in Landlord's absolute discretion.

Section 16.02 **TRADEMARKS.** "**Trademarks**" means the trademarks, trade names, logos, service marks, trade styles, trade dress and other proprietary marks of American and its Affiliates, including American Eagle, Inc. Tenant acknowledges that the Trademarks are and will remain at all times the exclusive property of American and its Affiliates. No interest in, license or other right to use the Trademarks is granted or may be deemed to granted to Tenant under this Sublease or otherwise. Tenant may not make any use of the Trademarks, or any colorable imitation or abbreviation thereof, including any reference by advertising or otherwise to the names "American Airlines", "American Airlines, Inc.", unless such use or reference has been specifically approved in writing by American in advance.

Section 16.03 **JOINT MARKETING FUND.** Landlord shall cause to be provided a central marketing and promotional program which, in Landlord's sole judgment, will serve to generally market and promote the overall concession operations at the Terminal or on any item that may enhance the overall passenger experience at the Terminal. Tenant, along with other concession facility operators, will contribute to the fund for this program which shall be known as the "**Joint Marketing Fund**". Tenant shall contribute during each month, as Tenant's share to the Joint Marketing Fund, and pay to Landlord as Additional Rent, an amount equal tc Ex. 2.a. of Tenant's monthly Gross Receipts. This amount is payable to Landlord and must be paid no later than the fifteenth (15th) day following the end of each Lease Month. If Tenant is unable to calculate actual Gross Receipts in time to make the required monthly payment to the Joint Marketing Fund, the payment may be based on an estimate of monthly Gross Receipts. Any and all such estimated payments must be adjusted at the end of each 6-month period of each Lease Year. Within thirty (30) days after the end of each such 6-month period, Tenant must submit a report to Landlord reconciling estimated and actual Gross Receipts and showing any under or overpayments to the Joint Marketing Fund. A check for any underpayments must accompany the reconciliation. All overpayments will be credited to the next payment(s) due from Tenant for its contributions to the Joint Marketing Fund; or, if the Sublease has expired or has been terminated for any reason other than a default by Tenant, overpayments shall be refunded, without interest, to Tenant within sixty (60) days of the Sublease termination date by Landlord. Landlord shall not be obligated to expend more for marketing and promotional programs than is actually collected from Tenant and other concession facility operators in the Terminal. Any services and personnel so provided shall be under the exclusive control and supervision of Landlord, who shall have the sole authority to employ and discharge personnel, retain third-party independent contractors and to establish all budgets with respect to the Joint Marketing Fund. The primary purpose, but in no way a limitation, of the Joint Marketing Fund, will be to fund intra-Terminal promotional and advertising programs such as permanent directories, graphics, take-one directory pamphlets and establishing customer service and training programs with respect to the operations of the concession facilities in the Terminal, such as customer surveys, "secret shopper" programs and sales technique seminars, sales/service incentive awards for Tenant and other concession operators' employees or on any other items that may enhance the user's overall experience in the Terminal. Landlord shall conduct quarterly meetings to discuss the promotional and advertising programs and customer service and training programs. In the event the Premises is located within an expansion of or a new area within the Terminal where a grand opening date or grand opening events shall be set by Landlord, then Tenant shall also pay an initial Joint Marketing Fund assessment in the amount set forth in the Data Sheet in addition to Tenant's monthly contributions to the Joint Marketing Fund, such initial assessment to be payable in one lump sum

within sixty (60) days prior to the Rental Commencement Date. Landlord reserves the right at any time to terminate the Joint Marketing Fund and, in such event, shall notify Tenant in writing. Thereafter, in the event of such termination, Tenant shall no longer be obligated to make any further contributions to the Joint Marketing Fund and any remaining funds previously contributed to the Joint Marketing Fund shall be used by Landlord to promote the overall concession program and facilities within the Terminal. Landlord, following any such termination, also reserves the right to reinstate the Joint Marketing Fund and, in such event, shall notify Tenant in writing and thereafter, Tenant, upon any such reinstatement, shall immediately recommence contributions to the Joint Marketing Fund in accordance with this Section 16.03. Upon the expiration or earlier termination of the Concession Area Lease, Landlord is required to remit any unused monies in the Joint Marketing Fund in equal shares to American and the Authority.

ARTICLE XVII. DAMAGE AND DESTRUCTION

Section 17.01 **PARTIAL DESTRUCTION.** (a) Landlord and American shall not be required to make reparation for any injury or damage by fire or other cause, or to make any restoration or replacement of any Fixed Improvements, Refurbishments, or any other real or movable property located or installed in the Premises or in the Concession Area by or on behalf of Tenant, except as otherwise provided herein.

(b) In the event the Fixed Improvements or Refurbishments are damaged by any casualty covered under an insurance policy required to be maintained by Tenant pursuant to this Sublease, then Tenant shall repair the same as soon as reasonably possible (following any repair of Base Building Work by American that may be necessary to permit Tenant repairs to proceed) and this Sublease shall continue in full force and effect. In the event the Fixed Improvements or Refurbishments are damaged by any casualty not covered under any insurance policy required to be maintained by Tenant pursuant to this Sublease, then Landlord may, at Landlord's option (1) repair such damage at Landlord's expense and continue this Sublease in full force and effect, or (2) give written notice to Tenant within ninety (90) days after the date of occurrence of such damage of Landlord's intention to terminate this Sublease as of the date of the damage; provided, however, that if such damage is caused by an act or omission to act of Tenant, then Tenant shall repair such damage, promptly at its sole cost and expense. Any repair or restoration of the Premises by Landlord after the termination of this Sublease shall not be deemed to reinstate this Sublease or give Tenant any right to have this Sublease reinstated. In the event Landlord elects to terminate this Sublease under this section, Tenant shall have the right, within thirty (30) days after receipt of the notice from Landlord, to notify Landlord in writing of Tenant's intention to repair such damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible. If Tenant does not give such notice within the above thirty (30) day period, this Sublease shall be terminated as of the date specified by Landlord in its notice to Tenant.

Section 17.02 **TOTAL DESTRUCTION.** If the Concession Area or the Premises are totally destroyed during the Term by any cause whether or not covered by the insurance required under this Sublease (including, without limitation, any destruction required by any authorized public authority), and the Concession Area or the Premises cannot be repaired or replaced within sixty (60) days of such total destruction, this Sublease shall terminate as of the date of such total destruction at the option of American, Landlord or the Authority with a total abatement of Rental obligations as of such date, but without affecting any of Tenant's obligations which may have accrued or other rights or remedies of American, Landlord or Tenant which may have arisen as a result of such termination, including insurance claims based on the destruction.

Section 17.03 **DAMAGE OR DESTRUCTION OF THE TERMINAL.** If fifty percent (50%) or more of the Terminal shall be damaged or destroyed by an insured risk, or if twenty-five percent (25%) or

more of the Terminal shall be damaged or destroyed by an uninsured casualty, notwithstanding that the use and occupancy of the Premises is not materially affected thereby, and if as a result of any such damage or destruction American's flight operations at the Terminal are suspended or more than fifty percent (50%) curtailed for a period of sixty (60) days or more, Landlord shall have the right to terminate this Sublease within ninety (90) days from the date of such damage or destruction. In such event, this Sublease shall terminate upon a mutually agreeable date (or, in the absence of a mutually agreed upon date, on the date reasonably specified by Landlord or American which shall be within one hundred eighty (180) days from the date of such damage or destruction) and Tenant, upon such termination, shall surrender the Premises to Landlord. American shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Terminal; and Landlord shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Concession Area or the Premises; provided, however, Tenant shall not be obligated to repair any damage or destruction to its Fixed Improvements or Refurbishments pursuant to Section 17.01 or 17.04 to the extent and for so long as any damage or destruction to the Terminal precludes such repairs to the Concession Area, the Premises, Fixed Improvements or Refurbishments.

Section 17.04 **DAMAGE OR DESTRUCTION NEAR END OF TERM.** If, during the last Lease Year of the Term, more than twenty-five percent (25%) of the Premises is partially destroyed or damaged, either party may at its option terminate this Sublease as of the date of occurrence of such destruction or damage by giving written notice to the other of its election to do so within twenty-five (25) days after the date of occurrence of such destruction or damage; provided, however, if Landlord elects to terminate this Sublease pursuant hereto, Tenant shall have the right within fifteen (15) days after receipt of the required notice to notify Landlord in writing of Tenant's intention to repair such destruction or damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible.

Section 17.05 **ABATEMENT OF RENTALS, REMEDIES.** If twenty-five percent (25%) or more of the Premises is destroyed or damaged, and such destruction or damage materially and adversely impairs or interferes with Tenant's use and occupancy of the Premises as reasonably determined by Landlord and will be repaired pursuant to this Sublease, then in addition to any other remedies which may apply under this Sublease, Landlord and Tenant shall negotiate in good faith to reach a mutually satisfactory agreement on an equitable abatement, for the period during which such damage and repair continues, of the amounts which may be due and owing as Rentals, which abatement shall be based on any projected resulting reduction in Tenant's Gross Receipts. Except for abatement of Rentals (if any), Tenant shall have no claim against Landlord or American for any damage suffered by reason of any such damage, destruction, repair or restoration unless said damage is caused by the gross negligence or willful misconduct of Landlord or American, nor shall Tenant have any claim against the Authority for any such damage regardless of its cause. It is understood that, in the application of the foregoing Sections in this Article XVII, American's and Landlord's obligations shall be limited to repair and restoration of the Base Building Work for the Premises to, as nearly as possible, a condition and quality as existed at the commencement of Tenant's Work hereunder. In no event shall Landlord or American be responsible to repair or restore any portion of the Premises relating to Tenant's Work and/or installed by Tenant in the Premises including, but not limited to, Tenant's Fixed Improvements, Refurbishments, Operating Equipment, personal property, products and inventory.

Section 17.06 **WAIVER.** Tenant hereby expressly waives the provisions of Section 227 of the New York Real Property Law, and of any successor law of like import then in force; and Tenant agrees that the provisions of this Sublease shall govern and control in lieu thereof.

ARTICLE XVIII. CONDEMNATION

Section 18.01 CONDEMNATION. (a) If more than thirty percent (30%) of the Floor Area of the Premises shall be taken or condemned for any public or quasi-public use under any governmental law, ordinance or regulation or by the right of eminent domain or in the event of a private conveyance, by purchase, sale or otherwise, in lieu thereof ("**Taking**"), this Sublease shall terminate as of the date of such Taking; and the Term hereof shall cease as such date of Taking and all Rentals shall be abated during the unexpired portion of this Sublease, effective on the date physical possession is commenced by the taking or condemning authority.

(b) If thirty percent (30%) or less of the Floor Area of the Premises should be taken or condemned as aforesaid, this Sublease shall not terminate; rather, the amounts which may be due and owing as Rentals during the unexpired portion of the Term (or for such shorter period during which such Taking or condemnation shall continue) shall be reduced proportionally based on the projected reduction, if any, in Tenant's Gross Receipts as mutually agreed to by Landlord and Tenant (and, if unable to agree, Landlord's reasonable decision with respect thereto shall be conclusive and binding) effective on the date physical possession is commenced by the taking or condemning authority, such reduction to end on the date (if such date falls during the Term) that the Premises is returned to Tenant in a condition which reasonably allows for the commencement of business; provided, however, that in all events any reduction under this section in the Authority's allocated share of Rentals shall require the prior written approval of the Authority. If the taking or condemning authority does not specify the actual portions of floor area of the Premises to be taken or condemned as aforesaid, then Landlord, Tenant and American shall endeavor to agree on such actual portions (and, if they are unable to so agree, American's reasonable decision with respect thereto shall be conclusive and binding).

(c) A voluntary sale or transfer of interest of all or any part of the Premises or the public areas in the Terminal by Landlord or American to any public or quasi-public body, agency, person or other entity having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a Taking under the power of eminent domain for the purposes of Article XVIII. Tenant hereby waives the provisions of any statute or other law that may be in effect at the time of the occurrence of any such Taking under which a lease/sublease is automatically terminated or pursuant to which a tenant is given the right to terminate a lease/sublease by reason of such a Taking.

Section 18.02 AWARD. All compensation awarded for any Taking or condemnation (or, in either case, the proceeds of a private sale in lieu thereof) of the Premises shall be the property of the party entitled to any such compensatory award under the Authority Lease and to the extent Tenant is not entitled to any such compensatory award under the Authority Lease, Tenant hereby assigns its interest in any such award to American. The distribution of any such compensatory awards shall be made to the Authority, American, Landlord, if any, and Tenant, if any, as set forth in the Authority Lease.

ARTICLE XIX. DEFAULTS, REMEDIES AND DAMAGES

Section 19.01 EVENTS OF DEFAULT. The occurrence, at any time prior to or during the Term, of any one (1) or more of the following events (referred to herein, singly, as an "**Event of Default**" and collectively as "**Events of Default**") shall be an Event of Default by Tenant under this Sublease:

(a) Tenant fails to pay any Rentals or any other charges or sums whatsoever due hereunder (including without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure so to perform) for more than five (5) days after written notice from Landlord to Tenant that such Rentals or any other charges or sums whatsoever due

hereunder were not received on the date required for payment pursuant to this Sublease together with all Late Interest accrued from the due date, provided, that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws and, provided, however, if Landlord gives such written notice once during a twelve (12) month period and the delinquent payment has not been fully cured (including Late Interest), no further written notice of default shall be required with respect to that payment or any other payment during such twelve (12) month period to establish a payment default and, thereafter, during such twelve (12) month period an Event of Default shall be deemed to have occurred if any payment under this Sublease is not made when due and such failure continues for a period of five (5) days after such payment was due; or

(b) Tenant fails to perform any other of the terms, conditions, or covenants of this Sublease to be observed or performed by Tenant for more than twenty (20) days after written notice from Landlord to Tenant of such default (unless such default cannot be cured within said twenty (20) days, in which event Tenant shall not be deemed to be in default hereunder if Tenant shall have commenced to cure said default promptly within said twenty (20) days and shall thereafter proceed to prosecute such cure to completion with all reasonable dispatch and diligence, provided that in no event shall such cure period extend beyond seventy-five (75) days or such longer period of time as is approved by Landlord in writing, and if Tenant's cure period is so extended, Tenant must, within five (5) days after the written extension notice, provide a written plan to Landlord outlining all steps Tenant is taking to cure the default and when the cure shall be completed), provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws; or

(c) Tenant fails to submit any statement or report required on or before the date required by this Sublease, including without limitation the statements and reports required by Article III, and such failure continues for five (5) days after written notice by Landlord, provided such notice shall not be required if Landlord has previously given two (2) notices of such a failure during the preceding twelve (12) month period; or

(d) Tenant fails to commence construction of Tenant's Work within twenty (20) days of the Authority's approval of the TAA for such Tenant's Work and such failure is not occasioned by reason of Force Majeure; or

(e) Tenant fails to complete Tenant's Work, move into and merchandise/stock the Premises with high-quality goods, products or services and to initially open for business on or before the Latest Rental Commencement Date and such failure is not due to Force Majeure; or

(f) Tenant fails to operate continuously in the manner and during the hours established by Landlord pursuant to Section 7.02 hereof or for the Permitted Use or discontinues its business operations in the Premises for a period in excess of forty-eight (48) consecutive hours; or

(g) Tenant's abandonment of the Premises, or permitting this Sublease to be taken under any writ of execution or similar writ or order; or

(h) Tenant fails to comply with any obligation as a result of any inspection or audit and such failure continues for ten (10) days after written notice from Landlord to Tenant of such failure; or

(i) If applicable, the failure of Tenant to obtain and maintain continuously throughout the Term, its eligibility and certification from the Authority of its M/W/DBE status and/or to renew such eligibility and certification as may be required by the Authority from time to time and such failure shall continue for a period of twenty (20) days; or

(j) Tenant fails comply with any of the other operational requirements set forth in Section 7.02 or any of the exhibits referenced therein (such as compliance with staffing/personnel, street pricing or fails to achieve the Minimum Performance Standards, for example) and such failure shall continue for a period of two (2) days; or

(k) Tenant shall fail to carry insurance as required under this Sublease on the date of such failure or to comply with any applicable law, rule or regulation concerning security, and such failure continues for forty-eight (48) hours after written notice from Landlord thereof; or

(l) A governmental authority, board, agency or officer with competent jurisdiction terminates or suspends any certificate, license, permit or authority held by Tenant without which Tenant shall not be lawfully empowered to conduct its business operations in the Premises; or

(m) Except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within thirty (30) days after it is begun, or if Tenant shall file or consent to a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of substantially all or general payment of debts; and/or

(n) Any act or omission to act by Tenant which, directly or indirectly, puts Landlord in default of its obligations to American under the Concession Area Lease or puts Landlord in default of its obligations to the Authority under the Operator Permit;

then, during such time as such Event(s) of Default is/are continuing, Landlord may at any time, at Landlord's option, give to Tenant five (5) days' notice of termination of this Sublease (which shall be in lieu of any notice required under New York law) and, in the event such notice is given, this Sublease and the Term shall come to an end and expire (whether or not said Term shall have commenced) upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date, but Tenant shall remain liable for damages and all other sums payable pursuant to the provisions of Section 19.03.

Section 19.02 REMEDIES. (a) If Tenant shall default in the payment when due of any installment of Rentals or if Tenant shall default in the performance of any of the other terms, provisions, conditions or covenants of this Sublease, or if this Sublease and the Term shall expire and come to an end as provided in Section 19.01: (1) Landlord and its agents and servants may immediately, or at any time after such default or after the date upon which this Sublease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or by force or otherwise (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and dispossess Tenant and any other Person from the Premises and remove any and all of their property and effects from the Premises; and/or (2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises, from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure

to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Sublease or otherwise to affect any such liability; Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Sublease or otherwise affecting any such liability.

(b) Tenant hereby waives the service of any notice of intention to re-enter or to institute legal proceedings to that end which may otherwise be required to be given under any present or future law. Tenant, on its own behalf and on behalf of all Persons claiming through or under Tenant, including all creditors, does further hereby waive any and all rights which Tenant and all such persons might otherwise have under any present or future law to redeem the Premises, or to re-enter or repossess the Premises, or to restore the operation of this Sublease, after (1) Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or (2) any re-entry by Landlord, or (3) any expiration or termination of this Sublease and the Term, whether such dispossess, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Sublease. The words "re-enter", "re-entry" and "re-entered" as used in this Sublease shall not be deemed to be restricted to their technical legal meanings. In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord shall have the right to enjoin such breach and the right to invoke any other remedy allowed by law or in equity as if re-entry, summary proceedings and other special remedies were not provided in this Sublease for such breach. The right to invoke the remedies hereinbefore set forth in this Sublease is cumulative and shall not preclude Landlord from invoking any other remedy allowed by law or in equity.

(c) No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Sublease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Sublease for such previous breach and shall have the remedies provided herein.

(d) In the event of re-entry by Landlord, Landlord may remove all Persons and property from the Premises; and such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, with notice but without resort to legal process and without Landlord being deemed guilty of trespass, conversion or becoming liable for any loss or damage which may be occasioned thereby. In the event Tenant shall not remove its property from the Premises within five (5) days after Tenant has vacated the Premises, then such property shall be deemed abandoned by Tenant; and Landlord may dispose of the same without liability to Tenant subject to the rights of the City of New York, the Authority, American and their designees to such property. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rental then due, then, after the property has been stored for a period of thirty (30) days or more, Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in this subsection 19.02(d).

(e) Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil

Practice Law and Rules and of any successor law of like import then in force, in connection with any holdover summary proceedings which Landlord may institute to enforce the foregoing provisions of this Sublease.

Section 19.03 DAMAGES. (a) If this Sublease and the Term shall expire and come to an end as provided in Section 19.01, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 19.02(a), or by or under any summary proceeding or any other action or proceeding, then, in any of such events:

(1) Tenant shall pay to Landlord, American and the Authority all Rentals and other charges payable under this Sublease by Tenant to Landlord to the date upon which this Sublease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be; and

(2) Tenant shall also be liable for and shall pay to Landlord, as damages, any deficiency ("**Deficiency**") between the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 19.02(a) for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Sublease or Landlord's re-entry upon the Premises and with such reletting including, but not limited to, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and other expenses of preparing the Premises for such reletting). Any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Sublease for payment of installments of Guaranteed Rent, Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding. Solely for the purposes of this Section 19.03(a)(2), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have terminated or expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted, from time to time, to reflect any increases which would have been payable pursuant to any of the provisions of this Sublease including, but not limited to, the provisions of the Data Sheet and Section 2.01 of this Sublease if the Term hereof had not been terminated; and

(3) At any time after the Term shall have expired and come to an end or Landlord shall have re-entered upon the Premises, as the case may be, whether or not Landlord shall have collected any monthly Deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, as and for liquidated and agreed final damages, a sum equal to the amount by which the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of four percent (4%) per annum. If, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting. Solely for the purposes of this Section 19.03(a)(3), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted to reflect any increases preceding such event pursuant to the provisions of the Data Sheet and Section 2.01.

(b) If the Premises, or any part thereof, shall be relet together with other space in the Concession Area, the rents collected or reserved under any such reletting and the expenses of any such reletting shall be equitably apportioned for the purposes of this Section 19.03. Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Guaranteed Rent reserved in this Sublease. Nothing contained in Sections 19.01, 19.02 or this Section 19.03 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in Section 19.03(a).

Section 19.04. **LANDLORD'S RIGHT TO CURE TENANT'S DEFAULT.** If Tenant shall default in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord, at any time thereafter and without notice (except as notice may otherwise be required to be given to Tenant pursuant to any specific term or provision of this Sublease) may remedy such default for Tenant's account and at Tenant's expense, without thereby waiving any other rights or remedies of Landlord with respect to such default.

ARTICLE XX. BANKRUPTCY OR INSOLVENCY

Section 20.01 **TENANT'S INTEREST NOT TRANSFERABLE.** Neither Tenant's interest in this Sublease, nor any estate hereby created in Tenant, nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the United States Bankruptcy Code, as amended (the "**Code**").

Section 20.02 **ELECTION TO ASSUME SUBLEASE.** Even though this Sublease is a sublease of real property in an airport, the parties contractually agree that this Sublease shall be construed to be a lease of real property in a shopping center within the meaning of Section 365(b)(3) of the Code. If Tenant becomes a Debtor under Chapters 7, 11 or 13 of the Code, and the Trustee (as defined in the Code) or Tenant, as Debtor-In-Possession (as defined in the Code), elects to assume this Sublease for the purpose of assignment to a third party or otherwise, such election and assignment, if any, may only be made if all the terms and conditions of the applicable provisions of the Code are satisfied. If the Trustee or Tenant, as Debtor-In-Possession, fails to elect to assume or reject this Sublease by the 60th day after the entry of the Order for Relief in a case under Chapters 7, 11 or 13 of the Code, this Sublease shall thereafter be deemed rejected and terminated in accordance with Section 365 of the Code. The Trustee or Tenant, as Debtor-In-Possession, shall thereupon immediately surrender possession of the Premises to Landlord, and Landlord shall have no further obligation to Tenant or Trustee hereunder. The acceptance of Rentals by Landlord after the 60th day shall not be deemed a waiver of Landlord's rights herein and under Section 365 of the Code, and Landlord's right to be compensated for damages in such bankruptcy case shall survive.

Section 20.03 **OCCUPANCY CHARGES.** When, pursuant to the Code, the Trustee or Tenant, as Debtor-In-Possession, shall be obligated to pay reasonable use and occupancy charges for the use of the Premises or any portion thereof, such charge shall not be less than the Guaranteed Rent and Percentage Rent and all other monetary obligations of Tenant for the payment of Additional Rent.

Section 20.04 **OTHER LAWS.** The provisions of this Article 20 concerning the rights of Landlord and the obligations of Trustee, Tenant, Debtor (as defined in the Code), Receiver (as defined in the Code), Debtor-In-Possession and each and every permitted assignee are in addition to such rights and obligations provided by law, including applicable provisions of the Code. Nothing contained in this Article 20 shall limit or reduce in any manner whatsoever rights and/or obligations which are otherwise provided by law.

ARTICLE XXI. ACCESS BY LANDLORD, AMERICAN AND THE AUTHORITY

Section 21.01 **RIGHT OF ENTRY.** Landlord, American and the Authority and their respective officers, employees and representatives shall each have the right to enter the Premises for any reasonable purpose (including inspecting the condition of the Premises and any equipment used by Tenant) during ordinary business hours. Tenant shall cooperate upon receipt of any such notice and arrange for its personnel to be available during any such entry. The Authority, American and Landlord and their respective officers, employees and representatives shall each have the further right to enter the Premises to make such repairs, alterations, improvements or additions as they may deem necessary or desirable; and such parties shall be allowed to take all material into and upon the Premises that may be required without the same constituting an eviction of Tenant in whole or in part; and Rentals and other charges reserved hereunder shall not abate while said repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant or otherwise. In exercising such right of entry, Landlord shall use reasonable efforts not to disrupt Tenant's business in the Premises. The Authority, American, Landlord and their agents shall each have the further right to enter the Premises without notice at any time in the event of an emergency. Tenant shall assure Landlord, American and the Port Authority emergency access to all enclosed areas of the Premises either by delivering duplicate keys to the Premises to Landlord's General Manager and American's JFK Airport Manager or by providing emergency telephone numbers by which the Store Manager can be reached on a twenty-four (24) hour basis. Finally, Landlord, during the last six (6) months prior to the expiration of the Term, may enter the Premises for the purpose of exhibiting the same to prospective tenants and their representatives.

ARTICLE XXII. TENANT'S PROPERTY

Section 22.01 **TAXES ON TENANT'S PROPERTY.** Tenant shall be responsible for, and agrees to pay prior to delinquency, any and all taxes and other assessments, levies, fees and other governmental charges and impositions or every kind or nature, regular or special, direct or indirect, presently foreseen or unforeseen, known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (a) Tenant's leasehold interest in the Premises, (b) the Fixed Improvements, the Operating Equipment, all furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Premises by or on behalf of Tenant, and (c) all alterations, additions, or improvements of whatsoever kind or nature, if any, made to the Premises, by or on behalf of Tenant, irrespective of whether any such tax is assessed, real or personal, and irrespective of whether any such tax is assessed to or against, American, the Authority, Landlord or Tenant (collectively, "**Tenant's Taxes**"). Tenant shall provide Landlord with evidence of Tenant's timely payment of such Tenant's Taxes upon Landlord's request. If at any time any of such Tenant's Taxes are not levied and assessed separately and directly to Tenant (for example, if the same are levied or assessed to Landlord, American or the Authority, or upon or against the building containing the Premises and/or the land underlying said building), Tenant shall pay to Landlord Tenant's share thereof as reasonably determined and billed by Landlord. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Tenant's Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Tenant's Taxes described in this Section 22.01.**

Section 22.02 **LOSS AND DAMAGE.** Except with respect to Landlord's own negligence, Landlord shall not be responsible or liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying premises or any part of the premises adjacent to or connected with the Premises or any part of the building of which the Premises are a part, or any other area in Concession Area,

the Terminal or the Airport, or for any loss or damage resulting to Tenant or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes, or (without limiting the foregoing) for any damage or loss of property within the Premises from any cause whatsoever. Tenant shall give immediate notice to Landlord in case of any damage to or destruction of all or any part of, or of accidents occurring within the Premises, or of defects therein, or of any damage to or destruction of any inventory, fixtures or equipment within the Premises. In no event shall American or the Authority have any liability to Tenant whatsoever for the foregoing damage and destruction.

ARTICLE XXIII. HOLDING OVER

Section 23.01 **HOLDING OVER.** If, at the termination or expiration of this Sublease, Tenant has not delivered possession of the Premises to Landlord as required in Section 6.04, and, for any reason, Tenant retains possession of the Premises or any portion thereof, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes either: (a) the creation of a month-to-month tenancy, or (b) the creation of a tenancy at sufferance, in either case upon the terms and conditions set forth in this Sublease; provided, however, that the monthly Guaranteed Rent shall, in addition to all other sums which are to be paid by Tenant hereunder, whether or not as Additional Rent, be equal to double the highest monthly Guaranteed Rent paid in the preceding twelve (12) month period (and prorated in the case of (b) on the basis of a three hundred sixty-five (365) day year for each day Tenant remains in possession), plus Additional Rent accruing during the period of Tenant's occupancy based on a termination for an Event of Default if such unlawful holding over exceeds five (5) days after the natural expiration or earlier termination of the Term. The provisions of this Section 23.01 shall not constitute a waiver by Landlord of any right of re-entry as herein set forth; nor shall receipt of any hold-over rent or other amount under this Sublease or any other act in apparent affirmation of the tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the terms, covenants, or obligations to be performed by or on behalf of Tenant. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Sublease except as otherwise expressly provided. The preceding provisions of this Section 23.01 shall not be construed as consent for Tenant to retain possession of the Premises in the absence of prior written consent thereto by Landlord. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York from and against any and all loss, claims, demands, liabilities, damages (including, without limitation, consequential damages), costs and expenses (including, without limitation, attorneys' fees and expenses) resulting from any failure by Tenant to surrender the Premises in the manner and condition required by this Sublease upon the expiration of the Term or earlier termination of this Sublease, including, without limitation, any claims made by any proposed new tenant founded upon such failure.**

Section 23.02 **SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the parties hereto shall inure to and be imposed upon the respective heirs, executors, administrators, successors and assigns of the said parties; and, if there shall be more than one (1) entity or individual comprising Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant unless the assignment to such assignee has been approved in advance by Landlord in writing as required by Article XIV.

ARTICLE XXIV. RULES AND REGULATIONS

Section 24.01 **RULES AND REGULATIONS.** Tenant shall at all times comply with any and all Rules and Regulations (as hereinafter defined) in effect at the Airport or the Terminal. The term "**Rules and Regulations**" means all rules and regulations governing the conduct and/or operations of the Airport or the Terminal as may be promulgated from time to time, by any governmental authorities, including but not limited to, the FAA, the U.S. Department of Transportation ("**DOT**"), the TSA and/or the EPA, and

any rules and regulations promulgated from time to time by Landlord or American specifically for or otherwise affecting conduct and/or operations in the Terminal and/or Concession Area, provided that Landlord's and American's rules do not have an unreasonable and material adverse discriminatory impact on concession operations within the Concession Area. Landlord shall not have any duty or obligation to enforce the Rules and Regulations or the terms and conditions in any other lease or sublease as against any other tenant; Landlord and American shall not be liable to Tenant for violations of the same by other tenants, invitees, their servants, employees, contractors, subcontractors and agents. Tenant's failure to keep and observe the Rules and Regulations shall constitute a material breach of the terms hereof in the same manner as if the Rules and Regulations were contained herein as covenants.

ARTICLE XXV. QUIET ENJOYMENT

Section 25.01 . LANDLORD'S COVENANT. Subject to the terms and conditions hereof, the terms and provisions of the Concession Area Lease, the Authority Lease as well as the Consent Agreement, upon payment by Tenant of Rentals herein provided and other charges payable by Tenant hereunder, and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term without hindrance or interruption by Landlord.

ARTICLE XXVI. PERFORMANCE GUARANTY

Section 26.01 PERFORMANCE GUARANTY. (a) Tenant shall provide Landlord with the Performance Guaranty in the amount specified in the Data Sheet, which shall be at Landlord's option, in the form of either immediately available funds or the unconditional, irrevocable standby letter of credit ("**Letter of Credit**") or a Payment and Performance Bond ("**Bond**"), as security for the faithful observance and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed. Such Letter of Credit must be in form and content as set forth in **Exhibit H**. If Landlord permits Tenant to provide a Letter of Credit or Bond, the following shall be applicable. Such Letter of Credit or Bond must be for a term of not less than one (1) year which term shall be automatically renewed for successive one (1) year periods, unless the Bank or Surety gives not less than sixty (60) days prior written notice that it will not so renew the Letter of Credit or Bond for such successive term and the last term of the letter of credit or bond shall end not less than sixty (60) days after the Expiration Date. If such letter of credit or bond is not automatically renewed as aforesaid, Tenant agrees to cause the Bank or Surety to renew such Letter of Credit or Bond or another bank or surety to issue a new letter of credit or bond, from time to time, during the Term, at least ninety (90) days prior to the expiration of said letter of credit or bond or any renewal or replacement, upon the same terms and conditions or in lieu thereof, Tenant may provide a cash security deposit in immediately available funds in the amount of any Letter or Credit or Bond so being replaced. In the event of any transfer of said Letter of Credit or Bond pursuant to Section 26.05, and notice of such transfer to Tenant, Tenant, within twenty (20) days thereafter, shall cause a new Letter of Credit or Bond to be issued by said Bank or Surety to the transferee, upon the same terms and conditions, in replacement of the Letter of Credit so transferred and Landlord agrees that, simultaneously with the delivery of such new Letter of Credit or Bond, it will return to said Bank or Surety the Letter of Credit or Bond being replaced. The Letter of Credit or Bond shall be held in trust by Landlord for the purposes set forth in this Article and shall not be transferred except for transfer (a) to an agent for collection, or (b) pursuant to the provisions of Section 26.05. In the event Tenant defaults beyond any applicable grace period hereunder in the performance of its obligations to issue a replacement Letter of Credit or Bond, or in the observance or performance of Tenant's agreement to cause the Bank or Surety to renew the Letter of Credit or Bond, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the

right to require the Bank or Surety to make payment to Landlord of the entire sum of the Letter of Credit or Bond or the undrawn portion thereof, as the case may be, which sum may be held by Landlord as the Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article. If payment of the entire sum of the Letter of Credit or the undrawn portion thereof is made to Landlord by reason of Tenant's failure to renew or replace the Letter of Credit in accordance with the foregoing provisions of this Article, Landlord shall have the right, at any time on behalf of Tenant, to replace said Performance Guaranty with a new Letter of Credit or Bond issued by the Bank, the Surety or any other bank or surety selected by Landlord, in Landlord's sole discretion, and Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's agent and attorney-in-fact to cause the Bank or Surety or any such other bank or surety selected by Landlord to issue such a replacement Letter of Credit or Bond. The Letter of Credit or Bond provides for partial drawings. In the event Tenant defaults in the payment when due of an installment of Rentals and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default or if this Sublease and the Term shall expire and come to an end, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, then Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, may from time to time, draw on the Letter of Credit or Bond in one (1) or more drawings for the amount of any Rentals then due and for any amount then due and payable to Landlord under this Sublease. In the event of a partial drawing, as provided in the immediately preceding sentence, Tenant shall, within five (5) days after demand, cause the Bank or Surety to issue an amendment to the Letter of Credit or Bond restoring the amount available thereunder to the amount required under this Sublease. Notwithstanding anything to the contrary set forth in this Sublease, including, but not limited to, the foregoing provisions of this Article, in addition to all rights granted to Landlord pursuant to the provisions of the Sublease, if this Sublease and the Term shall expire and come to an end as provided in Article XIX, or by or under any summary proceeding, or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank or Surety to make payment to Landlord of the entire sum of the Letter of Credit or Bond or the undrawn portion thereof, as the case may be, which sum shall be held by Landlord as a Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article.

(b) Any Performance Guaranty held by Landlord in the form of immediately available funds (cash) shall be held subject to the provisions of any and all legal requirements applicable thereto. Landlord agrees that, if not prohibited by law or the general policies of lending institutions in New York, Landlord shall deposit the Performance Guaranty held by Landlord either in an account that does not bear interest or in an interest-bearing account at a bank or banks selected by Landlord, and all interest, if any, accruing thereon shall be added to and become a part of the Performance Guaranty and shall be retained by Landlord under the same conditions as the principal sum held as the Performance Guaranty. Notwithstanding anything to the contrary set forth in the preceding sentence of this Section 26.01(b), in the event the Performance Guaranty is held in an interest-bearing account, Landlord shall be entitled to retain the one percent (1%) administrative fee permitted by law to by landlords with respect to security deposits.

Section 26.02 **APPLICATION OF PERFORMANCE GUARANTY.** In the event Tenant defaults in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, including, but not limited to, the covenant for the payment of Rentals, beyond the applicable notice and cure periods provided under this Sublease for curing such default, Landlord may use, apply or retain the whole or any part of any Performance Guaranty held by Landlord under any of the provisions of Section 26.01, to the extent required for the payment of any Rentals or performance of any

other obligations, without thereby waiving any other rights or remedies of Landlord with respect to such default, and Landlord shall hold the remainder of such Performance Guaranty as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed with the same rights as hereinabove set forth to use, apply or retain all or any part of such remainder in the event of any further default by Tenant under this Sublease.

Section 26.03 **RESTORATION OF PERFORMANCE GUARANTY.** If Landlord uses, applies or retains the whole or any part of the Performance Guaranty held by Landlord under any of the provisions of this Article, Tenant, promptly after notice thereof, shall deliver to Landlord, in cash or by cashier's check or certified check, payable to the order of Landlord, the sum necessary to restore the Performance Guaranty to the sum required under this Sublease.

Section 26.04 **RETURN OF SECURITY.** The Letter of Credit or Bond and/or any remaining portion of any Performance Guaranty then held by Landlord for the performance of Tenant's obligations under this Sublease as security shall be returned to Tenant after (a) sixty (60) days following the Expiration Date and (b) the full observance and performance by Tenant of all of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed.

Section 26.05 **TRANSFER OF LETTER OF CREDIT OR BOND.** In the event of a transfer of Landlord's interest in this Sublease, Landlord shall transfer the Letter of Credit or Bond and/or any remaining portion of any Performance Guaranty then held by Landlord as security for the performance of Tenant's obligations under this Sublease to the transferee, and Landlord shall thereupon be released from all liability for the return of such security; Tenant agrees to look solely to the transferee for the return of any such security and it is agreed that the provisions of this sentence shall apply to every sale or transfer of the Premises or Landlord's interest in this Sublease by Landlord named herein or its successors, and to every transfer or assignment made of any such security. Any transferee shall be deemed to have agreed that any Letter of Credit or Bond or Performance Guaranty transferred to such transferee pursuant to this Section shall be held in trust for the purposes of this Article.

Section 26.06 **NO ASSIGNMENT OF SECURITY BY TENANT.** Tenant agrees that it will not assign, mortgage or encumber, or attempt to assign, mortgage or encumber, the Letter of Credit or Bond or any Performance Guaranty held by Landlord under this Sublease, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, mortgage, encumbrance, attempted assignment, attempted mortgage or attempted encumbrance. Landlord shall not be required to exhaust its remedies against Tenant before having recourse to the Letter of Credit or Bond, the Performance Guaranty or any other security held by Landlord. Recourse by Landlord to the Letter of Credit or Bond, the Performance Guaranty or any other security held by Landlord shall not affect any remedies of Landlord which are provided in this Sublease or which are available in law or equity.

ARTICLE XXVII. MISCELLANEOUS

Section 27.01 **WAIVER; ELECTION OF REMEDIES.** One (1) or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same covenant or condition by the other party, and the consent or approval to or of any act by Tenant requiring consent or approval shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act by Tenant. No breach by either party of a covenant or condition hereof shall be deemed to have been waived by the non-breaching party unless such waiver is in writing and signed by a representative of the non-breaching party. The rights and remedies of Landlord hereunder or in any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have elsewhere hereunder or at law or equity, whether or not such Section, subsection or clause

expressly so states.

Section 27.02 **ENTIRE AGREEMENT.** This Sublease supersedes all prior agreements between the parties and sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises; and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein (other than the Concession Area Lease, the Consent Agreement and Authority Requirements), and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. **Neither Landlord nor its agents or representatives have made any representation or warranty regarding the profitability of the Premises, the enplaned passenger and/or airline volume in the Terminal and/or the Airport or operating airlines in the Terminal and/or the Airport; and Tenant has not entered into this Sublease in reliance on any such representations, warranties or financial projections prepared or furnished to Tenant by Landlord or its agents or representatives.** No alteration, amendment, change or addition to this Sublease shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party.

Section 27.03 **INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint ventures between the parties hereto; it being understood and agreed that neither the method of computation of Rentals, nor any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If this Sublease is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this Sublease on behalf of such corporation, partnership or entity.

Section 27.04 **DELAYS; FORCE MAJEURE.** "**Force Majeure**" means, strictly in relation to the conditions that may cause a party to be temporarily or partially prevented from performing its obligations to the other party under this Sublease, and not for any other purpose or for any benefit of a third party: (a) strikes, boycotts, lockouts, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of Tenant; (b) embargoes, shortages of material, acts of God, acts of the public enemy, acts of a governmental authority (including, without limitation, the FAA, the DOT, the TSA and the EPA or defense authorities), extreme weather conditions, riots, rebellion, or sabotage, war (declared or undeclared), invasion, insurrection, or terrorism; or (c) any other circumstances for which an affected party is not responsible and which are not within its ability to control in the exercise of commercially reasonable efforts. In the event either party is delayed in the performance of any obligation required by this Sublease, such performance shall be excused (unless the specific provision otherwise provides) for the period of the delay, and performance of any such obligation shall be extended for a period equal to the delay, if and only if the delay is by reason of Force Majeure. However, the time for Tenant's performance of any obligation shall not be extended due to any lack of funds, financial or economic problems of either Tenant or Tenant's architects, contractors, suppliers, agents, consultants and/or employees If Tenant shall claim a delay due to Force Majeure, Tenant must notify Landlord in writing for receipt by Landlord within fifteen (15) days of the first occurrence of an event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming force majeure and the anticipated delay in Tenant's performance. In no event shall any delay extend Tenant's performance beyond a sixty (60) day period without the specific written approval of Landlord. Under no circumstances shall any such condition or delay (unless the specific provision provides for abatement of Rentals), whether such condition or delay is claimed by Landlord or Tenant, excuse or delay Tenant's payment of any Rentals and other charges due hereunder. Further, Landlord's, American's or the Authority's reasonable reduction but not elimination of heat, light, air conditioning or any other services whatsoever to the Terminal or the Premises shall not

relieve or excuse Tenant from any of its obligations hereunder.

Section 27.05 **NOTICES.** Notwithstanding the fact that certain descriptions elsewhere in this Sublease of notices required to be given by one (1) party to the other may omit to state that such notices shall be in writing, any notice, demand, request or other instrument which may be or is required to be given hereunder shall be in writing and sent by (a) United States certified mail, return receipt requested, postage prepaid, (b) United States express mail, (c) recognized overnight national air courier (such as Federal Express, Airborne or UPS for example), (d) personal delivery or (e) any other overnight method creating a receipt, waybill or other indication of delivery. Notices shall be addressed if to the Landlord, at the address as set forth on the Data Sheet, or such other address or addresses as Landlord may designate by written notice, together with copies thereof to such other parties designated by Landlord, and if to Tenant, the address set forth on the Data Sheet, or such other address or addresses as Tenant shall designate by written notice, together with copies thereof to such other parties designated by Tenant. Notices shall be deemed given on the 3rd day after deposit for notices sent under (a) and (b) above, on the first (1st) day after deposit for notices sent under (c) and (e) above and on the date delivered for notices sent under (d) above. Nothing contained in this Section 27.05 shall preclude, limit or modify Landlord's service of any notice, statement, demand or other communication in the manner required by law, including, but not limited to, any demand for rent under Article 7 of the New York Real Property Actions and Proceedings Law or any successor law of like import.

Section 27.06 **CAPTIONS AND SECTION NUMBERS.** The captions, section numbers, article numbers appearing herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles hereof nor in any way affect this Sublease.

Section 27.07 **BROKER'S COMMISSION.** Each party represents and warrants to the other party that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Sublease, and each party agrees to indemnify the other and hold it harmless from all liabilities arising from any claim due to its own acts for brokerage commissions and finder's fees in connection with this Sublease. Such indemnity shall survive the termination hereof. Notwithstanding the foregoing, each party shall be solely responsible for the payment of any claims for brokerage commissions or finder's fees as a result of such party's retaining a broker or similar entity in connection with this Sublease.

Section 27.08 **RECORDING.** Tenant shall not record this Sublease or any short form or memorandum hereof.

Section 27.09 **FURNISHING OF FINANCIAL STATEMENTS.** Tenant has provided Landlord at or prior to the date of this Sublease with statements reflecting its financial condition and a credit report as of a date within the last twelve (12) months as an inducement to Landlord to enter into this Sublease, and Tenant hereby represents and warrants that its financial condition and credit rating have not materially changed since the date of those statements and reports. Upon Landlord's written request, Tenant shall promptly furnish Landlord, from time to time, but not more frequently than once in any Lease Year, with financial statements and a credit report reflecting Tenant's then current financial condition. Landlord shall treat such financial statements, credit reports and information provided to it confidentially, and shall not disclose them except to Landlord's lenders or otherwise as reasonably necessary for the operation of the Terminal or administration of Landlord's business or unless disclosure is required by any judicial or administrative order or ruling.

Section 27.10 **TENANT'S WAIVERS IN ACTION FOR POSSESSION.** Landlord and Tenant agree that in any action brought by Landlord to obtain possession of the Premises, the parties desire an expeditious resolution of such litigation. Accordingly, Tenant shall not file and hereby waives the right to file any non-compulsory counterclaim in such action. Tenant also shall not file and hereby waives the right to file any

defense to such action for possession other than the defense that the default alleged by Landlord did not occur unless Tenant would otherwise be precluded from the filing of any such other defense in a separate action.

Section 27.11 **TRANSFER OF LANDLORD'S INTEREST.** In the event of any transfer or transfers of Landlord's interest in the Premises, the transferor shall be automatically relieved of any and all obligations on the part of Landlord accruing from and after the date of such transfer, provided that (a) the interest of the transferor, as Landlord, in any funds in the hands of Landlord in which Tenant has an interest shall be turned over, subject to such obligations, to the then transferee; and (b) notice of such sale, transfer or lease shall be given to Tenant as required by law. Landlord also has the right at any time to assign this Sublease to American, the Authority or to any successor operator to American or the Authority in the Terminal or the Airport in the event of the expiration, termination or assignment of the Concession Area Lease without notice to Tenant.

Section 27.12 **FLOOR AREA.** The term "Floor Area" as used in this Sublease means with respect to any leasable area of the Premises the aggregate number of square feet of interior floor space of all floor levels therein, including any mezzanine space which shall be measured: (a) with respect to the front and rear width thereof, from the exterior face of the adjacent exterior or corridor wall, or if none, to the center of the demising partition; and (b) with respect to the depth thereof, from the front of the lease line as shown on **Exhibit A-2** to the exterior face of the exterior wall, or corridor wall, or if none, to the center of the demising partition. No deduction or exclusion from Floor Area shall be made by reason of columns, ducts, stairs, elevators, escalators, shafts or other interior construction or equipment.

Section 27.13 **INTEREST ON PAST DUE OBLIGATIONS.** Any amount due from Tenant to Landlord hereunder which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the lesser of: (a) the prime rate of interest plus four percent (4%); (b) or the highest rate permitted by the laws of the State of New York (collectively, "**Late Interest**") from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant hereunder. The "prime rate of interest" means the average interest rate per annum published in the national addition of The Wall Street Journal "Money Rates" section as of the relevant date of determination under this Sublease. If The Wall Street Journal ceases to publish such an average prime rate, the rate shall be the prime rate established by the commercial bank having an office in the City of New York with the highest net worth and which is a member of the New York Clearing House Association, then establishing and publishing a prime rate, or if no such commercial bank shall establish a prime rate, the rate to be used shall be a comparable rate for the purposes of establishing the cost of money as reasonably determined by Landlord. The parties hereto agree that such late payment charge represents a fair and reasonable estimate of costs and expenses Landlord will incur by reason of any such late payment.

Section 27.14 **LIABILITY OF LANDLORD AND LIMITATION OF DAMAGES.** If Landlord shall fail to perform any covenant, term or condition hereof upon Landlord's part to be performed, and if as a consequence of such default Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the management fees from the concession program in the Terminal received by Landlord; and neither Landlord nor any of the officers, directors, employees, agents, partners or Affiliates of Landlord shall be liable for any deficiency. No shareholder, director, officer, agent or employee of Landlord shall be charged personally or held contractually liable under any term or provision of this Sublease or because of any breach thereof or because of the execution or attempted execution of this Sublease. Landlord (including its shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, special, consequential or exemplary damages or lost profits.

Section 27.15 **EXECUTION OF SUBLEASE; NO OPTION.** The submission of this Sublease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of an option for Tenant to lease, or otherwise create any interest by Tenant in the Premises or any other premises in the Terminal. Execution of this Sublease by Tenant and the return of same to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has executed and delivered this Sublease to Tenant and the parties have obtained the required Consent Agreement executed by the Authority. Once so executed and delivered by Landlord as aforesaid and the parties have obtained the required Consent Agreement executed by the Authority, this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives and assigns where permitted by this Sublease.

Section 27.16 **GOVERNING LAW.** All obligations of the parties hereunder are performable in Queens County, New York. This Sublease shall be governed by and construed under and in accordance with laws of the State of New York except where any state law shall be preempted by any rules, laws or regulations of the government of the United States of America and all agencies thereof. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible; in any event, all other provisions hereof shall be deemed valid and enforceable to the full extent.

Section 27.17 **SPECIFIC PERFORMANCE OF RIGHTS.** Each party shall have the right to obtain specific performance of any and all covenants or obligations of the other party hereunder except to the extent otherwise provided herein for the benefit of Landlord excusing any such performance by Landlord, and nothing contained herein shall be construed as or shall have the effect of abridging such right.

Section 27.18 **SURVIVAL OF OBLIGATIONS.** All obligations of Tenant hereunder which cannot be ascertained to have been fully performed prior to the end of the Term or any earlier termination hereof shall survive any such expiration or termination. Further, all of the terms, conditions, covenants, provisions, restrictions or requirements imposed upon Tenant hereunder shall be deemed to extend to Tenant's agents, employees, officers, directors, partners, guarantors, contractors, invitees, concessionaires, licensees and subcontractors; and Tenant shall cause all such persons and entities to comply herewith and include any applicable provisions in any agreements, contracts, subcontracts or the like entered into by Tenant with such persons and/or entities with respect to Tenant's activities and operations in the Premises, the Terminal and the Airport.

Section 27.19 **CERTAIN RULES OF CONSTRUCTION.** Time is of the essence in Tenant's performance of this Sublease. Notwithstanding the fact that certain references elsewhere in this Sublease to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Sublease by Tenant, omit to state that such acts shall be performed at Tenant's sole cost and expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant hereto shall be performed or fulfilled at Tenant's sole cost and expense, and all breaches or defaults by Tenant hereunder shall be deemed material. Tenant shall be fully responsible and liable for the observance and compliance by concessionaires, franchisees, subtenants and licensees of Tenant and with all the terms and conditions of this Sublease, which terms and conditions shall be applicable to concessionaires, franchisees, subtenants and licensees as fully as if they were the Tenant hereunder; and failure by a concessionaire, franchisee, subtenant or licensee fully to observe and comply with the terms and conditions of this Sublease shall constitute a default by Tenant. Nothing contained in the preceding sentence shall constitute consent by Landlord to any concession, subletting or other arrangement. Further, although the printed provisions of this Sublease were drawn by Landlord, the parties agree that this circumstance alone shall not create any presumption, canon of

construction or implication favoring the position of either Landlord or Tenant; and the deletion of language from this Sublease prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, adverse or opposite of the deleted language.

Section 27.20 **CONFIDENTIALITY.** Any and all information contained in this Sublease or provided to or by Tenant and/or Landlord by reason of the covenants and conditions hereof, economic or otherwise, shall remain confidential between Landlord and Tenant and shall not be divulged to third parties other than American and the Authority except as required to be disclosed by law. Landlord shall be permitted to divulge the contents of statements and reports derived and received in connection with the provisions of Articles 3 and 4 in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Concession Area Lease or in connection with any administrative or judicial proceedings in which Landlord is involved.

Section 27.21 **ATTORNEY FEES.** If at any time after the date that this Sublease has been executed by Landlord and Tenant, either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions hereof or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs and disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Any such amounts due from Tenant to Landlord under this provision shall be considered as Additional Rent hereunder and shall be paid by Tenant to Landlord within twenty (20) days after written demand. Any such amounts due from Landlord to Tenant under this provisions shall be paid by Landlord to Tenant within twenty (20) days after written demand.

Section 27.22 **WAIVER OF TRIAL BY JURY.** Landlord and Tenant desire and intend that any disputes arising between them with respect to or in connection with this Sublease be subject to expeditious resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waives the right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought by either Landlord against Tenant or Tenant against Landlord or any matter whatsoever arising out of, or in any way connected with, this Sublease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Section 27.23 **A.D.A. & OTHER HANDICAP ACCESS AND NON-DISCRIMINATION LAWS COMPLIANCE.** Tenant agrees that with respect to the Premises, its Fixed Improvements and Operating Equipment (including communications equipment) thereon, Tenant shall be responsible for compliance with the Americans with Disabilities Act of 1990 ("**ADA**", 42U.S.C.§§12101 et seq.) and the Regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto ("**ADAAG**"). Within five (5) days after receipt, Tenant shall advise Landlord in writing and provide copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises. Tenant acknowledges that a portion of the Premises is to be used by the traveling public. Tenant shall make available such space to the traveling public on a nondiscriminatory basis, including ensuring access by disabled persons, and shall coordinate its activities and operations with abutting tenants so as to maximize efficient use of available space. If Tenant fails to comply with the requirements of this Section, Landlord, upon

reasonable notice to Tenant and an opportunity to cure, shall have the right, but not the obligation, to enter the Premises and perform all necessary tasks to ensure Tenant's compliance with the ADA and other handicap access and nondiscrimination laws and requirements as set forth in this Section 27.23. **Tenant shall indemnify, defend and save harmless Landlord and American from all injury, loss or damage to any Person or property occasioned by Landlord's completion of any necessary tasks to ensure compliance with this Section, except to the extent such loss or damage is the result of the gross negligence or willful misconduct of Landlord or American.** Tenant shall reimburse Landlord for any and all actual costs plus an administrative fee equal to fifteen percent (15%) of such costs incurred in completing such necessary tasks to ensure Tenant's compliance with this Section, including, but not limited to, reasonable attorneys' and consultants' fees and disbursements and costs of corrective measures.

Section 27.24 **AIRPORT SECURITY.** Tenant shall be fully responsible, at its sole cost, for providing security for the Premises with no right of reimbursement from Landlord. Tenant hereby agrees that it shall take such reasonable security precautions with respect to the Premises and its operations and personnel as Landlord, American and the Authority, in their discretion, may require from time to time. Notwithstanding the foregoing, Tenant shall comply with security policies, regulations, rules, statutes, orders, directives, mandates and/or practices as such now exist or as they may be changed, amended, or replaced with new and different requirements in the future as Landlord, American (including, without limitation, American's FAA-approved "Safety Program" as it is in effect from time to time), the Authority or any local, state or federal agency of competent jurisdiction, including the FAA and/or the TSA, may from time to time require, including, but not limited to, compliance, at Tenant's sole cost and expense, with any background investigation, fingerprinting, verification of citizenship and residency and badging requirements for all of its personnel employed at the Terminal (including Tenant's employees and employees of any of Tenant's contractors, subcontractors, concessionaires, franchisees, subtenants and licensees) and with respect to screening of all of the equipment, supplies, materials, merchandise, goods, products and inventory. **Tenant hereby covenants and agrees with Landlord that Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York and their respective officers, directors, agents, representatives, elected officials and employees from and against any and all liabilities, claims, costs, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing out of or in any way connected with, directly or indirectly, the failure by Tenant to strictly comply with the requirements of local, state and federal law, including, but not limited to, the FAA's, the TSA's, the Authority's, American's and Landlord's rules and regulations concerning the subject matter set forth in this Section 27.24.**

Section 27.25 **NON-DISCRIMINATION AND AFFIRMATIVE ACTION.** With respect to non-discrimination and affirmative action, Tenant, its agents, employees, licensees, contractors and subcontractors shall comply at all times with all of the terms and conditions set forth in **Exhibit I**. Tenant, for itself, its successors in interest, and assigns, as a part of the consideration for the Sublease, shall covenant and agree that: (a) no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (b) in the construction of any improvements on, over, or under the Premises and furnishing of services thereon, no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in such activities, denied the benefits thereof, or otherwise be subject to discrimination; and (c) Subtenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United

States of America with respect thereto which from time to time may be applicable to Subtenant's operations at the Premises, whether by reason of agreement between American, the Authority and the United States Government or otherwise. Furthermore, during the performance of this Sublease, the parties hereto hereby incorporate by reference the provisions set forth in 41 CFR § 60-1.4, §60-250.5 and §60-741.5, which provisions apply to all nonexempt contractors and vendors.

Section 27.26 LABOR HARMONY. Tenant agrees that in the use of the Premises or any work performed in or about the Premises that Tenant will employ only labor which can work in harmony with all elements of labor being employed at the Airport. Tenant shall use its best efforts, taking all measures and means, to insure labor harmony in its activities at the Terminal and the Airport, all to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. Tenant particularly recognizes the essential necessity of the continued and full operation of the whole Airport as a transportation center. Tenant shall immediately give oral notice to Landlord (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. If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Tenant or against any of Tenant's operations pursuant to this Sublease which in the opinion of Landlord, American and/or the Authority: (a) physically interferes with the operation of the Terminal or the Airport, or (b) physically interferes with access by the public between the Premises and any portion of the Terminal or the Airport, or (c) physically interferes with access by the public to other areas of the Terminal or the Airport, or (d) physically interferes with the operations of other tenants, concessionaires, lessees or licensees at the Terminal or the Airport, or (e) presents a danger to the health or safety of users of the Terminal or the Airport, persons employed thereat, or to members of the public, whether or not the same is due to the fault of Tenant or is caused by employees of Tenant or of others, Landlord, American and/or the Authority shall have the right at any time during the continuance thereof, by twenty-four (24) hours oral notice, to suspend Tenant's operations hereunder effective at the time specified in such oral notice. During any suspension, Tenant shall cease all its activities and operations hereunder and take such steps to secure and protect the Premises as shall be necessary or desirable. The period of suspension shall end automatically no later than twenty-four (24) hours after the cause thereof has ceased or been cured. While Tenant shall be relieved of its obligation to continually conduct its business in the Premises during a suspension period, suspension shall not relieve Tenant of its payment or reporting obligations hereunder; and there shall be no abatement of Rentals under any circumstances whatsoever unless otherwise approved in writing by Landlord determined in its sole and absolute discretion.

Section 27.27 CROSS DEFAULT. Notwithstanding anything to the contrary contained in this Sublease, a default of Tenant's obligations under the provisions of any other lease with Landlord covering any other concession facilities within the Terminal shall constitute a default by Tenant under this Sublease, entitling Landlord to the rights and remedies provided to it under this Sublease at law, and at equity.

Section 27.28 DISCOUNT TO CERTAIN EMPLOYEES AND CUSTOMER VOUCHERS. Notwithstanding anything to the contrary contained in this Sublease, Tenant is hereby required to give a discount for all merchandise, products and/or services sold and/or rendered hereunder except with respect to the sale of newspapers, magazines and other publications to all individuals employed at the Airport, all American employees and to all Terminal airline employees. The discount to be given as required under this Sublease shall be in the amount of Ex. 2.a.) as compared to Tenant's normal non-sale prices offered to the general public and the discounted portion of the sale shall be separately stated. All Tenants shall honor, for reimbursement by American, food and beverage vouchers issued by American from time to time by passengers bearing a boarding pass or other verifying documentation deemed sufficient by American.

Section 27.29 LOCAL BUSINESS ENTERPRISE COMMITMENT. Tenant commits to use good

faith efforts to implement an extensive program to utilize Local Business Enterprises in accordance with, and as set forth on, **Exhibit J**.

Section 27.30 TENANT'S CERTIFICATION. Tenant hereby represents and warrants to Landlord that Tenant is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. Tenant acknowledges that Landlord is executing this Sublease in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing Landlord to enter into and execute this Sublease. In the event of any breach of the foregoing representations and warranties by Tenant, Landlord shall have the right, in addition to any other remedies provided under this Sublease or at law, to immediately terminate this Sublease upon written notice to Tenant. In the event of any such termination by Landlord, Tenant shall, immediately on receipt of Landlord's termination notice, close the Premises for business and surrender possession of the Premises to Landlord without Landlord resorting to any other legal process.

IN WITNESS WHEREOF, Landlord and Tenant, personally or by their duly authorized agents, have executed this Sublease as of the day and year first above written.

TENANT:

NEWSLINK OF JFK, LLC,
a Florida limited liability company

By: Raymond J. Kaya, Jr.

Print Name: Raymond J. Kaya, Jr.

Title: President of Non-Member Manager, NewsLink Group, LLC

ATTEST:

By: Maria E. Venzal

Print Name: MARIA E. VENZAL

Title: DIRECTOR OF FINANCE

LANDLORD:

WESTFIELD CONCESSION MANAGEMENT, LLC,
a Delaware limited liability company

By: Arnold L. Mayersohn, Jr.

Print Name: Arnold L. Mayersohn, Jr.
Assistant Vice President & Secretary

Title: _____

EXHIBIT B

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN
AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. ____
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of _____, 200_ ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), _____ ("Sublessee"), a (corporation/partnership/limited liability company) organized and existing under the laws of the State of _____ with an office and place of business at _____, whose representative is _____, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate each consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to Paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; (e) or such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee

with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under Paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of Paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably

hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this Paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. (a) The Sublessee acknowledges that it has received, and is familiar with the contents of, a copy of the

Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 (the "City Lease").

(b) In accordance with the provisions of the City Lease, the Port Authority and the Sublessee hereby agree as follows:

(1) This Consent is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(2) The Sublessee shall not pay fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(3) With respect to this Consent, the Sublessee on the termination of the City Lease will, at the option of The City of New York (the "City"), attorn to, or enter into a direct permit on identical terms with, the City;

(4) The Sublessee shall indemnify the City with respect to all matters to the extent described in Section 31 of the City Lease;

(5) The Sublessee shall not engage in the privilege permitted hereunder for any use other than as permitted under the City Lease;

(6) The Sublessee shall use, operate and maintain the privilege granted hereunder in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(7) The failure of the Sublessee to comply with the forgoing provisions shall be an event of default under this Consent, which, after the giving of reasonable notice, shall provide the Port Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have hereunder; and

(8) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to the Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline, the Permittee or the Sublessee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

[Note: Signature Blocks and Notary Forms will be provided in the Consent Agreement to be signed]

EXHIBIT C

MONTHLY STATEMENT & ANNUAL STATEMENT FORMS

EXHIBIT D

DESIGN AND CONSTRUCTION REQUIREMENTS

I. INTRODUCTION AND DEFINITIONS.

A. American has constructed or is in the process of constructing all of the existing improvements for the Terminal as generally shown on Exhibit A-1, including the base building structure and the base building utility systems. American shall have the right to perform the safe removal, encapsulation, enclosure or other disposition of Toxic or Hazardous Materials, if any, that exist within the Premises as of the date Tenant is delivered possession of the Premises. American is obligated under the Concession Area Lease to remediate or remove (or reimburse Tenant for the reasonable costs incurred by Tenant) any such pre-existing Toxic or Hazardous Materials that American determines, in its sole discretion, to be necessary in order for Tenant to perform Tenant's Work. If Tenant encounters any such pre-existing Toxic or Hazardous Materials during the performance of Tenant's Work for the initial construction of the Premises, Tenant shall immediately notify Landlord and American in writing and provide all details related thereto. In no event shall Tenant perform any of Tenant's Work that will in any way disturb any such Toxic or Hazardous Materials so encountered until American has determined whether it is necessary to remediate or remove the same.

B. The term "**American's Work**" shall mean American's total responsibility for construction of improvements for the Premises within the Terminal as set forth in this Exhibit D. The cost of American's Work shall be borne as set forth in this Exhibit D. American's Work shall be of a design, type, size, location, quality and nature as may be selected by American from time to time. Any item of work necessary to complete the Premises which is not hereinafter specifically included as part of American's Work under this Exhibit D shall be considered as part of Tenant's Work.

C. The term "**Tenant's Work**" shall mean Tenant's total responsibility (or any portion thereof) for the construction and improvement of the Premises. Tenant's Work shall be performed at Tenant's sole cost and expense. Tenant's Work shall include, but not be limited to, all work necessary or required to complete the Premises, except those items of work that are specifically included under this Exhibit D as part of American's Work.

II. GENERAL REQUIREMENTS AND PROVISIONS.

A. Tenant's Work shall be subject to Landlord's, American's and the Authority's prior approval, such approval to be determined in their sole discretion, and shall be designed, fabricated, constructed and installed to comply with all of the requirements set forth in the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process and with all of the requirements set forth in other various documents and requirements of the Authority pertaining to Tenant's construction within the Terminal. All details and information contained in either the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process, whether appearing on Tenant's Conceptual Plans and Final Drawings or not, shall be considered a part of Tenant's Conceptual Plans and Final Drawings and design and construction requirements. By this reference the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements are incorporated herein and made a part of this Exhibit D and the Sublease. This Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements may, when the context requires, hereinafter be collectively referred to as "**Tenant's Construction Requirements**".

B. The design, fabrication, construction and installation of Tenant's Work must comply with each of the following requirements:

1. This Exhibit D.

2. The Design Guidelines.

3. The Tenant Construction Review Manual, the Alteration Application and the TAA Process.

4. Tenant's Final Drawings, as approved by Landlord, American and the Authority.

5. All applicable laws, ordinances, codes, regulations and the requirements of all federal, state or local permitting, building and inspection agencies, including the Authority.

6. All applicable standards of the American Insurance Association, The National Electric Code (latest edition), the American Society of Heating, Refrigeration and Air Conditioning Engineer's Guide (latest edition), the Authority's, American's and Landlord's insurance carriers, the local building codes and regulations and all other agencies having jurisdiction.

In the event of a conflict between any of the above-referenced items, the most stringent requirement shall govern each increment of Tenant's Work.

C. All aspects of Tenant's Work shall be performed in a professional, first-class and workmanlike manner and shall be in a good and first-class and usable condition as of the date of completion and maintained in such condition at all times. All materials used in Tenant's Work, Tenant's construction of the Premises and installations made as a part of Tenant's Work shall be of new, commercial grade and first-class quality. After Tenant's initial construction of the Premises, any and all elective Refurbishments and any and all Refurbishments required of Tenant by Landlord or American under the applicable provisions of the Sublease shall be performed in accordance with all of the requirements set forth in this Exhibit D and the most current editions of the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process.

D. Tenant shall be solely responsible for the investment required for the planning, design, development, construction, fabrication and installation of all Fixed Improvements and other permanent leasehold improvements and Operating Equipment necessary to complete the Premises as required to provide the concession services within the Terminal as provided in the Sublease. Such investment shall be subject to the detailed review and approval by Landlord and American as provided elsewhere in the Sublease and in the Tenant's Construction Requirements.

E. All contracts and subcontracts for any portion of Tenant's Work shall require: (i) that all contractors and subcontractors provide labor that can work in harmony with other elements of labor employed or to be employed at the Airport as specified in Section 27.25 hereof; (ii) insurance coverage and suretyship reasonably satisfactory to Landlord, American and the Authority for the protection of Landlord, American, the Authority and their respective laborers, suppliers, contractors, subcontractors and the general public; (iii) that all contractors and subcontractors comply strictly with all of the applicable provisions of the Authority Lease, the Concession Area Lease, this Sublease, this Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process; and (iv) for all Fixed Improvements and other permanent leasehold improvements to the Premises, performance bonds and payment bonds from the Tenant or its general contractor, in form and substance satisfactory to Landlord and American, each of which shall name Landlord, American and the Authority as an additional obligee and which shall be in the penal

sum equal to the amount of Tenant's total construction contracts and subcontracts. Further, Tenant shall comply and shall cause all of its contractors and subcontractors to comply with the Authority's non-discrimination and affirmative action provisions contained in **Exhibit I** and shall require the inclusion of such provisions in all contracts and subcontracts relating in any way to Tenant's Work.

III. AMERICAN'S WORK.

A. As required by the Concession Area Lease, American shall perform the "**Base Building Work**" which is defined to mean the subflooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures and fixtures which American installs or causes to be installed at the Concession Area in accordance with the Authority Lease. Base Building Work includes delivery of portions of the Concession Area designated for concession activities including the Premises, in "shell condition". "Shell condition" is defined, for purposes of this Sublease, as smooth concrete floors, demising studs and walls, and utility services (conduits, lines, pipes, etc.) of commercially adequate capacity and size located at the lease lines of the Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), heating ventilating and air conditioning systems including access for exhaust ducts for food & beverage locations ("**HVAC**"), fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises. American's Work to be performed or provided at American's sole cost and expense shall be limited to the following:

1. A basic building in "shell condition" for the Premises (for in-line concession facility locations only) to American's specifications. Neither Landlord nor American shall provide any finished walls or wall coverings, finished ceiling or ceiling covering or finished floor covering within the Premises, all of such to be performed by Tenant as part of Tenant's Work.

2. Utility stub-ins of a commercially adequate capacity and size located at the lease lines of each of Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), HVAC systems including access for exhaust ducts for food & beverage locations, fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises, as more fully detailed on the utilities matrix ("**Utilities Matrix**") attached as an exhibit to the Concession Area Lease. Tenant acknowledges that a copy of the Utilities Matrix has been provided to Tenant.

3. Public use service corridors, if any, located as required by code or as selected by American, with such corridor walls, if any, finished on the corridor side only.

B. American and Landlord may, but shall not be required to, provide additional items of basic building shell or base building utility conduit services for the Premises as part of American's Work. If applicable, such additional items, if any, shall be provided in accordance with American's specifications.

IV. TENANT'S WORK.

A. Tenant shall prepare preliminary conceptual plans ("Conceptual Plans") for the Premises in accordance with the provisions of the Tenant's Construction Requirements and submit them to Landlord, American and the Authority (if American and the Authority determines to review Conceptual Plans) for approval, such

approval to be determined in their sole discretion. The Conceptual Plans must be submitted to Landlord not later than twenty (20) days from the Commencement Date or such shorter period of time as may be required for Tenant to open for business by the Latest Rental Commencement Date, and shall include at a minimum the following:

Floor Plans: To include overall dimensions; interior finishes; construction components; identification of any proposed structural alterations to the Premises.

Fixture Plans: Merchandising layouts of the Premises including fixture locations (permanent and movable); and details and/or catalog cuts of the fixtures including materials with smoke developed ratings and flame spread classifications.

Reflected Ceiling Plans: Showing types and electrical connections for lighting fixtures.

Elevations: Drawings of all interior and storefront elevations of the Premises visible to the public, storefront details illustrating architectural compatibility with surrounding areas, building sections or cross sections to accurately depict design details.

Material Boards: Material boards referenced to floor plans and elevations for the Premises illustrating floor base, wall, door, trim and ceiling materials and color selections; material boards shall include color photos and catalog cuts of furniture and/or fixtures where required; colors and materials for all storefront components. Include smoke developed ratings and flame spread classifications, as applicable.

Project Schedule: A preliminary project schedule describing the actions necessary to implement the project, the sequence of actions and the schedule of actions.

Signage Drawings: The shape, size, color and location of signs, and a description of all methods of fabrication, installation and construction.

B. Landlord shall have the right to require modifications to the Conceptual Plans and any approval granted by Landlord is subject to the Tenant's incorporation of the required modifications and draft set of Tenant specifications to ensure compliance with the Tenant Construction Requirements. In the event Landlord requires any such modifications to the Conceptual Plans, Tenant shall prepare and submit the same for Landlord's review and approval within ten (10) days after receipt of Landlord's modifications. Tenant shall follow the steps as outlined in the Tenant Construction Requirements for submitting the Conceptual Plans required for the Tenant.

C. Tenant shall prepare final drawings and specifications ("Final Drawings") which are based on the approved Conceptual Plans for the Premises as described in the Tenant Design Criteria and Handbook within twenty (20) days from receipt of the approved Conceptual Plans, or earlier as may be required to open the Premises for business no later than the Latest Rental Commencement Date. The Final Drawings shall be prepared, and all calculations must be signed and sealed by a registered architect or a registered engineer licensed in the State of New York, and at a minimum, must include the following:

Drawings: Floor Plans including location of all walls, partitions, and doors; lease lines to adjacent premises; overall dimensions of space with column locations; including room finish schedule with fire rating and door and hardware schedule.

Final Fixturing Plans: Merchandising layouts.

Reflected Ceiling Plans: To include ceiling grid, soffits, drops, recesses, coves, etc.; ceiling heights for each space; all light fixtures; HVAC supply and return grilles; type of ceiling system with fire-rating; sprinklers and smoke detectors; any items attached to or coming through the ceiling, if any, ceiling mounted signs, banners, flags, etc.; and communicated system components.

Structural Drawings: Structural drawings and calculations of proposed structural alterations to the base building.

Signage Drawings: Elevation of storefront showing design, location, size, color and layout of signs, including dimensions, etc., and a description of all methods of construction.

Mechanical Drawings: To include load calculations submitted as required in the Tenant's Construction Requirements and proposed locations of all equipment.

Plumbing Drawings: If applicable, to include location and size of water and supply lines, drains, vents and grease traps; and water and sanitary riser diagrams.

Fire Protection System: Fire suppression system including hydro-calculations, as required, to illustrate Tenant's alteration to existing sprinkler coverage; and fire alarm and location of connection point to the base building fire alarm systems and location of addressable smoke detectors, duct/smoke detectors, combination heat/smoke detectors and addressable heat detectors all per the Tenant's Construction Requirements and all applicable codes and regulations.

Electrical Plans: To include power and lighting layout with circuits and home runs; electrical load requirements; on panel schedules; service riser diagrams; telephone conduits; and load calculations.

Sections: Showing construction materials and design details.

Special Systems: Such as telephone and data transmission line systems; airport access control system (if applicable); paging system (if applicable); cable access television system (if applicable); and master clock system (if applicable).

Locking System: Tenant shall install a lock keying system compatible with American's and the Authority's system on all entrances to the Premises and mechanical room entrances located therein for police, security, fire protection and maintenance reasons.

Specifications: All specifications shall include the requirements contained in the Tenant's Construction Requirements.

D. Tenant shall submit to the Landlord, American and the Authority as part of the Conceptual Plans and Final Drawings, drawings (in color) showing storefronts, window displays, signage and any advertising structures; plus a lighting plan.

E. When Tenant submits any plans and specifications to Landlord it shall include complete sets for each submittal as specified in the Tenant's Construction Requirements.

F. Tenant's Work shall include the procurement of all necessary building permits, licenses, variances, and additional utility services required to facilitate Tenant's construction and occupancy of the Premises, and the payment of any fees associated therewith as may be required by the Authority, other public agencies and

utility companies. Within five (5) days after approval of the Final Drawings or such shorter period of time as may be required for Tenant to open the Premises for business no later than the Latest Rental Commencement Date, Tenant shall make all necessary applications, provide all necessary information, pay all required fees and take all necessary actions to obtain such items and shall endeavor to use due diligence and its best efforts to procure the same as quickly as possible. Please refer to the Tenant's Construction Requirements.

G. Tenant shall comply in all respects with the Tenant's Construction Requirements including, but not limited to, applicable local/state health department requirements, U.S. Department of Labor, Construction Safety and Health Regulations, Part 1926. Tenant shall comply and be liable for all costs associated with adherence to the Americans with Disabilities Act (ADA) codes and guidelines.

H. If the Premises are modified, renovated, or newly-constructed, the Tenant shall: (i) obtain the Architect's/Engineer's New York Seal on two (2) sets of final construction drawings or as may otherwise be specified by the Authority's TAA Process submitted for a building permit; (ii) obtain from the Tenant's contractor(s) a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the Premises. Tenant's contractor(s) shall be required by Tenant in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the Authority, American, Landlord or Tenant occupying the Premises; (iii) obtain all required manufacturers' guarantees, maintenance manuals and other pertinent documents; and (iv) furnish to Landlord the information and documentation specified in Section 5.01, no later than ninety (90) days after completion of the Fixed Improvements or any Refurbishments.

I. Tenant's Final Drawings must be submitted to Landlord in CADD and satisfy all other requirements for Final Drawings as set forth in this Exhibit D and the Tenant's Construction Requirements.

J. Tenant shall not be permitted to commence any work until all requirements of the Tenant's Construction Requirements and this Exhibit D have been completed.

K. Security clearance must be completed as required by American and/or the Authority.

L. Separate construction deposits of a minimum of Ten Thousand Dollars ($10,000.00) each will be required from both Tenant and from Tenant's general contractor and neither shall be released by Landlord to Tenant or Tenant's general contractor until after satisfactory completion of all requirements of this Exhibit D and the documents referenced herein, approval by both Landlord's American's and the Authority's on-site construction supervision personnel specifying that all of Tenant's Work has been completed and accepted by Landlord, American and the Authority, proper completion of any and all punch list items and acceptance thereof by Landlord and delivery to Landlord of all of the construction close-out documents required under this Sublease and acceptance and approval thereof by Landlord.

M. During the construction periods at the Terminal, Tenant and its agents, servants, employees, contractors and subcontractors shall be permitted entry and access to the Terminal and to the Premises for the purpose of performing and completing all work necessary to make the Premises and other improvements ready for use, occupancy and rental. During the construction periods, Tenant and its agents, consultants and employees, contractors and subcontractors shall observe all applicable rules and regulations and applicable directives imposed by American and/or the Authority at the Terminal as to the conduct of their work. Tenant shall be responsible for securing, keeping and maintaining all of their equipment, materials, supplies, tools, work trailers and the like within the Premises, or within a defined staging area for the exclusive purpose of supporting the Premises construction, subject to Landlord and American approval. Tenant shall also be responsible for insuring that all construction debris is removed from the construction site daily, and that the site is neat and clean at all times. Tenant shall comply in all respects with procedures for project close-out and acceptance of the space as detailed in the Tenant's Construction Requirements.

N. All policies of insurance and bonds addressed in this Sublease shall be issued for the protection of the Landlord, Tenant, American and the Authority, in accordance with their respective insurable interests. The terms of the policies and bonds and the insurer or surety shall be subject to the reasonable approval of Landlord, American and the Authority.

O. Tenant shall provide, maintain and identify the Authority, American and Landlord as an additional insured, with respect to the insurance protection required under the provisions outlined in the Sublease.

P. Construction Costs:

1. As part of Tenant's Work and the construction requirements required in this Sublease, Tenant shall submit to Landlord a statement of the total construction costs which it has certified as correct with all supporting documents required by Landlord as specified in the applicable sections of this Sublease.

2. The Authority, American, Landlord, or an independent professional firm retained by any of them, may audit costs associated with the construction, modification or renovation of the Premises. In this regard, the Authority, American, Landlord and/or their auditing firm(s) shall have the right upon seven (7) days advance request by the Authority, American or Landlord during the Term hereof and for such longer period as required by the Authority, to examine and audit books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly all construction costs claimed to have been incurred or anticipated to be incurred, in performing this Sublease. The right of examination shall extend to all documents necessary to allow evaluation of both the validity and reasonableness of said construction costs, including all documents of Tenant who shall make all construction records available to the Authority, American or Landlord within the Port of New York District for examination, audit, or reproduction, upon seven (7) days advance request by the Authority, American or Landlord.

Q. In its construction plans Tenant must insure that the Premises has strong visual appeal and is inviting to the customers; and that the Premises accommodates customers with luggage and meets all Americans With Disabilities Act (ADA) requirements relating to ingress, egress, access and other architectural matters, such as for example, large print price signs for the visually impaired and the ability to communicate with hearing impaired.

V. CONSTRUCTION CHARGEBACKS PAYABLE TO LANDLORD.

A. Landlord may provide items of construction, work or services for the Premises as a part of American's Work at Tenant's sole cost and expense, including, but not limited to the following:

1. Landlord, at Tenant's expense, may install a temporary construction barricade along the storefront area leaseline in a design, material and location approved by Landlord if Tenant fails to install such temporary construction barricade prior to the commencement of any of Tenant's Work in the Premises. If Landlord installs such a barricade, Tenant shall reimburse Landlord therefor as Additional Rent an amount which will be computed at the rate of One Hundred Fifty Dollars ($150.00) per lineal foot of the barricade. Upon completion of Tenant's Work, Tenant shall be responsible, at Tenant's sole cost, to remove such barricade to an appropriate disposal site outside of the Airport.

2. Tenant's general contractor shall pay to American, a non-refundable fee for use of the dumpster, with respect to all construction debris and trash required to be removed from the Terminal by Tenant's general contractor with respect to the performance of Tenant's Work. Such initial fee is estimated to be at the rate of One and 50/100 Dollars ($1.50) per square foot of Floor Area in the Premises and checks are payable to "American Airlines, Inc." but delivered to Landlord's on-site tenant coordinator. If American incurs costs greater than such estimated rate, Tenant shall reimburse American within twenty (20) days of demand for any such actual excess costs.

VI. PROGRESS MEETINGS; MISCELLANEOUS.

A. Representatives of Landlord and Tenant, as designated in writing to each other, shall establish and attend on-site progress meetings with such periods of frequency during the performance of Tenant's Work as may be mutually agreed upon but no less frequently than bi-weekly.

B. Tenant shall perform Tenant's Work so as not to: (i) unreasonably interfere with any other construction being performed at the Terminal or the Airport; or (ii) unreasonably impair the use, occupancy or enjoyment at the Terminal and/or the Airport by Landlord, American, the Authority, other airlines, other subtenants operating concession facilities or customers of any of them.

C. Tenant shall (i) take all safety measures required to protect the Terminal and/or the Airport from injury or damage caused by or resulting from the performance of Tenant's Work and defend, protect and indemnify Landlord, American and the Authority (including their respective agents, commissioners, officers, directors and employees), other airlines, other subtenants operating concession facilities or customers of any of them from any and all claims arising from or in connection with the death of or accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person or entity arising out of, in connection with, or as a result of Tenant's Work; (ii) repair any and all damage to the Terminal and/or the Airport as a result of Tenant's Work; and (iii) require all contractors and subcontractors to comply with all of the Authority's Requirements and Tenant's Construction Requirements for the performance of Tenant's Work.

EXHIBIT E

AUTHORITY STREET PRICING REQUIREMENTS

A. General Authority Street Pricing Policy.

The Aviation Department of the Authority requires specific pricing criteria in all concessions agreements at the Airport. In general, the Authority and American seek to promote fair and reasonable prices in airport concession programs. The street pricing policy is also designed to produce a greater volume of sales, thereby reflecting the Authority's and American's objective to provide high customer service and optimization of financial return. The Authority's street pricing policy requires that prices charged at the Airport will be comparable to off-airport prices. In general, the policy requires any specialty retail, newsstand and food & beverage vendors that operate both on-airport and off-airport to price goods in the on-airport store within the range of prices charged at their off-airport stores. For vendors without off-airport operations in the area, comparable stores in the region are identified to establish the basis for street prices (the specific methodology for this comparison is established based upon the specific type of store and merchandise sold). For duty free concession vendors, where there are no comparable off-airport operations, the pricing policy requires that the prices of duty free merchandise be substantially comparable to the prices charged for duty free goods in duty free stores at other airports in the northeastern United States. Further, vendors must submit price lists for all goods and services in advance for approval. The street pricing policy also requires vendors to post signs in clearly visible locations notifying customers that the store charges fair and reasonable prices that are comparable to other stores in the region. Landlord requires strict adherence to the Authority's street pricing policy.

B. Comparable Locations In the Metro Area.

1. Specialty Retail and Food & Beverage Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the various types of specialty retail and food & beverage concession facilities permitted hereunder shall be compared to similar specialty retail and food & beverage establishments located in major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time.

2. Newsstand and News & Gifts Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for newspapers, magazines and sundries shall be compared to local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for gifts, souvenirs and novelties shall be compared to both similar gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as well as to the local convenience store chains and/or local non-Airport news & gift locations (excluding any locations which do not have multiple independent competitive sources and operators) in the Metro Area as selected by Landlord from time to time.

C. **Specialty Retail and Food & Beverage Concession Facilities Pricing Requirements.**

Tenant's prices for all specialty retail and food & beverage products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor are the same or comparable with comparable brands in specialty retail and food & beverage establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) comparable establishments in such locations within the Metro Area. Tenant's prices may not exceed the average price of those similar items in the five (5) comparable establishments.

D. **Newsstand and News & Gifts Concession Facilities Pricing Requirements.**

Tenant's prices for all news and gift products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor for newspapers, magazines and sundries are the same or comparable to those charged by the local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time and for gifts, souvenirs and novelties to those charged by comparable gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) establishments in such locations within the Metro Area. Tenant's prices on any specific item may not exceed the average price of those similar items in the five (5) comparable establishments.

E. **General Pricing Requirements.**

In all other situations and circumstances for which no specific pricing requirement has been established, Tenant shall abide by the following pricing requirements. Tenant shall offer for sale only goods of first-class quality. For such goods, Tenant shall charge fair, reasonable and competitive prices. When an item has a suggested retail price pre-marked and established by the manufacturer or distributor, Tenant shall not charge the public a price higher than the suggested retail pre-marked price without the prior written approval of Landlord in accordance with the Authority's street pricing policy. When an item has no suggested retail price or pre-marked price, the item shall be sold at a price as first approved by Landlord in accordance with the Authority's street pricing policy.

EXHIBIT F

ADDITIONAL INSURED AND LOSS PAYEE ENTITIES

Each of Tenant's insurance policies (except for workers' compensation and employers' liability coverage) required under Section 11.01 of the Sublease shall name the following entities as additional insureds:

WESTFIELD CONCESSION MANAGEMENT, LLC, a Delaware limited liability company

WESTFIELD, LLC, a Delaware limited liability company

AMERICAN AIRLINES, INC., a Delaware corporation

AMERICAN EAGLE AIRLINES, INC., a Delaware corporation

AMR CORPORATION, a Delaware corporation

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THE CITY OF NEW YORK

NEW YORK CITY ECONOMIC DEVELOPMENT CORPOTATION, a New York not-for-profit corporation

Certificates of Insurance evidencing the Tenant's insurance coverages shall be delivered by Tenant to Landlord upon execution of the Sublease and no later than prior to delivery of the Premises to Tenant at the following address:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

The certificate holder on each of the Certificates of Insurance shall be as follows:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

EXHIBIT G

M/W/DBE CERTIFICATION

To qualify as a Disadvantaged Business Enterprise or Disadvantaged Business ("M/W/DBE"), the firm must meet the criteria established by the U.S. Department of Transportation in 49 CFR Parts 23 and 26 and be certified by the Authority. Currently, to qualify as a DBE, the firm must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed Thirty Million Dollars ($30,000,000.00) and it must be (a) at least fifty-one percent (51%) owned and controlled by one (1) or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one (1) or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one (1) or more of the socially or economically disadvantaged individuals who own it. For other types of business operations, the U.S. Small Business Administration size standards are used to determine eligibility for certification. The DBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Authority makes a "rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged:

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan and Bangladesh; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

"**Minority**" means the following: (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (b) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (c) 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 (d) 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). For purposes hereof, "Minority

Business Enterprise" or "MBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" or "WBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing.

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as M/WDBE, the Authority, as part of the certification process, will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

The Authority has compiled a list, which may be supplemented and revised from time to time by the Authority, to indicate the firms the Authority determined satisfy the criteria for M/W/DBE certification. Such list shall be made available to the proposers upon request. The Authority makes no representations as to the financial responsibility of such firms, their technical competence to perform, nor any other performance-related qualifications. Only listed M/W/DBEs and such firms not so listed, but certified by the Authority as M/W/DBEs hereunder, will count towards M/W/DBE requirements.

Certification of M/W/DBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If a proposer wishes to utilize a firm not so listed but which the proposer believes should be certified as a M/W/DBE, that firm shall submit to the Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required by the Authority from time to time. All such requests shall be in writing, addressed to Mr. John Alexander, Supervisor, Certification Programs or other designee of the Economic Development Department/Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, Newark Legal Center, One Riverfront Plaza, 9P^{thP} Floor, Newark, New Jersey 07102 or such other address as the Authority may designate from time to time. Eligibility for certification shall only be made in writing over the name of the General Manager in charge of the Office of Business and Job Opportunity. The determination of the Authority shall be final and binding on the applicant. For inquiries or assistance, please contact John Alexander at (973) 565-5522.

EXHIBIT H

Westfield Concession Management, LLC
2730 University Boulevard, Suite LL3
Wheaton, Maryland 20902
Attention: Airport Division Project Controller

Date: _____

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

To the Addressee:

At the request of ___A___, we ___B___, hereby open this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. ___C___ in your favor up to an aggregate of $ ___D___ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all of your drafts under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT will be duly honored upon presentation of your draft(s) drawn on us and presented to us at the office of our New York City Branch, now located at ___E___, ___E___ on or before the expiration set forth below or future expiration date as indicated below. Our obligation under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT is the individual obligation of the Bank, in no way contingent upon reimbursement with respect thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under ___B___ Letter of Credit No. ___C___ dated _____, 200_." Partial drawings under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT are permitted. Drafts must be accompanied by a statement from an authorized representative of Westfield Concession Management, LLC, or its designee, that ___A___ has not performed certain terms, conditions or covenants contained in the Sublease dated _____, 200_, by and between Westfield Concession Management, LLC and ___A___.

This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT expires at the close of business on ___F___, 200_. This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT within the then applicable expiration date, no statement required. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.**

_____
Bank Officer/Representative

LEGEND:

A: INSERT APPLICANT NAME, I.E. TENANT NAME.
B: INSERT NAME OF ISSUING BANK.
C: INSERT LOC IDENTIFICATION NUMBER.
D: INSERT DOLLAR VALUE OF INSTRUMENT.
E: INSERT EXACT ADDRESS OF LOCAL BANK BRANCH.
F: INSERT EXPIRATION DATE OF SUBLEASE PLUS 90 DAYS.

EXHIBIT I

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY

Part I AFFIRMATIVE ACTION GUIDELINES – EQUAL EMPLOYMENT OPPORTUNITY

I. As a matter of policy the Authority, Landlord and American hereby require Tenant to comply with the provisions set forth hereinafter in this Exhibit I and in sections 41, 68(I)(b) and 79 (b)(1) of the Authority Lease. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

Tenant and Tenant's respective bidders, contractors and subcontractors 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"). Tenant 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. Tenant 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. Tenant 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%; and (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 Tenant and Tenant shall provide written notification to Landlord and the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the 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 herein: (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; and (2) **"Minority"** – as in the Definitions to the Concession Area Lease.

(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 non-working 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 (2) 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 Tenant 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 (6) 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 (1) 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 (6) 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 circulation of solicitations to Minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six (6) months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one (1) or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one (1) or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's Minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is

the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all Minority groups, both male and female, and all women, both Minority and non-Minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific Minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by Tenant. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, Tenant shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Concession Area Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Authority.

PART II MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Authority, Landlord and American require Tenant and Tenant shall itself and shall require all general contractors or other construction supervisors and each of Tenant's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work, pursuant to the provisions of this Exhibit I. For purposes hereof, "**Minority Business Enterprise**" "(MBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and

continuing. For the purposes hereof, "**Women-owned Business Enterprise**" "(WBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing. "**Meaningful participation**" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to Minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that Tenant and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If the Contractor wishes to utilize a firm not already certified by the Authority, it shall submit to the Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Authority. All such requests shall be in writing addressed to the Economic Development Department/Business and Job Opportunity, Port Authority of New York and New Jersey, Newark Legal Center, Riverfront Plaza, 9th floor, Newark, New Jersey 07102, or such other address as the Authority may specify by notice. Certification shall be effective only if made in writing by the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the Authority. The determination of the Authority shall be final and binding.

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

EXHIBIT J

LOCAL BUSINESS ENTERPRISE COMMITMENT

As a matter of policy, Landlord, American and the Authority hereby require Tenant and Tenant shall require any Contractor utilized by Tenant to perform construction work on the Premises to comply with the provisions set forth hereinafter in this Exhibit J.

(1) Tenant and each Contractor shall use every good faith effort to maximize the participation of Local Business Enterprises ("**LBEs**") in all construction work on the Premises, including without limitation, the Section 2B Work. In order to assure familiarity with the services and materials provided by LBEs, the Contractor shall attend such meetings as may be called by the General Manager of the Airport on LBEs and shall contact the Queens Air Services Development Office ("**ASDO**"), located at John F. Kennedy International Airport, Bldg. 80, First Floor, South Service Court, Jamaica, NY 11430 to obtain LBE Vendor Profiles and access ASDO's on-line vendor retrieval system ("**BASIS**"). Landlord, American or the Authority has not checked the references, capabilities or financial background of the LBEs registered with the ASDO, but is referring the Contractor to the ASDO and BASIS solely for the purpose of advising Contractors of LBEs who may be interested in providing services and/or materials to the Contractor.

(2) Good faith efforts to include participation by LBEs in construction work shall include at least the following: (i) Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible. (ii) Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from LBEs registered with ASDO and such other LBEs as the Contractor deems appropriate.

(3) Landlord, American and the Authority are committed to making employment opportunities available to local residents and expects that the Contractor will utilize LBEs.

(4) It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit, diminish or modify any of the obligations under the Concession Area Lease or this Sublease including, without limitation, the obligation to put into effect the affirmative action program and the MBE and WBE programs in accordance with the provisions set forth above in Exhibit I.

EXHIBIT K

PERFORMANCE STANDARDS

All items marked with an "*" denote a Minimum Performance Standard. There shall be no notice and cure periods for failure to comply with any Minimum Performance Standard. For all other Performance Standards which are not Minimum Performance Standards, the graduated fines shall not be applicable until fourteen (14) days after Landlord has provided Tenant with written notice of its failure to comply and such failure to comply by Tenant continues after such fourteen (14) day notice and cure period. These graduated fines are in addition to any other remedies available to Landlord under this Sublease, at law or in equity, including, but not limited to, the liquidated damages provisions set forth in Article VII. The Performance Standards and the Minimum Performance Standards are subject to change from time to time as may be directed by Landlord or the Authority.

PERFORMANCE CATEGORIES

A. PRICE AND PRODUCT QUALITY

"Street" Pricing:

1. Landlord will periodically perform benchmark "street" pricing surveys to establish "street" pricing and to ensure that the price/value relationship is consistent with major regional malls, shopping centers and complexes in the Metro Area as further described in Section 7.02(g) and **Exhibit E**. Upon written notification by Landlord of a pricing discrepancy, Tenant shall adjust prices to comply with the "street" pricing policy. Tenants who fail to do so within two (2) days of such notification shall be subject to fines identified herein until strict compliance has been achieved.

2. Tenant shall participate in marketing campaigns designed to promote the "street" pricing message. Tenant's participation may include, but is not limited to, employee buttons, POS signage and window decals.*

3. Tenant will respond within 72 hours to a complaint received on the Fair Pricing '800' number established and advertised by Landlord. Customers shall be reimbursed by Tenant as appropriate and provide evidence of such reimbursement to Landlord when requested from time to time.*

4. Prices for all products and services must be visible on the product, a menu board, price signage and/or on the shelf.*

5. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

Product and Service Quality:

1. All products displayed and offered for sale and all services rendered shall be authentic, high quality and in brand-new condition at all times.*

2. Tenant shall immediately remove from display and shall thereafter not display nor offer for sale any defective or lesser quality products (even if at a lesser price) or products which are deemed to be non-authentic, the so-called

"grey market", "imitation" or "knock-off" products.*

3. Tenant shall only be permitted to sell products or render services for which Tenant has the right, whether by license or otherwise, to sell or render.*

4. Tenant shall install and maintain at all times a display of non-perishable high-quality merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays.

5. Window displays shall be changed frequently and no less often than on a quarterly basis.*

6. All newsstand and news & sundries concessions shall sell United States postage at face value with associated signage located in the Premises that postage stamps are available.*

7. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

B. CUSTOMER SERVICE AND PERSONNEL

1. Tenant shall continuously operate its business in the Premises during all Terminal concession service hours. Tenant shall open or keep open the Premises for business upon 2 hours prior verbal notice from Landlord.*

2. The level of Tenant's Operating Staff shall include sufficient numbers (including cashiers, management and supervisory personnel) to fully service and meet the needs of customers at all times.

3. All Operating Staff and employees of Tenant must wear nametags identifying the store and the first name of the person at all times.*

4. All Operating Staff, employees and other representatives of Tenant must wear Authority issued security ID badges at all times whenever located in any sterile/secure area (e.g., beyond security checkpoints) of the Airport.* It is recommended that such security ID badge be worn at all time when on Airport property.

5. All Operating Staff and employees of Tenant shall be courteous, neat in appearance, appropriately attired and shall use skill and diligence in the conduct of business and shall not act in a loud, offensive or otherwise objectionable manner or in a manner detrimental to the best interests of Landlord or the Authority.*

6. All Operating Staff and employees of Tenant shall be knowledgeable about all products displayed and offered for sale and all services rendered and able to respond appropriately to questions from customers about products and services.*

7. All Operating Staff and employees shall have sufficient knowledge of the Terminal in which each is employed and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

8. Tenant must accept at least 2 nationally recognized credit cards for payment. Tenant must provide all customers with a receipt for all purchases made. Tenant shall offer shipping and gift wrap services (if appropriate for the type and size of the merchandise or product being offered) at cost. Tenant must provide, without charge, change making service at each cashier's location regardless of whether a purchase is made.*

9. All customers must be greeted in a friendly and timely manner and must thank the customer and provide a friendly goodbye by Tenant's Operating staff and employees.*

10. All Operating Staff and employees must regularly participate in Landlord's TOS training, classroom and in-store training.*

11. The layout of the Premises must be convenient for travelers with luggage, easy to navigate.

12. Tenant shall, within twenty-four (24) hours of receipt of any customer complaint by Tenant, forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint.*

13. Tenant's Store Manager or his or her designee, must be available, by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies.*

14. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

C. PREMISES CLEANLINESS AND APPEARANCE

1. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements (including walls, floors, etc.) and Operating Equipment (including POS systems, fixtures and furniture) shall be maintained in good condition and repair at all times.*

2. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises.*

3. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, spills, stains, offensive or unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord and in accordance with any and all laws, statutes, ordinances and regulations that may be promulgated from time to time by governmental agencies and authorities. Storefronts are to be kept clean and free from dirt, dust and debris.*

4. Exterior and interior signage are properly illuminated and all lighting fixtures are in good working order.*

5. All trash receptacles are adequate in number, not overflowing.*

6. Display cases shall be kept completely stocked with merchandise and attractive.

7. No merchandise shall be displayed outside of the Premises or on the floor at any time.*

8. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

D. ADDITIONAL PERFORMANCE STANDARDS FOR FOOD & BEVERAGE CONCESSIONS ONLY:

1. Menu Boards are well maintained and easy to read.

2. Operating Staff and employee uniforms are clean and complete. At least one (1) designated full time employee must be certified and be issued a food handler certificate from the New York State Health Department *

3. All apparatus, utensils, devices, cooking equipment, machines and piping used by Tenant shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and serving of all food & beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof.*

4. The Premises and surrounding areas shall be kept free from offensive odors at all times.*

5. Tables, chairs and counters are to be cleared and cleaned frequently during each day, as necessary.*

6. Floors swept and mopped, baseboards and corners wiped and cleaned daily.*

7. Range hoods, exhaust systems and cooking equipment cleaned daily or more often as necessary to keep them free from grease, grime and dirt.*

8. Condiments in an area readily accessible to patrons within the Premises which is well stocked, clean and organized at all times.*

9. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
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Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

EXHIBIT L

CATEGORY "A" PRODUCTS

Magazines and Newspapers

An assortment of domestic and international magazine titles. A wide assortment of local, regional, national and international newspaper titles.

Snacks

Prepackaged candy, mints, gum, chips, cookies, crackers, peanuts, ice cream, health food products, refrigerated bottled waters, bottled sodas, bottled energy drinks and bottled juices.

Sundries

Health and beauty aids; cosmetics, nutritional supplements, film, batteries, one-time use cameras, camera kits, watches, reading glasses and sunglasses, ties, socks, hosiery, dress shirts, greeting cards, post cards, pens/pencils, prepaid phone/internet cards (through Authority approved vendors only), phone/computer supplies and accessories and stationery, Lottery tickets (factored on commission).

Travel Accessories

Travel convenience items including, but not limited to, bags, luggage, umbrellas, maps, luggage tags, locks, luggage carts, neck braces, money holders, clocks, watches, Walk/CD man, converters and other electronic traveler convenience items.

Tobacco Products

Tobacco products including an assortment of domestic and international cigarettes, cigars, chewing tobacco, pipes, lighters and tobacco related products.

CATEBORY "B" PRODUCTS

Souvenirs

Regional and locally indigenous (featuring name dropped icons) souvenirs, including, but not limited to, key chains, magnets, water globes, mugs, glasses, shot glasses, plates, bells, spoons, pins, ash trays, stickers, pens, pencils, pewter, jewelry, candles and post cards.

Gifts

Regional and locally indigenous (featuring name dropped icons) products including, but not limited to, boxed chocolates, gourmet foods and other regionally indigenous gift products.

Apparel

Regionally and locally indigenous (featuring name dropped icons) products including T-shirts, hats, polo shirts, ties, sweatshirts, fleece products.

Toys/Children's

Regionally and locally indigenous (featuring name dropped icons) products including the above-listed items in children's sizes, plush, games and toys.

Other

Cosmetic jewelry.

FOOD & BEVERAGE ITEMS

Coffee

A wide assortment of gourmet coffees, lattes, cappuccinos, espressos, roasted coffees, iced beverages and blended cool beverages in various sizes.

Café Items

A wide range of smoothies, pastries, sandwiches, salads, wraps, soups, bakery items, doughnuts, danishes, cakes, cereal, fresh fruit, yogurt, ice cream novelties, gelato, refrigerated bottled waters, bottled sodas, bottled energy drinks and bottled juices, carbonated and non-carbonated beverages.

FOR THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 31st day of July in the year ~~2007~~ 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared Lysa Scully, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Marie M. Edwards
(notarial seal and stamp)

Marie M. Edwards
Notary Public, State of New York
No. 01ED4959693
Qualified in Kings County
Commission Expires 2/09/2010

FOR WESTFIELD CONCESSION MANAGEMENT, LLC

STATE OF Missouri)
) ss.
COUNTY OF St Charles) Richmond

On the 16 day of July in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Arnold L. Mayersohn, Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

E Diane Lindsey
(notarial seal and stamp)

E. DIANE LINDSEY
Notary Public-Notary Seal
State of Missouri, St Charles County
Commission # 07997728
My Commission Expires Jan 21, 2011

FOR NEWSLINK OF JFK, LLC

STATE OF FLORIDA)
) ss.
COUNTY OF MIAMI-DADE)

On the 6 day of JULY in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Raymond T. Kayal, Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

Ziad El-Assad
Commission #DD33388
Expires: Jun 29, 200
Bonded Thru
Atlantic Bonding Co., In

FOR AMERICAN AIRLINES, INC.

STATE OF Texas)
) ss.
COUNTY OF Tarrant)

On the 7th day of August in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Laura Ghspanter, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

NOTARY PUBLIC STATE OF TEXAS
ROWENA THOM
Notary Public, State of Texas
My Commission Expires 10-29-08

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE
SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. AYD-685
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of November 10, 2007 ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC.** ("Permittee"), and **NEWSLINK OF JFK, LLC d/b/a NEWSLINK JUAN VALDEZ CAFE** ("Sublessee"), a corporation organized and existing under the laws of the State of Florida with an office and place of business at 6910 N.W. 12th Street, Miami, Florida, 33126 whose representative is Mr. Raymond Kayal, Jr., President, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and

covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, dated as of May 31, 2007, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; or (e) such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of

the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to

imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. (a) The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days' notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

(b) In the event the Port Authority exercises it right to revoke this Consent if the Sublessee shall fail to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Consent, the Sublessee shall be obligated to reimburse the Port Authority for any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements

incurred by it arising out of, relating to, or in connection with the enforcement or revocation of this Consent including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. (a) If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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. Nothing in this paragraph 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 Consent, including, without limitation, the Port Authority's rights to revoke this Consent or (ii) any obligations of the Sublessee under this Consent.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers

and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded

on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and

served as of the date of the registered or certified mailing thereof.

21. Basic Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Permit for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(iii) With respect to this Consent, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent, which shall provide the Port

Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline or the Permittee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

24. The other parties hereto hereby waive their respective right to trial by jury in any action or summary proceeding that may hereafter be instituted by the Port Authority against any of them in respect of this Consent or Sublessee's use or occupancy of the Space or in any action that may be brought by the Port Authority to recover fees, damages, or other sums payable under this Consent or to enforce any remedy under law or in equity in any way connected therewith. No other party hereto shall interpose any claims as counterclaims in any action or summary proceeding for non-payment of fees/rent which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

IN WITNESS WHEREOF, the Port Authority, the Permittee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Print Name) Lysa Scully

(Title) Asst. Director, CCAS

(Seal)

~~ATTEST:~~ WITNESS:

~~Secretary~~

WESTFIELD CONCESSION MANAGEMENT, LLC.

By _____

(Print Name) Arnold L. Mayersohn, Jr.

(Title) Assistant Vice President

(Corporate Seal)

ATTEST:

Secretary

NEWSLINK OF JFK, LLC

By: Its Manger, Newslink Group, LLC

By: _____

Signature

(Print Name) Raymond J. Kayal, Jr., Member

(Title) ~~President of Newslink~~ Group LLC, ~~Non~~ Member/Manager ~~President of National Retail Concessions Inc.~~ Manager

(Corporate Seal)

By: _____, Member

(Signature)

(Print Name) Christopher G. Kayal

(Title) President of U.S. Retail, Inc.

ACCEPTED AND CONSENTED TO AS OF THE EFFECTIVE DATE OF THIS CONSENT AGREEMENT

AMERICAN AIRLINES, INC.

By _____

(Print Name) LAURA A. EINSPANIER

(Title) ~~Vice President~~ Corporate Real Estate President

(Corporate Seal)

APPROVED:
FORM NY
TERMS SB

give

TERMINAL 8 SUBLEASE
JOHN F. KENNEDY INTERNATIONAL AIRPORT
MAIN TERMINAL BUILDING

THIS SUBLEASE ("**Sublease**") is made as of this 31st day of May, 2007, by and between **WESTFIELD CONCESSION MANAGEMENT, LLC**, a Delaware limited liability company, whose address is 11601 Wilshire Boulevard, 11th Floor, Los Angeles, California 90025 ("**Landlord**"), and **NEWSLINK OF JFK, LLC**, a Florida limited liability company, whose principal place of business is located at 6910 N.W. 12th Street, Miami, Florida 33126 ("**Tenant**").

Subject to the terms and conditions contained herein, Landlord hereby leases to Tenant, and Tenant hereby accepts from Landlord, the premises identified on **Exhibit A-2** ("**Premises**"), which is in and part of Terminal 8 ("**Terminal**") at John F. Kennedy International Airport, Jamaica, New York ("**Airport**"). **Exhibit A-1** is a general site plan of the Airport including the location of the Terminal. **Exhibit A-3** is a site plan of the portion of the Terminal leased to Landlord as shown hatched on such **Exhibit A-3** ("**Concession Area**"). The Terminal consists of approximately 1,414,500 square feet leased by The Port Authority of New York and New Jersey ("**Authority**") to American Air Lines, Inc. ("**American**") and is anticipated to contain approximately 36 gates. The Premises is known as Space No. M20 containing approximately 693 square feet of Floor Area as shown on **Exhibit A-2**. Not included in the Premises is the roof, concrete slab floor, and all perimeter walls (except the inner surfaces thereof) and the perimeter doors and windows. The actual number of square feet of Floor Area may, at Landlord's option, be subject to adjustment based on field measurements as reasonably determined by Landlord; and all charges hereunder based on a per square foot amount shall be adjusted accordingly. The type of concession is:

☒Specialty Retail	☐Food & Beverage (☐ Food Court Location)	☐Service
☒In-Line	☐Wall-Shop	☐Kiosk

Landlord has the right to enter into this Sublease pursuant to the Master Retail Development, Management and Leasing Agreement between American and Landlord dated as of September 2, 2004 ("**Concession Area Lease**"). The Concession Area Lease is subject and subordinate to the Amended and Restated Lease No. AYB-085R between the Authority and American dated December 22, 2000 ("**Authority Lease**"). Tenant hereby acknowledges that a redacted copy of the Concession Area Lease (excluding only certain provisions considered to be confidential by Landlord and American) has been provided to Tenant. This Sublease is subject and subordinate to the Concession Area Lease and the Authority Lease, including all amendments and supplements thereto, whether entered into prior to or after the date hereof; and Tenant shall strictly comply with all applicable provisions of the Concession Area Lease, the Authority Lease, the Consent Agreement, the Authority's TAA Process and any and all other permits, documents and requirements required by the Authority (collectively, "**Authority Requirements**"). In the event of any inconsistency between the terms of this Sublease and the Concession Area Lease or the Authority Lease, then in each and every such instance, the Authority Lease or the Concession Area Lease, as the case may be, shall supersede and control. The terms, conditions and effectiveness of this Sublease are expressly conditioned upon the due execution and delivery by the Authority, American, Landlord and Tenant of an agreement in the form of **Exhibit B** hereto ("**Consent Agreement**") or as such Consent Agreement is otherwise required by the Authority. For definitional purposes, "**Tenant**" shall include Tenant, its agents, contractors, subcontractors, employees, franchisees, invitees, licensees, assignees, subtenants, concessionaires and others performing work and/or who are conducting operations in the Premises. Any capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Concession Area Lease. American and the Authority are express and intended third party beneficiaries of this Sublease.

DATA SHEET

The following references furnish data which is hereby incorporated into the specified sections hereof:

(1) **Section 1.02: Term:** (a) **Latest Rental Commencement Date:** August 1, 2007. Notwithstanding the foregoing, if possession of the Premises is not delivered to Tenant on or before June 1, 2007, then the Latest Rental Commencement Date shall be extended on a day-for-day basis equal to the exact number of days past June 1, 2007, that delivery of possession of the Premises to Tenant was so delayed, and such delay was not caused by Tenant. (b) **Expiration Date:** July 31, 2014, or the 7th anniversary of the Latest Rental Commencement Date, whichever is the later to occur, as confirmed in a letter from Landlord to Tenant.

(2) **Section 2.01: Minimum Annual Guaranteed Rent ("Guaranteed Rent") and Section 2.02: Percentage Rent (Percentage Rent"):** Tenant shall pay to Landlord for the benefit of the Authority, the greater of Guaranteed Rent or Percentage Rent as follows:

(a) **Guaranteed Rent:** Ex. 2.a. per Lease Year, payable in equal consecutive monthly installments of Ex. 2.a., subject to annual adjustments based upon the "**Percentage Change in Enplaned Passengers**"; and/or

(b) **Percentage Rent:** Percentage Rent rates of either Ex. 2.a. (collectively, the "**applicable Percentage Rent Rates**") as follows: (i) Ex. 2.a. of all Gross Receipts generated from the sale of Food & Beverage Items (including bottled waters, bottled sodas, bottled energy drinks and bottled juices which are displayed and sold in the coffee café portion of the Premises); plus (ii) Ex. 2.a. of all Gross Receipts generated from the sale of all items listed as Category "A" Products (including bottled waters, bottled sodas, bottled energy drinks and bottled juices which are displayed and sold in the newsstand portion of the Premises) and Ex. 2.a. of any retail display allowances and other promotions incentives; plus (iii) Ex. 2.a. of all Gross Receipts generated from the all items listed as Category "B" Products. Food & Beverage Items, Category "A" Products and Category "B" Products are as set forth on **Exhibit L** attached hereto and made a part hereof.

(4) **Section 2.06: Additional Rent:** Additional Rent shall include but not be limited to the following items: **(a) Section 2.03: Storage Premises Rent:** If, applicable, Tenant shall pay Storage Premises Rent as referenced in Section 2.03 without any administrative charges or profit to Landlord; **(b) Section 2.04: Taxes:** Tenant shall pay its proportionate share of Taxes as provided in Section 2.04; **(c) Section 2.05: Miscellaneous Charges:** Tenant shall pay miscellaneous charges for employee parking, security checks and identification badges and screening of goods, products, equipment and supplies as charged by Landlord, American, the Authority or applicable regulatory agencies from time to time, subject to adjustment without any administrative charges or profit to Landlord; **(d) Section 8.04: Logistical Support and Public Area Maintenance Fee:** Tenant shall pay its proportionate share of the Logistical Support and Public Area Maintenance Fee without any administrative charges or profit to Landlord; **(e) Section 12.01: Utilities:** If the Permitted Use provides for the offer and sale of food and beverage items, Tenant shall pay electricity consumed in the Premises; and **(f) Section 16.03: Joint Marketing Fund:** Tenant shall contribute to the Joint Marketing Fund, calculated on the basis of Ex. 2.a. of Gross Receipts per month, payable monthly, subject to adjustment as provided in Section 16.03. The initial joint marketing fund assessment of Ex. 2.a. shall be paid by Tenant to Landlord in one lump sum within sixty (60) days prior to the Rental Commencement Date.

(5) **Section 7.01: Permitted Use:** For the operation of a news & gift and café concession providing for the sale at retail of: (a) Category "A" Products: a wide assortment of local, regional, national and international

newspapers, a wide assortment of domestic and international magazines and periodicals; a variety of snacks (such as candy, candy bars, mints, gums, chips, cookies, crackers, peanuts, health food snacks and ice cream) all of which shall be pre-packaged; bottled water, bottled soda, bottled energy drinks and bottled juices; sundries including health and beauty aids, minor non-prescription drugs, cosmetics, perfumes, sunburn/suntan lotions and men's toiletries; nutritional supplements; batteries; camera film, disposable one-time use cameras and basic camera accessories; watches; reading glasses and sunglasses; ties; socks; hosiery; dress shirts; greeting cards; pens/pencils; stationery; cellular phone/computer supplies and accessories; lottery tickets (factored on commissions only); travel accessories including bags, luggage, umbrellas, maps, tour books and travel guides, luggage tags, locks, luggage carts, neck braces, money holders, portable clocks, carrying cases, deluxe bags and containers; small electronic items such as portable radio and CD players, converters and other small, portable electronic traveler convenience items; gift wrap, bows and ribbons; and tobacco products including an assortment of domestic and international cigarettes, cigars and pipe tobacco, chewing tobacco, pipes and tobacco related products (collectively, the "**Category "A" Products**"); (b) Category "B" Products: souvenirs (regionally and locally indigenous souvenirs such as key chains, magnets, water globes, mugs, glasses, shot glasses, plates, bells, spoons, pins, ash trays, stickers, pens, pencils, pewter, cosmetic jewelry, candles and post cards); regionally and locally indigenous gifts; souvenir apparel such as t-shirts, hats, polo shirts, ties, sweatshirts and fleece products; children's gifts; collectibles; posters, prints, pictures, art objects and pottery; pre-packaged gourmet food and beverage items; and premium candy and nuts (collectively, the "**Category "B" Products**") provided, however, the display and sale of such Category "B" Products shall not exceed ten (10%) percent of the sales display portion of the Floor Area in the Premises; and (c) Food & Beverage Items: a wide assortment of gourmet coffee, latte, cappuccino, espresso, roasted coffee, iced coffee based and blended cool beverages in various sizes, refrigerated bottled waters, bottled sodas, bottled energy drinks and bottled juices, a variety of grab and go pre-made sandwiches, pastries, bakery items, doughnuts, danish, cakes, cereals, fresh fruit and yogurt (collectively, the "**Food & Beverage Items**"), and for no other use or purpose. All of the forgoing items must be in accordance with and as more particularly described for such Category "A" Products, Category "B" Products, Food & Beverage Items as set forth on **Exhibit L**.

(6) **Section 7.02: Hours of Operation:** Tenant shall be open for business twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year, including all holidays, unless otherwise approved by Landlord in writing and only if permitted by American under the Concession Area Lease.

(7) **Section 16.01: Trade Name:** "NewsLink-Juan Valdez Cafe" or such other trade name/brand as may be requested by Tenant and approved in writing by both Landlord and American.

(8) **Section 26.01: Performance Guaranty-Letter of Credit or Payment and Performance Bond:** At Tenant's option: (i) twenty-five percent (25%) of the initial annual Guaranteed Rent in immediately available funds, payable to Landlord upon execution of this Sublease and in no event later than delivery of the Premises to Tenant; or (ii) an unconditional, irrevocable standby letter of credit or payment and performance bond in an amount not less than one hundred percent (100%) of the initial annual Guaranteed Rent in funds available immediately or same day funds in the City of New York, as security for the faithful observance, payment and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed, paid and performed ("**Performance Guaranty**"). Such letter of credit must be in form and content as set forth in **Exhibit H** for a term of not less than one (1) year with automatic extensions and issued by a commercial banking institution reasonably acceptable to Landlord and authorized to conduct business in the State of New York ("**Bank**") or if a Payment and Performance Bond, on a form reasonably satisfactory to Landlord and issued by a surety company reasonably acceptable to Landlord and authorized to conduct business in the State of New York ("**Surety**"). The Performance Guaranty shall be delivered by Tenant and held by Landlord in accordance with the provisions of Article XXVI of this Sublease.

(9) **Section 27.05: Notice Addresses:**

Landlord:

Westfield Concession Management, LLC
11601 Wilshire Blvd., 11th Floor
Los Angeles, California 90025
Attention: Office of Legal Counsel

Tenant:

NewsLink of JFK, LLC
6910 N.W. 12th Street
Miami, Florida 33126
Attention: Raymond Kayal, Jr.

With copies to:

Westfield Concession Management, LLC
Airport Division Management Office
2730 University Boulevard, Suite LL6
Wheaton, Maryland 20902

Westfield Concession Management, LLC
John F. Kennedy International Airport – Terminal 8
Jamaica, New York 11430
Attention: General Manager

With a copy to:

NewsLink of JFK, LLC
6910 N.W. 12th Street
Miami, Florida 33126
Attention: Maria E. Venzal

Tenant's Billing Address:

NewsLink of JFK, LLC
6910 N.W. 12th Street
Miami, Florida 33126
Attention: Accounts Payable

Address for Rental Payments to Landlord: All Rentals payable to Landlord hereunder shall be made payable to "**Westfield Concession Management, LLC, Trustee for American Airlines, Inc. and the Port Authority of New York and New Jersey**" and remitted to: Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Los Angeles, California 90074-0429 (Via U.S. Mail) or Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Remittance Banking, Unit 5195, 1000 West Temple Street, Ground Floor, Los Angeles, CA 90012 (Via Overnight Delivery Service).

(10) **Minority-Owned Business Enterprises, Women-Owned Business Enterprises and/or Disadvantaged Business Enterprises ("M/W/DBE") Requirements:** Not applicable.

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ARTICLE I. GRANT AND TERM

Section 1.01 CONDITIONS OF GRANT OF PREMISES. American and the Authority each have the right to make any alterations, replacements or modifications to the Terminal (including, but not limited to, the Concession Area) and/or the Airport, including actions which may change the shape, size, location, number and extent of the improvements generally shown on **Exhibits A-1, A-2 and A-3** and eliminate or add any improvements to any portion of the Terminal and/or the Airport at any time without Landlord's or Tenant's consent. Such rights shall include the right to place, install, maintain, use, repair and replace, in any manner, pipes, lines, conduits, ducts, flues, drains, sprinkler mains and valves, wires and wiring (and like improvements) and structural elements leading through the Premises or serving the Premises or any other parts of the Terminal. Tenant acknowledges that pursuant to the Concession Area Lease, American has agreed to use reasonable efforts to place any such items (other than existing items and/or necessary or desirable structural elements) in locations that do not materially interfere with Tenant's use of the Premises unless required to comply with American's obligations under the Authority Lease. Tenant may, upon approval by Landlord and subject to the Authority's TAA Process (as defined in Section 5.01), have the right to install utility lines and facilities which exclusively serve the Premises in the area between Tenant's finished ceiling and the roof above or under the floor below, but such installation shall be at Tenant's sole cost and expense. Wherever the term Airport or Terminal is used, it shall be deemed to include the areas shown as such on **Exhibit A-1**. If American or the Authority elects to enlarge or alter the Airport, the Terminal or the Concession Area, Landlord, at its sole and absolute discretion, may include any additional area in the respective definitions of Airport, Terminal and/or Concession Area for purposes of this Sublease.

Section 1.02 COMMENCEMENT AND ENDING DATE OF TERM. The term of this Sublease ("**Term**") shall commence as of the date reflected on the first page hereof ("**Commencement Date**"). Tenant's obligation to pay Guaranteed Rent, Percentage Rent and Additional Rent (collectively, "**Rentals**") shall commence upon the date ("**Rental Commencement Date**") which is the earlier to occur of (a) the date on which Tenant initially opens for business to the public, or (b) the Latest Rental Commencement Date specified in the Data Sheet. Any occupancy of the Premises by Tenant following the Commencement Date and prior to the Rental Commencement Date shall be subject to all terms and conditions hereof other than the payment of Rentals. The Term hereof shall end on the Expiration Date set forth in the Data Sheet, unless sooner terminated in accordance with this Sublease or if the Consent Agreement is terminated or otherwise revoked as provided therein or as may otherwise be extended. Tenant 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 lawful cause, or in the event either Landlord or American obtains possession of the Premises in any lawful manner. Such termination of the Sublease, as provided herein, and the removal, restoration and surrender obligations of Tenant, shall in no event give rise to any claims for incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises. The first "**Lease Year**" shall be the period commencing on the Rental Commencement Date and ending on the next December 31, and thereafter each "**Lease Year**" shall mean a fiscal year of twelve (12) consecutive calendar months ending on December 31.

Section 1.03 LATE OPENING. Landlord and Tenant agree that Tenant's failure to open the Premises on the Latest Rental Commencement Date will result in damages which are difficult to ascertain in light of operational, scheduling and public service factors. Therefore, if Tenant fails to open for business in the Premises by the Latest Rental Commencement Date and such failure shall be due to any fault of Tenant and not due to delays as specified in Section 5.01(c) or other delays caused by or due to the sole fault of either Landlord, American or the Authority, Landlord may assess and Tenant shall pay as liquidated damages and not as a penalty, Two Hundred Fifty Dollars ($250.00) per day for each day Tenant is not open for business for more than twenty (20) days following the Latest Rental Commencement Date. If such failure shall continue for in excess of sixty (60) days, the amount of such liquidated damages may be increased up to a

maximum of Five Hundred Dollars ($500.00) per day. This remedy shall be in addition to any and all other remedies provided in this Sublease or by law to Landlord in the event of default by Tenant. Such liquidated damages shall be deemed to be in lieu of Percentage Rent only that might have been earned during the period of Tenant's failure to open.

Section 1.04 CONSENT. Tenant acknowledges that under the Concession Area Lease and the Authority Lease, American and the Authority may have the right to consent to or approve matters which are described herein as being subject to the consent or approval of Landlord. Tenant agrees that Landlord, its agents and employees, shall be deemed to have acted reasonably if they act, fail to act, withhold or delay any consent or approval hereunder and such consent or approval is being withheld or delayed by or at the direction of either American or the Authority, whether or not American or the Authority is acting reasonably in making or refusing to make such determination. Landlord, its agents and employees, shall not have any liability to Tenant for any reason whatsoever in failing to obtain any such consent or approval. Tenant shall not be penalized for any such failure to obtain consent or approval if such failure is beyond Tenant's and Tenant's contractor's or subcontractors' control.

Section 1.05 DISCLAIMER. **TENANT ACKNOWLEDGES THAT NEITHER LANDLORD, AMERICAN, THE AUTHORITY NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, REPRESENTATIVES OR BROKERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION OR WARRANTY OF ANY KIND RESPECTING USE, OCCUPANCY OR OPERATION WITHIN THE TERMINAL AND/OR THE AIRPORT BY ANY AIRLINES, PERSONS OR ENTITIES INCLUDING, WITHOUT LIMITATION, ANY FORECASTED, ANTICIPATED OR ESTIMATED PASSENGER VOLUME (WHETHER ENPLANEMENTS OR DEPLANEMENTS) IN THE TERMINAL AND/OR THE AIRPORT OR SALES EXPECTED TO BE GENERATED AT OR FROM THE PREMISES. TENANT IRREVOCABLY WAIVES ANY CLAIM BASED UPON OR RELATED TO ANY SUCH CLAIMED REPRESENTATION BY LANDLORD, AMERICAN OR THE AUTHORITY. NO REPRESENTATIONS OR WARRANTIES AS TO THE ECONOMIC VIABILITY OF THE PREMISES OR THE AMOUNT OF PASSENGERS TO BE ENPLANED IN THE TERMINAL HAVE BEEN MADE. NO PROMISES TO ALTER, REMODEL OR IMPROVE, THE PREMISES, CONCESSION AREA OR THE TERMINAL HAVE BEEN MADE BY LANDLORD OR AMERICAN EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE CONCESSION AREA LEASE. PASSENGER COUNTS, PASSENGER FLOWS AND OTHER CUSTOMER TRAFFIC ARE IN THE MOST PART PRODUCTS OF AIRLINE SCHEDULES AND GATE UTILIZATION AND GOVERNMENTAL RULES AND REGULATIONS GOVERNING SECURITY AND EMERGENCY SITUATIONS AND MAY RESTRICT ACCESS TO THE TERMINAL. TENANT MAY NOT RELY ON ANY IMPLIED REPRESENTATIONS OR WARRANTIES (THE EXISTENCE OF WHICH ARE HEREBY DISCLAIMED), OR THE ACCURACY OF PROJECTIONS OR PROSPECTIVE INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE. TENANT REPRESENTS THAT TENANT HAS CONDUCTED AN INDEPENDENT AND EXPERT INVESTIGATION AND EVALUATION OF THE TERMINAL, THE PREMISES AND ALL INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE.**

ARTICLE II. RENTALS

Section 2.01 MINIMUM ANNUAL GUARANTEED RENT. Tenant shall pay to Landlord the Minimum Annual Guaranteed Rent ("**Guaranteed Rent**") set forth in the Data Sheet in equal consecutive monthly installments in advance on or before the first day of each month, without prior demand or notice. Guaranteed Rent, Percentage Rent and Additional Rent shall be paid to Landlord in U.S. currency at the

address set forth in the Data Sheet, or such other place as Landlord may designate in writing, without any deductions or offsets whatsoever. Should the Rental Commencement Date occur on a day other than the first day of a calendar month or this Sublease expire or terminate on a day other than the last day of a calendar month, then Guaranteed Rent shall be prorated on the basis of a thirty (30) day month. Should any Lease Year contain less than twelve (12) calendar months, said Guaranteed Rent shall be prorated on the basis of a three hundred sixty-five (365) day year. Effective each January 1 (commencing January 1, 2008) following the Rental Commencement Date, Guaranteed Rent shall adjust (but in no event shall the Guaranteed Rent decrease below the amount set forth in the Data Sheet) by an amount equal to the then current Lease Year's Guaranteed Rent times the **"Percentage Change in Enplaned Passengers"**. The **"Percentage Change in Enplaned Passengers"** shall mean an amount equal to the percentage change, whether an increase or a decrease, between the Terminal's reported **"Enplaned Passengers"** between two (2) consecutive calendar years for each Lease Year of the Term. For example, the initial calendar year for such measurement shall be the **"Enplaned Passengers"** in the Terminal during the 2006 calendar year and shall be compared to the **"Enplaned Passengers"** in the Terminal during the 2007 calendar year. Thereafter, calendar year periods used for the measurement comparison shall each roll forward by one (1) calendar year for subsequent determinations of the Percentage Change in Enplaned Passengers (e.g., the second comparison shall be the 2007 calendar year compared to the 2008 calendar year). For all purposes of this Sublease, the term **"Enplaned Passengers"** means any passenger determined by American to have boarded an aircraft at the Terminal, including passengers who may disembark and re-board the same aircraft as part of the same flight itinerary, but excluding passengers, such as international in-transit passengers, from international flights who are restricted from access to the Concession Area. Notwithstanding the foregoing, Landlord and Tenant hereby agree that for purposes of such measurement throughout the Term, the number of Enplaned Passengers for each calendar year that such adjustment shall be made shall be the greater of: Ex. 2.a. (ii) the number of actual Enplaned Passengers in the Terminal for the applicable calendar year.

Section 2.02 **PERCENTAGE RENT.** (a) Tenant shall also pay for each month of the Term (**"Lease Month"**), Percentage Rent equal to the product of the applicable Percentage Rent Rate times the amount of Tenant's **"Gross Receipts"** (as defined below) during such month in accordance with the applicable Percentage Rent Rates as specified in the Data Sheet, such payment to be made to the extent Percentage Rent exceeds the monthly installment amount of Guaranteed Rent paid by Tenant to Landlord. Tenant shall pay Percentage Rent to Landlord monthly without prior notice or demand within 15 days after the expiration of each Lease Month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Lease Month in accordance with the applicable Percentage Rent Rates as specified in the Data Sheet, such payment to be made to the extent Percentage Rent exceeds the monthly installment amount of Guaranteed Rent paid by Tenant to Landlord.

(b) If, at the end of any Lease Year, the monthly installments of Percentage Rent are less than the annual Percentage Rent required to be paid, Tenant shall pay the amount of such deficiency on or before the time Tenant provides its Annual Statement together with **"Late Interest"** (as defined in Section 27.13) from the date any such amounts were originally due. If, at the end of any Lease Year, the monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid, Tenant shall receive a credit equivalent to such excess, which shall be credited by Landlord to the next monthly payment(s) of Rentals due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid for such final Lease Year, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises at the conclusion of this Sublease, so long as the Premises are in the condition required by this Sublease, all of Tenant's obligations and liabilities have been performed to the satisfaction of Landlord and any other sums due Landlord from Tenant under this Sublease have been paid in full or Landlord shall be entitled to deduct such remaining sums due from any such excess. Percentage Rent is agreed to be a portion of the

consideration for Landlord to enter into this Sublease and Landlord expects to supplement Guaranteed Rent and Additional Rent to provide a fair rental return. Except as otherwise specifically permitted by this Sublease, if Tenant fails to continuously operate its business or keep the required hours of operation or vacates the Premises prior to the expiration of the Term hereof, Landlord, American and the Authority will suffer damages not readily ascertainable. Landlord shall have the right to treat any of such events as a non-curable, material default and breach by Tenant and Landlord shall be entitled to all remedies provided hereunder or at law.

(c) The term "**Gross Receipts**" means and includes all monies paid or payable to Tenant, whether for cash, credit or otherwise, for sales made or services rendered at or from the Terminal or the Airport regardless of when or where the order therefor is received and outside the Terminal or Airport if the order is received at the Terminal or the Airport, retail display allowances and other promotional incentives (the gross amounts thereof, not net of expenses) received from vendors, suppliers or manufacturers and other revenues of any type arising out of or in connection with Tenant's operations at the Terminal or the Airport, including, without limitation, proceeds from: the sale of gift and merchandise certificates (but only when such certificates are treated as a sale from the Premises pursuant to Tenant's record keeping system); mail, catalogue (as further explained below), closed circuit television, computer, other electronic or telephone orders received or filled; deposits not refunded to purchasers; orders taken at the Premises (although such orders may be filled elsewhere); sales through vending machines or other devices; the spread earned on any exchange or foreign currency transactions whether as a currency exchange service or in connection with the sale of merchandise or services; and all insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage. Catalogue sales generated from catalogues distributed from the Premises will be included in the calculation of Gross Receipts. For this purpose, catalogues displayed in the Premises must include a tracking number unique to the Premises that allows for an auditable method for tracking such sales. A "sale" shall be treated as consummated for the purposes of this definition, and the entire amount of the sales price shall be included in Gross Receipts, and deemed received at the time of determination of the amount due for each transaction, whether for cash, credit or otherwise, and not at the time of billing or payment. No deduction shall be allowed for uncollected or uncollectible credit accounts or "bad" checks. Gross Receipts shall <u>not</u> include: (1) any sums collected for any federal, state, county and municipal sales taxes, so-called luxury taxes, use taxes, consumer excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed by law upon the sale of merchandise or services but only if separately stated from the sales price and only to the extent actually paid by Tenant to any duly constituted governmental/taxing authority; (2) the exchange of merchandise between the stores or warehouses owned by or affiliated with Tenant, if any, where such exchanges of goods or merchandise are made solely for the convenient operation of the business of Tenant and not for the purpose of consummating a sale which has theretofore been made at, in, from or upon the Premises or for the purpose of depriving Landlord, American or the Authority of the benefit of the sale which otherwise would be made at, in, from or upon the Premises; (3) the amount of any cash or credit refund made upon any sale where the merchandise sold, or some part thereof, is thereafter returned by a purchaser and accepted by Tenant; (4) the proceeds of sale of fixtures, equipment or other items of property which are not stock in trade and not in the ordinary course of Tenant's business; (5) any receipts of Tenant which arise from its operations at the Airport under any other agreement with Landlord, American or the Authority and are subject to a percentage fee or percentage rent under that agreement; (6) shipping, delivery and gift wrapping charges provided at Tenant's actual cost by Tenant and documented separately by Tenant and such charges are merely an accommodation to customers; (7) receipts in the form of refunds from, or the value of merchandise, services, supplies or equipment returned to, vendors, shippers, suppliers or manufacturers, including volume discounts or rebates received from Tenant's vendors, suppliers or manufacturers; (8) income actually received by Tenant from manufacturers of goods (e.g., cosmetics, perfume) displayed for sale at the Premises if the conditions set forth below are fully and strictly satisfied with respect to such income; (9) customary

discounts given by Tenant on sales of merchandise or services to its own employees, if separately stated, and limited in amount to not more than one percent (1%) of Gross Receipts per Lease Month; (10) mandatory discounts of not less than ten percent (10%) of Gross Receipts, if separately stated, which must be given by Tenant on sales of merchandise or services to all individuals employed at the Airport, all American employees and to all Terminal airline employees; (11) gratuities for services performed by employees of Tenant which are paid by Tenant or its customers to such employees, except to the extent Tenant may be entitled to receive a portion of such gratuities; (12) the sale or transfer in bulk of the inventory of Tenant to a purchaser of all or substantially all of the assets of Tenant in a transaction not in the ordinary course of Tenant's business; and/or (13) except with respect to insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage as provided above and/or insurance proceeds that may be payable to Landlord, American or the Authority under such coverage, receipts from all other insurance proceeds received as a result of a loss or casualty. The conditions with respect to Section 2.02(c)(8) above are as follows: (i) the manufacturer specifically identifies the time period to which the income relates, (ii) reimbursement from the manufacturer to Tenant occurs in connection with employees (1) who are on Tenant's payroll for the operations permitted under the Consent Agreement and (2) who are on such payroll during the time period to which the reimbursement relates, (iii) the manufacturer and Tenant have previously entered into a written agreement that sets forth the material terms of their arrangement with regard to the reimbursement that is the subject of 2.02(c)(8), and (iv) Tenant provides to Landlord written documents and records substantiating the matters listed in sub-clauses (i) through (iii). Without limiting the generality of the foregoing, any and all income that would otherwise qualify as being excludable from Gross Receipts for purposes of this Sublease shall be includable in Gross Receipts if and to the extent that the income from the manufacturer which is associated with an identified employee during a calendar year exceeds such identified employee's base salary for the same calendar year. Such determination shall be made separately with respect to each employee of Tenant and with respect to each calendar year.

Section 2.03 STORAGE PREMISES AND RENT. If and to the extent that Storage Premises exist and/or are available, commencing on the date of actual delivery of Storage Premises to Tenant, all of the terms, provisions and conditions of Tenant's use and occupancy of the Premises set forth herein shall apply fully to Tenant's use and occupancy of the Storage Premises and for all purposes of this Sublease, the Premises shall be deemed to include the Storage Premises. Tenant shall build out such Storage Premises at its sole cost and expense, or, if Landlord may build out such Storage Premises to Landlord's specifications in which case, Tenant shall reimburse Landlord for the reasonable and actual costs incurred to build-out the Storage Premises. Landlord has the right at any time, in its reasonable discretion, to designate comparable alternative Storage Premises. In the event of the relocation of Storage Premises, Tenant shall be solely responsible for all moving and other related costs thereto. Tenant shall pay to Landlord as rent for the Storage Premises ("**Storage Premises Rent**") in accordance with the terms of the separate Storage Premises Sublease. Storage Premises Rent shall be payable in equal consecutive monthly installments in advance on or before the first (1st) day each month, without prior demand or notice. If delivery of the Storage Premises occurs on a date other than the first (1st) day of a month, the Storage Premises Rent shall be prorated on a daily basis for any such partial month.

Section 2.04 TAXES. (a) From and after the Rental Commencement Date, Tenant shall pay to Landlord, as Additional Rent, its proportionate share of the Taxes payable by Landlord under the Concession Area Lease. "**Taxes**" means, collectively, any tax, fee, excise, levy, lien, duty, impost or similar charge assessed or imposed, including, without limitation, payments under any taxing agreement between the Authority and/or American, and the City of New York, providing for taxes to be paid to the City of New York, and any additions to a tax, by a governmental authority on, against or in connection with the lease, use, possession, equipping, operation or maintenance of the Concession Area, and any amounts paid or deemed paid in connection with the purchase, lease or use of goods and/or services at or

for the Concession Area, including amounts paid or attributable to utilities generated, provided or consumed by or through Tenant, other tenants of the Concession Area, Landlord, American or the Authority for the benefit of the Concession Area. Taxes exclude payments in lieu of taxes and federal or state taxes based on or determined by net income, net worth or Landlord's or American's ongoing qualification to do business in general as a corporation (e.g., state franchise taxes). Should the State of New York or City of New York or any political subdivision thereof or any governmental, taxing or assessing authority, impose a tax of any kind or nature, regular or special, direct or indirect, upon, against or with respect to the Rentals or other amounts payable to Landlord by Tenant, or a franchise tax assessment, levy or charge measured by or based, in whole or in part, upon such Rentals or any other amounts payable hereunder, then all such taxes, assessments, levies or charges, or the part thereof so measured or based, shall be paid by Tenant and shall be deemed to be included within the term Taxes. The Taxes in respect of the year in which the Rental Commencement Date occurs and for the year in which the Term hereof ends shall be prorated on a daily basis.

(b) Tenant's proportionate share of Taxes shall be determined as follows: (1) if the Premises is the subject of a separate tax lot or lots created by the City of New York, Tenant shall pay Taxes that may become due and payable with respect to the Premises as so reflected on the tax statement during the Term directly to the City of New York, or Landlord, as directed by Landlord, and shall deliver to Landlord, not later than ten (10) days before the date any such Taxes become delinquent, official receipts of the appropriate taxing authority or other evidence satisfactory to Landlord evidencing payment thereof; or (2) if the Premises is not a separate tax lot or lots, the amount of Tenant's proportionate share thereof shall be reasonably calculated by Landlord based upon the type of Tax charged and how it is allocated to all or a portion of the Concession Area. Tenant's proportionate share thereof shall be determined by a formula, the numerator of which is the Floor Area of the Premises and the denominator of which is the total Floor Area of all leased and occupied concession facilities located in the Concession Area. Such proportionate share shall be paid to Landlord in advance, in monthly installments on or before the first (1st) day of each calendar month, either: (i) in an amount estimated by Landlord and billed to Tenant, but Landlord shall have the right to initially determine monthly estimates and to revise estimates from time to time, or (ii) within twenty (20) days of Tenant's receipt of a bill from Landlord for the payment of such Taxes, if any of such Taxes are not so estimated in advance. Tenant agrees to make payment within twenty (20) days after receipt of a bill from Landlord even if a statement showing the Taxes payable by Landlord is not provided by Landlord at the time of billing. Upon receipt of the abovementioned statement pertaining to Taxes payable by Landlord under the Concession Area Lease, Landlord shall furnish Tenant with a written statement of the actual amount of Tenant's proportionate share of Taxes for such tax fiscal year together with a copy of such statement. If the total amount paid by Tenant for any such period following the Rental Commencement Date shall be less than the actual amount due from Tenant for such period, as shown on the statement, Tenant shall pay to Landlord the difference between the amount previously paid by Tenant and the actual amount due together with Late Interest from when originally due within ten (10) days after Tenant's receipt of such statement. If the total amount paid by Tenant hereunder for any such period shall exceed the actual amount due from Tenant for such period, such excess shall be credited against the next payment for Taxes due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total amount paid by Tenant for such final Lease Year shall exceed the actual amount due from Tenant for such period, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises in good condition at the conclusion of this Sublease and all Rentals due Landlord from Tenant under this Sublease have been paid in full or Landlord may deduct such excess, if any, from any outstanding and unpaid Rentals remaining to be paid by Tenant to Landlord.

(c) Landlord reserves the right to contest Taxes so long as Landlord pays any associated penalties and interest; and Tenant shall pay to Landlord that portion of all reasonable external costs and expenses incurred by Landlord in connection with such contests (including attorneys' fees, accountants, consultants and

appraiser expenses, and reasonable administrative expenses) based on a formula, the numerator of which is the square footage of Floor Area in the Premises, and the denominator of which is the total square footage of Floor Area in the Concession Area. Notwithstanding any such contest, related negotiation or appeal, Tenant shall timely pay its proportionate share of Taxes. If Taxes shall be increased, Tenant's proportionate share of Taxes shall be computed on the amount of Taxes finally determined to be payable by Landlord including any of the reasonable external costs incurred therein. If Landlord's obligation to pay Taxes shall be decreased, Landlord's statement following such decrease shall include an appropriate adjustment for any prior fiscal tax years affected by such decrease reflecting the amount of such decrease; and Tenant's proportionate share of any such adjustment, less Tenant's proportionate share of the reasonable external costs incurred shall be treated as a credit against future Taxes payable by Tenant following the decrease or, if during the final Lease Year of the Term, refunded to Tenant as provided in Section 2.04 (b) above. If Taxes are separately-assessed against Tenant, Tenant may contest, in good faith for its own account and at Tenant's sole cost and expense, the validity or amount of any such separately assessed Tax, provided **Tenant shall indemnify Landlord against any resulting loss, cost or expense, and shall provide security reasonably satisfactory to Landlord with respect to Tenant's performance of such indemnification.** Under no circumstances shall Tenant permit any type of lien or encumbrance on the Premises or on the Terminal by reason of the failure to pay any Taxes or Tenant Taxes (as defined in Section 22.01).

(d) If Tenant should fail to pay any Taxes required to be paid by Tenant hereunder, in addition to any other remedies provided herein, Landlord may, if it so elects, pay such Taxes either with its own funds or by a draw-down of such amounts upon the Performance Guaranty. Any sums so paid by Landlord shall be due and payable by Tenant on demand, together with Late Interest thereon from the date paid by Landlord to the date of repayment by Tenant. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Taxes and proceedings described in this Section 2.04.** Tenant shall be liable for all Taxes levied or assessed directly against Tenant, including Taxes assessed on or in respect of "**Fixed Improvements**" and any "**Refurbishments**" (as both terms are defined in Section 5.01), or other fixtures, inventory or personal property of Tenant in the Concession Area. If any such Taxes are levied or assessed against Landlord, American or their property and Landlord pays the same or the assessed value of Landlord's or American's property is increased by inclusion of such personal property and fixtures, then, at Landlord's discretion, Tenant shall advance the corresponding Taxes to Landlord, or reimburse them upon demand if paid by Landlord.

Section 2.05 **MISCELLANEOUS CHARGES.** (a) Employee Parking. The Authority retains the right to institute a charge to Tenant for the privilege of using such employee designated parking facilities for Tenant's employees. Such charges shall be paid directly to the Authority and shall be promptly paid at such intervals as shall be demanded in accordance with parking rates established by the Authority as adjusted from time to time. (b) Identification Security Badges. All persons employed at the Terminal are required to obtain background checks, security clearances and identification security badges from American or the Authority; and American or the Authority has the right to institute a reasonable charge for processing, issuance, reviews and renewals. Such charges shall be paid directly to the issuing party and shall be promptly paid at such intervals as shall be demanded. All security badges must be properly accounted for by Tenant and promptly returned in accordance with American's, the Authority's and all other applicable rules, policies and regulations. (c) Screening. As may be required by local, state or federal law, including, but not limited to, the Federal Aviation Administration's ("**FAA**"), the Transportation Security Administration's ("**TSA**"), American's, the Authority's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, products, equipment and supplies shall be paid by Tenant directly to Landlord or, if not billed directly, included within the

Logistical Support and Public Area Maintenance Fee. (d) Subsequent Regulations. If in the future, American, the Authority or any agency with jurisdiction over the Airport requires Landlord to implement additional procedures related to airport facilities and/or the screening or badging of Tenant's employees, contractors, goods, products, equipment or supplies, Tenant agrees to pay the actual costs incurred by Landlord in the manner provided above. Each of the foregoing shall be collectively referred to as **"Miscellaneous Charges"**.

Section 2.06 **ADDITIONAL RENT.** In addition to Guaranteed Rent and Percentage Rent hereunder, Tenant shall pay, as **"Additional Rent"**, in a manner and at the place provided herein, all sums of money required to be paid by Tenant hereunder, including but not limited to: Miscellaneous Charges, Storage Premises Rent, if any, Taxes, Utilities for concessions which offer food and beverages, the Logistical Support and Public Area Maintenance Fees, and contributions to the Joint Marketing Fund. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next installment of Guaranteed Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All Rentals payable in a given month shall be deemed to comprise a single rental obligation of Tenant.

Section 2.07 **LATE PAYMENT CHARGE.** If any Rentals required to be paid to Landlord hereunder are not made when such Rentals are due, including as a result of any audit findings, Tenant shall pay interest on any such overdue amounts, compounded monthly at the rate specified in Section 27.13 commencing on the due date; provided, however, any such late charges shall be waived in the event any such late payments are in fact received by Landlord within five (5) days following the due date. If Landlord accepts such late payment charge or Tenant pays the late payment charge but fails to pay contemporaneously therewith all unpaid amounts of Rentals due, Landlord's acceptance of this late payment charge shall not constitute a waiver of Tenant's default nor prevent Landlord from exercising all other rights and remedies available to Landlord hereunder or at law. If Tenant is late more than twice during any consecutive twelve (12) month period, Landlord will no longer waive any such applicable late charges for the remainder of the Term.

Section 2.08 **APPLICATION OF PAYMENTS; ACCORD AND SATISFACTION.** Landlord may, at its sole discretion, apply any payments received from Tenant to any Rentals that are then due and payable. If Landlord shall not make any specific application of a payment received from Tenant, then any such payment received shall be applied first to the Rentals which have been overdue for the longest period of time. No designation of any payment by Tenant for application to a specific portion of Tenant's financial obligations hereunder shall be binding unless otherwise required under the laws of the State of New York nor shall it be deemed an accord and satisfaction of any debt or obligation of Tenant hereunder. Tenant covenants to pay all Rentals independent of any obligation of Landlord. No breach of this Sublease by Landlord shall relieve Tenant of its obligation and duty to pay all Rentals when due under the terms hereof. All Rentals shall be paid by Tenant to Landlord without set-off, deduction, demand or abatement. Tenant's obligations to pay Rentals shall be absolute and unconditional and shall not be subject to any right of recoupment or set-off and Tenant shall make all payments in full without deduction, setoff or counter-claims of any form or nature. Landlord reserves the right to accept any check or payment without prejudicing in any way Landlord's right to recover the balance of any and all Rentals due from Tenant after receipt of any such check or payment or to pursue any other remedy provided herein or by law. At any time that Tenant shall have delivered checks to Landlord for payments pursuant hereto which shall have on at least two (2) occasions during any Lease Year been returned by Landlord's bank for any reason, Landlord shall not be obligated to accept any payment from Tenant unless such payment is made by cashier's check or in bank certified funds.

ARTICLE III. RECORDS AND REPORTS

Section 3.01 **TENANT'S RECORDS.** Tenant shall maintain in English and in accordance with accepted accounting practices consistently applied ("**AAP**"), full and complete records and books of account recording all transactions at, through or in any way connected with Tenant's operations at the Premises or elsewhere at the Terminal or the Airport and outside of the Airport if the order therefor is received at the Premises, and shall require and cause all of Tenant's Affiliates (as defined below) performing similar services within the Port of New York District (as defined in the Authority Lease) and its subtenants, concessionaires, licensees and/or assignees to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Tenant (collectively, "**Records**"). For all purposes of this Sublease, "**Affiliate**" or "**Affiliates**" means, with respect to any Person, any other Person, directly or indirectly, through one (1) or more intermediaries, who or which Controls, is Controlled By or is Under Common Control With such Person; "**Person**" means and includes an individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department, authority or agency thereof; and "**Control**" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise (including any entity in which a Person (including any general or limited partner, managing and non-managing member or shareholder of such Person) has an ownership interest); and the terms "**Controls**", "**Controlled By**" and "**Under Common Control With**" shall have the meanings correlative to the foregoing. The Records shall include, without limitation, true copies of all federal, state and local sales and use tax returns and reports, daily bank deposits and daily receipts from all sales (including those from catalogue, mail or telephone orders), duplicate bank deposit slips, invoices, journals, ledgers and other pertinent original sales records, and records of any other transactions conducted in or from the Premises by Tenant. The Records shall also include, without limitation, all corporate records and books of account which the Landlord, in its sole discretion, believes may be relevant for identification, determination or calculation of all fees, rentals and other amounts paid or payable to American and the Authority, all agreements, and all source documents. The Records shall be preserved and retained by Tenant within the Port of New York District and if not kept by Tenant within the Port of New York District, the Records shall be preserved and retained at Tenant's principal business office located in the United States during the Term and for one (1) year after the expiration or earlier termination hereof, and for any further period extending until receipt of written permission from the Authority to do otherwise; provided, however, those Records pertaining to Gross Receipts shall be maintained for a period of five (5) years from the date of each sale, or, in the event of a claim by Landlord, American or the Authority, until such claim for payments hereunder shall have been resolved, fixed and paid. If such records are not kept by Tenant within the Port of New York District, Tenant shall make all of such records available within the Port of New York District within twenty (20) days of a request therefor. All Records shall at all reasonable times, during Tenant's normal business hours after twenty (20) days prior written notice, be open to the inspection of, and may be copied or extracted from, in whole or in part, by Landlord, American, the Authority or their respective representatives for the period hereinabove required. If the Records are not audited within such retention period, the Records shall be deemed adequate and closed; provided, however, in the case of fraud and/or willful errors, such retention period limitation shall not apply; and, provided, further, records relating to any litigation or settlement of claims arising under or relating to this Sublease shall be made available for during retention period after such litigation or claims have been completed and all time limits for appeals have expired.

Section 3.02 **POINT OF SALE TERMINALS.** Tenant shall install in the Premises, at its sole cost and expense, non-resettable cash register(s) and other point of sale terminals (each, a "**Point-of-Sale Terminal**") for recording orders taken, or services rendered, as may be appropriate to Tenant's business and necessary or desirable to keep accurate records of Gross Receipts and to register therein every

transaction made in, on, about or from the Premises, including every type of Gross Receipts. Each such Point-of-Sale Terminal shall provide an historical record of all transactions which occur at the Premises for accounting, terminal-wide merchandising and auditing purposes. Landlord, American and the Authority shall have the right to inspect any Point-of-Sale Terminal or audit Tenant at any time. In order to provide an accurate record and to provide a high level of service to customers, all Point-of-Sale Terminals or cash registers used shall have, as a minimum, the following features: (a) not less than sixty (60) segregated category addresses (if applicable for the types of products or services that maybe offered by Tenant); (b) the input devices may either be a key, scanner or both; (c) the patron fee display shall be of sufficient size and legibility to be readily observed by the patron during the processing of a transaction; and (d) the register of each Point-of-Sale Terminal shall: (1) record transactions by sequential control number to the audit tape or computer files; (2) be capable of printing a transaction history to tape or file by hour (time of day), day, month and year; (3) print a customer receipt showing the amount due, amount tendered, and the amount due to the customer together with the time and date of the transaction; and (4) the register or data collection device shall have a secure transaction audit tape or an ASCII transaction file on an IBM compatible data disk. The tape of each Point-of-Sale Terminal shall be accessible to, and subject to inspection by, Landlord, American and the Authority. Each Point-of-Sale Terminal shall accept at least two (2) major credit cards. Upon request, Tenant shall make available to Landlord weekly sales data ("**Point of Sale Data**"), reflecting the amount of each sales transaction, the number of transactions, items sold per transaction, time and date of each transaction, and specifying the sales category applicable to each item sold.

Section 3.03 REPORTS BY TENANT. Tenant shall furnish to Landlord as soon as practicable after the end of each Lease Month, but in no event later than fifteen (15) days after the expiration of each Lease Month, a complete statement (substantially in the form of **Exhibit C**), certified by a authorized officer or equivalent representative of Tenant, of the amount of Gross Receipts during such period and the amount of Percentage Rent paid ("**Monthly Statement**"). Tenant shall furnish to Landlord, within sixty (60) days after the expiration of each Lease Year, a complete statement (substantially in the form of **Exhibit C**), prepared and certified by an authorized officer of Tenant and certified by an independent certified public accountant, showing in reasonable detail for the preceding Lease Year the amount of Gross Receipts and the payments of Guaranteed Rent, Percentage Rent and Additional Rent ("**Annual Statement**"). Tenant shall certify in its Monthly Statements and Annual Statements that (1) such statements have been prepared in accordance with the terms of this Sublease, (2) that all revenues which are required to be included in Gross Receipts under the terms of this Sublease and in accordance with AAP have been so included, (3) that all payments of Guaranteed Rent, Percentage Rent and Additional Rent have been made in accordance with the terms of this Sublease, and (4) all of the foregoing statements are true, accurate and complete in all material aspects. The certification and opinion of the independent certified public accountant shall state that total Gross Receipts, Guaranteed Rent, Percentage Rent and Additional Rent were calculated and reflected by Tenant in its Annual Statement in accordance with the terms of this Sublease and that the Annual Statement was prepared in accordance with AAP. Landlord may make reasonable changes to the form of the Monthly Statement or Annual Statement from time to time upon thirty (30) days prior notice to Tenant. Monthly Statements and Annual Statements shall be accompanied with supporting documentation as may be required by Landlord. If Tenant fails to furnish to Landlord any Monthly Statement or Annual Statement within the time required by this Section 3.03, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of One Hundred Dollars ($100.00) per statement per day until such statement is properly delivered to Landlord for the first (1st) such failure to furnish a statement, Two Hundred Fifty ($250.00) per statement per day until such statement is delivered to Landlord for the second (2nd) such failure to furnish a statement, and Five Hundred Dollars ($500.00) per statement per day until such statement is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a statement. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

Section 3.04 **BUSINESS STATISTICS REPORTS.** Tenant shall furnish to Landlord, within ten (10) business days after the close of each calendar quarter during the Term, the following report ("**Business Statistics Report**") containing trends for the operation of the Premises, as follows: (a) average weekly sales by category, if applicable; (b) rolling twelve (12) month sales by category, if applicable; (c) sales per Enplaned Passenger, by category, if applicable, on a monthly, quarterly and rolling twelve (12) month basis; (d) average sales per transaction on an annual basis; (e) sales per square foot of Floor Area in the Premises and by category, if applicable, on a rolling twelve (12) month basis; (f) occupancy report, listing Rentals as a percentage of Gross Receipts; and (g) where applicable, comparisons to historical data for the same time frames. If Tenant fails to furnish to Landlord any Business Statistics Report within the time required by this Section 3.04, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of One Hundred Dollars ($100.00) per report per day until such report is properly delivered to Landlord for the first (1st) such failure to furnish a report, Two Hundred Fifty Dollars ($250.00) per report per day until such report is delivered to Landlord for the second (2nd) such failure to furnish a report, and Five Hundred Dollars ($500.00) per report per day until such report is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a report. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

ARTICLE IV. EXAMINATION AND AUDIT

Section 4.01 **RIGHT TO EXAMINE BOOKS.** Landlord, American and the Authority each shall have the right to examine all Records. Tenant shall make available to the requesting party within twenty (20)) days following such written request for the same at a designated location within the Port of New York District for the purpose of examination, extracting and/or copying all books, source documents, accounts, records and sales tax reports filed with applicable government agencies of Tenant and any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, in order to verify the amount of Gross Receipts and the amount of all Rentals. Should such records not be made available at the designated location within the Port of New York District within such twenty (20) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

Section 4.02 **AUDIT.** During the Term hereof and for one (1) year thereafter, Landlord, American and the Authority may, each at any time upon ten (10) days prior written notice to Tenant, cause a complete audit to be made by an auditor or accountant of their selection (who may be a certified public accountant), of the records and operations of Tenant and/or any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, relating to the Premises, for the period covered by any statement issued or required to be issued by Tenant, its Affiliates subtenants, licensees, concessionaires, and/or assignees. Tenant shall make available to the auditor or accountant, at a location within the Port of New York District within fifteen (15) days following written notice requiring such audit, all of the Records that such auditor or accountant deems necessary or desirable for the purpose of making such audit. If such audit discloses that Gross Receipts as previously reported for the period audited were understated, Tenant shall immediately pay to Landlord the additional Percentage Rent due for the period audited together with Late Interest from the date such amounts were originally due. Further, if such understatement was in excess of two percent (2%) of actual Gross Receipts as disclosed by such audit, Tenant shall immediately pay to Landlord the reasonable and actual cost of such audit upon Tenant's receipt of an invoice therefor, plus Late Interest; and, if such understatement was in excess of ten percent (10%) of Gross Receipts as disclosed by such audit due to Tenant's intentional, willful or fraudulent act or omission, Landlord may declare this Sublease terminated and the Term ended, in which event this Sublease shall cease and terminate on the date specified in such notice with the same force and effect as though the date set forth in such notice were the date set forth in this Sublease for expiration of the Term, and Tenant shall vacate and

surrender the Premises on or before such date in the condition required by this Sublease for surrender upon the expiration of the Term. If upon examination or audit the auditor or accountant reasonably determines that sufficient documentation is not maintained, retained, recorded, or available in accordance with AAP to verify Gross Receipts, Tenant shall pay for the reasonable and actual cost of such audit; and, in addition, should the party who requested the audit deem it necessary, Tenant shall reconstruct, at its sole cost and expense, all records for the determination of Gross Receipts for any period being audited. Should such records not be made available at the designated location within the Port of New York District within such fifteen (15) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

ARTICLE V. CONSTRUCTION OF PREMISES

Section 5.01 CONSTRUCTION OF PREMISES. (a) All improvements to the Premises shall be made as set forth in **Exhibit D**, the Tenant Construction Review Manual (as defined herein), the Design Guidelines (as defined herein) and otherwise in compliance with the Tenant Construction and Alteration Application Authority Form 531, as the same may be amended or modified, from time to time ("**Alteration Application**"), the Authority Requirements and any other reasonable requirements of Landlord and American. Tenant shall install the Fixed Improvements (as herein defined) and Operating Equipment (as herein defined) on or before the Latest Rental Commencement Date so that the Premises will provide attractive, well-designed facilities that promote the display and sale of merchandise, products and/or services and present a positive image to the public. Each of the parties hereto shall perform the obligations imposed upon such party in **Exhibit D** at the times and in the manner provided. It is understood and agreed by Tenant that any non-material changes from any plans and specifications covering American's Work (if any), as described in **Exhibit D**, shall not affect or invalidate this Sublease. The term "**Fixed Improvements**" shall mean the permanent improvements, structures and fixtures (other than the work ("**Base Building Work**") American is obligated to perform under the Authority Lease and the Concession Area Lease to deliver the Premises in "shell" condition as set forth in **Exhibit D**) initially installed by Tenant in the Premises to prepare the Premises for issuance of an occupancy permit and otherwise to complete it for the operations of Tenant and any Refurbishments which may be made subsequently to the Premises in accordance with this Sublease. "**Refurbishments**" shall mean the repair, replacement or upgrade of Fixed Improvements as required and approved under Section 5.03(b). Fixed Improvements may include, but are not limited to, finish-out work on floors, ceilings, demising walls and store facades, storefront signage, the panel box for and hook-ups to utility wires and conduits infrastructure, decorations, shelves, counters, lighting and interior design and construction work necessary in general to accommodate the operation of a Tenant. The Fixed Improvements shall be satisfactory to Landlord and American in all respects and shall be installed in a timely manner in accordance with this Article V. The term **"Operating Equipment"** means any trade furniture, trade furnishings, trade equipment, signs, trade appliances and trade fixtures that are fabricated, furnished, installed and used by Tenant in the Premises. The term "**Tenant Construction Review Manual**" means the Tenant Construction Review Manual, Port Authority Design Guidelines and other construction manuals promulgated by the Authority, as may be amended or modified from time to time. The term "**Design Guidelines**" means Landlord's Tenant Design Handbook and American's Design Guidelines as may be amended or modified from time to time.

(b) Tenant shall furnish conceptual drawings and plans ("**Conceptual Plans**") and final drawings and specifications ("**Final Drawings**") for the Premises as follows: Tenant shall submit Conceptual Plans to Landlord and American for approval no later than twenty (20) days after execution of this Sublease. Landlord shall promptly review the Conceptual Plans, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Conceptual Plans. Following Tenant's receipt thereof, Tenant shall submit Final Drawings conformed to the approvals or comments

received within twenty (20) days to Landlord and American for prior written approval. Landlord shall promptly review such Final Drawings, and Landlord shall provide consolidated comments or approvals to Tenant within ten (10) days following receipt of the Final Drawings. In the event of disapproval, Tenant shall immediately revise the Final Drawings and promptly resubmit them for approval until such approval is obtained. Following approval of the Final Drawings, Tenant shall immediately prepare so that American can immediately file the Tenant Alteration Application as soon as possible thereafter (and in no event more than five (5) days thereafter) with the Authority pursuant to the Authority's Tenant Alteration Application Process ("**TAA Process**"). It is anticipated that the Authority will provide its comments, approval and/or disapproval no later than thirty (30) days after submission of the Alteration Application and to issue all required construction permits within such time period. Obtaining all approvals required by the Authority's Requirements is the sole responsibility of Tenant. The failure of Landlord to provide comments and/or approvals within the time periods set forth herein for Conceptual Plans and Final Drawings and/or the failure of the Authority to provide its comments, approval and/or disapproval and issue permits within thirty (30) days following the initial submission and ten (10) days following any subsequent submittal shall extend the Latest Rental Commencement Date on a day-for-day basis for each day so delayed; provided, however, no such extension shall be granted to Tenant unless the Conceptual Plans and Final Drawings are submitted substantially in accordance with all of the requirements of the Tenant Construction Review Manual, the Design Guidelines, **Exhibit D** and the Alteration Application. Tenant's failure to furnish or revise the Conceptual Plans and Final Drawings within the time frames and in the form required herein, or failure to perform any other obligation under this Section, shall constitute a material default by Tenant hereunder, which shall entitle Landlord to all remedies set forth in Article XIX. If Landlord reasonably determines that the parties are unable to agree upon the Conceptual Plans and/or the Final Drawings or if Tenant fails to timely provide the Preliminary Plans and Final Drawings, including any revisions required thereto within ten (10) days from the dates required, Landlord may terminate this Sublease upon twenty-four (24) hours written notice to Tenant, in which event this Sublease shall terminate on the date specified in such notice and thereafter neither party shall have any further obligations to the other party. No deviation from the Final Drawings, once approved pursuant to the TAA Process (and once so approved they are incorporated by reference herein), shall be made by Tenant without Landlord's, American's and the Authority's prior written consent. Approval of Conceptual Plans and Final Drawings by Landlord, American or the Authority shall not constitute any representation or warranty or the assumption of any responsibility or any liability by Landlord, American or the Authority for their accuracy, efficacy or sufficiency and Tenant shall be solely responsible for such items. Storefront barricades, reasonably acceptable to Landlord, attractively screening the Premises from view during construction shall be erected and maintained by Tenant at all times prior to Tenant's opening for business and shall be removed and properly disposed of by Tenant prior to such opening, all at Tenant's sole cost and expense. If Landlord originally erects such storefront barricades or if Tenant fails to construct, erect, maintain, remove and dispose any such storefront barricades, Tenant shall reimburse Landlord for all reasonable and actual costs incurred by Landlord in performing any of the same.

(c) Tenant expressly acknowledges that it is familiar with the TAA Process and its design and construction guidelines. Delays in obtaining Authority approvals in regard to these processes shall not be considered an excusable delay or Force Majeure (as defined in Section 27.04) except, and only to the extent, that the Authority fails to respond at all to a conforming Alteration Application for more than thirty (30) days after delivery of such initial application and for more than fifteen (15) days after delivery of any modification. In the latter case, the Latest Rental Commencement Date will be extended one (1) day for each day beyond the 30th day that the Authority has failed to respond to an Alteration Application. No work may commence until an Alteration Application has been approved by the Authority, pre-construction meetings, as scheduled and directed by the Authority, are concluded and the Authority has issued a construction permit, permitting the work to be performed, if applicable. Within one hundred twenty (120) days of the completion of construction, Tenant shall submit "as-built" drawings and

specifications of the construction work and installation of equipment and trade fixtures; and Tenant shall keep such drawings current showing therein any changes or modifications made during the Term. **Tenant shall also factor in any length of time required to obtain all security clearances, identification badges, pre-construction coordination meetings, permitted times in which construction activities shall be allowed in the Terminal and all other Authority Requirements in order to ensure that Tenant shall be open for business no later than the Latest Rental Commencement Date.**

(d) Tenant shall spend and invest in a manner previously approved by Landlord and American, an amount not less than Ex. 2.a. per square foot of the Floor Area in the Premises (as the minimum capital expenditure and investment) for the construction and installation of Fixed Improvements ("**Construction Cost**"), which sum shall be comprised of the types of any investments that qualify as Eligible Costs (as defined below).

(e) Within ninety (90) days following completion of the Fixed Improvements or any Refurbishments, Tenant's construction manager and/or architect shall duly execute and deliver to Landlord, as evidence of the completion of such work, a certificate to the effect that: (1) the design, construction, and equipping of the Fixed Improvements have been substantially completed in strict accordance with the Final Drawings and the time schedule to complete if not fully complete (which in no event shall exceed thirty (30) days); (2) all costs and expenses for labor, services, materials, and supplies used in designing, constructing, and equipping the Fixed Improvements for which payment is due have been paid in full (specifying, in reasonable detail, the Construction Cost expended in the completion of the Fixed Improvements which are to be applied toward the minimum investment requirement established in Section 5.01(d)) together with executed copies of all mechanics' lien waivers and/or releases or other lien waivers and/or releases on account of Tenant's Work, notarized and unconditional, in such reasonable form as Landlord shall have reasonably approved; (3) a certificate of occupancy, a consent to occupy or a permit to use or occupy, as applicable, and all other necessary licenses, permits and other required documents for operation of Premises affected by the Fixed Improvements have been issued by the appropriate governmental agency; and (4) final and complete set of "as-built" Final Drawings on the most recent version of AutoCad (which version shall not predate Version 12.0), duly certified by a registered architect or registered engineer licensed in the State of New York. Tenant shall not begin sales to the public until all the requirements regarding inspection and certification by Landlord, American and/or the Authority have been fulfilled pursuant to the TAA Process. If Tenant shall fail to provide any of the foregoing within such ninety (90) days for reasons which are within the control of Tenant or Tenant's contractor's or subcontractors' control, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Two Hundred Fifty Dollars ($250.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

(f) Within ninety (90) days following completion of the Fixed Improvements or any Refurbishments, Tenant shall duly execute and deliver to Landlord and American, as evidence of the cost of such work, a certificate issued by the chief executive officer, chief financial officer or equivalent representative of Tenant, detailing the Eligible Costs actually incurred in connection with the installation of the Fixed Improvements together with a Depreciation Schedule (as hereinafter defined) for each Fixed Improvement. Tenant shall provide to Landlord copies of invoices and canceled checks or other reasonable evidence of expenditures for labor and materials covering all Eligible Costs; and Landlord and American shall have the right to audit such records. If there is a discrepancy of five percent (5%) or more, Tenant shall pay, as Additional Rent, the cost of the audit. If Tenant shall fail to provide any of the

foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Five Hundred Dollars ($500.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

"**Eligible Costs**" means, with respect to any investment in Fixed Improvements or Refurbishments, the following: (1) directly contracted construction costs, (2) architectural and engineering fees, construction management fees and the cost to obtain the applicable permits, which amounts under this clause (2) shall not exceed fifteen percent (15%) of the contracted construction costs, unless otherwise approved by Landlord in writing, and (3) permanent fixtures, including any furniture and equipment and custom-built "trade fixtures" which constitute fixtures under applicable law, installed for direct use in the Premises. Notwithstanding the foregoing, Eligible Costs shall not include: (1) costs for Base Building Work incurred by Landlord or American, (2) costs in excess of one hundred thirty-five percent (135%) of the estimated costs for Fixed Improvements provided by Tenant in the letter of intent or proposal term sheet for this Sublease unless otherwise specifically approved by Landlord in writing, (3) any overhead, financing costs (e.g., loan origination fees or interest, legal fees or any non-construction-related costs), or (4) amounts paid to any Affiliate of Tenant. In addition, to qualify as Eligible Costs, disbursements must be supported by the certificate referenced in Section 5.01(e) and the documentary evidence of payment as described in this Section 5.01(f).

"**Depreciation Schedule**" means a schedule reflecting the monthly amortization of the Eligible Costs for Fixed Improvements, which schedule must be approved by Landlord and American and shall reflect amortization on a straight-line basis during the lesser period of either: (1) the useful life of such Fixed Improvement, calculated in accordance with "GAAP"; or (2) the length of time remaining in this Sublease from the date such Fixed Improvement is completed and begins to be depreciated. "**GAAP**" means generally accepted accounting principles in the United States of America, as set forth in the opinions and pronouncements of the American Institute of Certified Public Accountants' Accounting Principles Board and Financial Accounting Standards Board or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, to the extent such principles are applicable to the facts and circumstances on the date of determination. Any schedule submitted by Tenant for this purpose shall not be deemed a Depreciation Schedule until such schedule is approved by Landlord and American in writing, which approval shall not be unreasonably withheld, delayed or conditioned. If Landlord does not respond at all within ninety (90) days of the submission of a Depreciation Schedule, the schedule shall be deemed accepted and approved by Landlord.

Tenants who fail to properly and timely submit the certificates and documentary evidence of Eligible Costs and the Depreciation Schedule to Landlord and American for approval within one hundred eighty (180) days after the completion of the Fixed Improvements or Refurbishments shall forever waive and release Landlord and American for reimbursement of any portion of Tenant's Eligible Costs in the event of a relocation and/or early termination of this Sublease.

(g) Subject in all events to the Authority Lease and the Authority's lease with the City of New York, all alterations, additions, improvements and fixtures (including, without limitation, all floor, wall and/or ceiling coverings and any Tenant-installed heating and air conditioning equipment, but excluding Tenant's readily movable decorations, trade fixtures, furniture and office equipment) that are installed by any party in the Premises shall remain upon and be surrendered with the Premises and become the property of American, if permitted under the Authority Lease, or the City of New York, as the same or any part thereof is erected, constructed or installed; provided, that Tenant shall be permitted to remove its

logo and trademark from any such items.

(h) All contracts for the construction or installation of Fixed Improvements shall require: (1) that all contractors and subcontractors provide labor that can work in cooperation with other elements of labor employed or to be employed at the Airport; (2) insurance coverage and suretyship reasonably satisfactory to Landlord, the Authority and American for the protection of their employees, laborers, suppliers, contractors, subcontractors, agents, invitees and the public; (3) that all contractors and subcontractors comply with all provisions of this Sublease applicable to them; and (4) performance bonds and payment bonds from Tenant or Tenant's general contractor, in form and substance satisfactory to Landlord, each of which shall name Landlord, the Authority and American, as additional obligees and/or loss payees and which shall be in a sum equal to the amount of the applicable construction contracts. Tenant shall designate a qualified construction project manager (which may be Tenant's general contractor) with experience in projects of similar size and scope ("**Tenant's Project Manager**") reasonably acceptable to Landlord to coordinate construction of the Fixed Improvements with Landlord pursuant to the Authority's TAA Process. Landlord reserves the right to require Tenant to provide its list of selected architects, interior designers and construction managers for prior written approval, which approval shall not be unreasonably withheld by Landlord.

(i) During the performance of Tenant's Work, the Premises shall, at Tenant's sole cost and expense, be kept free and clear of all trash and debris and shall be broom swept daily. No work which Tenant is permitted to do or which Tenant is obligated to perform pursuant to this Sublease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord, American or the Authority. Tenant has no authority, express or implied, to, and shall not, create, place or permit the placement of any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord, American or the Authority in the Concession Area, the Terminal or the Airport, or to assign or encumber either the Rentals or any other payment obligations for any claim in favor of any Person including, without limitation, those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will promptly pay or promptly cause to be paid all sums legally due and payable by Tenant on account of any labor performed or materials furnished in connection with any work performed in, under, on and upon the Premises, by or on behalf of Tenant. **Tenant will indemnify and hold Landlord, American, the Authority, the City of New York and the commissioners, employees, officers, agents and representatives of Landlord, American, the Authority and the City of New York harmless from any and all losses, costs and expenses of any asserted claims or liens against the respective rights, title and interests of Landlord, American, the Authority and the City of New York in the Airport, and any part thereof, or under the terms of this Sublease based on or arising out a breach of the covenants of this Section 5.01.** Tenant agrees to give Landlord immediate written notice of the placing of any lien or encumbrance against the Concession Area or the Terminal.

(j) Tenant's failure to complete the Fixed Improvements and install its Operating Equipment in a timely manner will result in damages that are difficult to ascertain in light of operations, scheduling and public service factors at the Terminal. **Therefore, if the Fixed Improvements are not completed and the Operating Equipment not installed for more then twenty (20) days following the Latest Rental Commencement Date, Tenant shall pay to Landlord as liquidated damages the sum of Five Hundred Dollars ($500.00) for each day that the Fixed Improvements are not completed and the Operating Equipment not installed beyond such time period.**

Section 5.02 **CONDITION OF PREMISES.** Except as otherwise specifically provided herein, Tenant hereby agrees that upon delivery of possession of the Premises to Tenant, Tenant shall accept such delivery of possession of the Premises in its then existing **"AS IS" "shell condition"** (as described in **Exhibit D**)and

Tenant acknowledges: (a) that Tenant shall have inspected the Premises and shall be fully aware of the condition of the Premises as of delivery of possession and the suitability thereof for Tenant's permitted use or the conduct of Tenant's business; (b) that Landlord shall have no obligation to improve or alter the Premises for the benefit of Tenant; (c) that, Tenant shall assume all risks in connection therewith without representation or warranty by Landlord, American or the Authority, express or implied, in fact or by law, on the part of Landlord, American and the Authority and without recourse to Landlord, American and the Authority. Tenant irrevocably waives any claim based upon or related to any such claimed representation by Landlord or any claimed representation by Landlord as to public traffic to be expected at the Premises or sales to be expected at the Premises. Tenant's taking possession of the Premises shall constitute Tenant's formal acceptance of the same and acknowledgment that the Premises are in the condition required hereunder. Tenant waives any right to rescind or terminate this Sublease, whether under Section 223-a of the New York Real Property Law or any successor statute of similar import then in force or otherwise, and further waives the right to recover any damages or obtain any other compensation from Landlord which may result from Landlord's failure to deliver possession of the Premises on the date set forth in the Data Sheet and/or in the condition provided herein.

Section 5.03 **ALTERATIONS AND REFURBISHMENTS TO THE PREMISES.** (a) In the event Tenant desires to make any future modifications to the Premises or the Fixed Improvements during the Term, Tenant shall not make such modifications without first obtaining the prior written consent of Landlord, American and the Authority, and otherwise complying with the terms and conditions outlined in this Article V for the initial Fixed Improvements.

(b) If the Term of this Sublease will exceed seven (7) years, whether under the original term or any extension thereof, Tenant agrees that by no later than seven (7) years after the date of beneficial occupancy of its Premises, Tenant will spend and invest as a mid-term reinvestment (in each case with the manner and source of such expenditure and investment being subject to the same procedures applicable to initial Fixed Improvements, including the prior approval of Landlord and American) a minimum of One Hundred Fifty Dollars ($150.00) per square foot for each food and beverage concession and Seventy-Five Dollars ($75.00) per square foot of each other type of concession (e.g., retail or service) for such Refurbishments or other upgrades to the Fixed Improvements. Tenant shall provide to Landlord and American such back-up data as Landlord and American may reasonably request to confirm that such Refurbishment and upgrade to the Fixed Improvements has been made.

ARTICLE VI. RESERVATION OF RIGHTS TO RELOCATE, CONTRACT, TERMINATE, SURRENDER AND WAIVER OF CLAIMS

Section 6.01 **RESERVATION OF RIGHTS.** (a) Tenant acknowledges that American has the right, at any time and from time to time during the Term, in the interest of the efficient operation of the Terminal, to close, move or alter any common corridor, passageway, walkway or common area, including, without limitation, entrances, exits, passages, halls, corridors, aisles, stairways, elevators and escalators, or to restrict or change the traffic on or through any such common corridor, passageway, walkway or common area, with due regard to not unreasonably restricting the use and occupancy of the Premises by Tenant. Tenant shall not have any claim against Landlord, American or the Authority for such action, nor shall such action by American release Tenant from any of its obligations under this Sublease, the Consent Agreement or any other agreement in connection herewith, except as expressly set forth in this Sublease.

(b) Landlord, American and the Authority, and their respective directors, officers, employees, agents, representatives, contractors, and furnishers of utilities and other services, have the right from time to time, at their own cost and expense, for their own benefit or for the benefit of others at the Terminal and/or Airport: (1) to construct and maintain existing and future utility and other systems throughout the

Premises; (2) to enter the Premises at all reasonable times and upon reasonable notice (provided no notice shall be required during any real or threatened emergency) to inspect any part of the Premises, Fixed Improvements and Operating Equipment and to make such repairs, replacements or alterations thereto as may, in the opinion of Landlord, American or the Authority, be necessary or advisable (and, if Tenant is otherwise obligated under this Sublease to perform such work and/or take such action, the cost thereof shall be due and payable by Tenant on demand, as Additional Rent, along with an additional charge in an amount equal to fifteen percent (15%) of the cost thereof); (3) to construct or install facilities over, in or under parts of the Premises otherwise not conveniently accessible; and (4) to install, operate, maintain, recover and repair the property used in connection with their respective rights to the Premises provided, in each case in the exercise of such rights of access, maintenance, repair, replacement, alteration or new construction, Landlord shall use reasonable efforts not to unreasonably interfere with the use and occupancy of the Premises by Tenant.

(c) In the event that any movable property of Tenant shall obstruct the access of Landlord, American and/or the Authority, their employees, agents and/or contractors to any of the existing or future utility, mechanical, electrical and/or other systems and thus shall interfere with the inspection, maintenance or repair of any such system, Tenant shall move such property, as directed by Landlord, American or the Authority, in order that access may be had to the system or part thereof for its inspection, maintenance and/or repair; and, if Tenant shall fail to so move such property after direction from Landlord, American or the Authority to do so, Landlord, American or the Authority may move it; and Tenant shall pay the cost of such moving upon demand. In the case of Fixed Improvements installed by or on behalf of Tenant that were approved by Landlord, American and/or the Authority, and thereafter are required to be moved for the reasons provided above, Landlord or American, at their cost, may move the same and, upon completion of the inspection, maintenance and/or repair; and, to the extent American is obligated pursuant to the Concession Area Lease, Landlord or American shall restore such permanent Fixed Improvements and repair any damage caused by such removal and restoration to the same condition as existed immediately prior to such removal.

(d) If as a result of the foregoing, Tenant is prevented from conducting its business or access to the Premises is materially impaired to the extent that Tenant is forced to close for business to the public for 4 or more complete and consecutive days due to any such construction or modifications, then only the portion of Tenant's Guaranteed Rent representing "**American's Allocated Share**" (as such term is defined in the Concession Area Lease) shall be abated for the period commencing on the date in which Tenant is forced to close its business within the Premises and shall continue until the date in which Tenant is able to resume its business in the Premises, provided Tenant shall immediately reopen on the date following the cessation of the construction or modifications.

Section 6.02 **RELOCATION, CONTRACTION OR TERMINATION.** (a) Tenant acknowledges that, pursuant to the Concession Area Lease, American may require Landlord to relocate or reduce the size of the Concession Area and American may exercise its rights by giving not less than one hundred twenty (120) days prior written notice to Landlord or at least as much notice as reasonably possible for reasons and timing which are not within American's control. If American shall exercise such right, Landlord shall have the right to relocate or reduce the size of the Premises, and, if relocated or reduced, the portion of the Premises eliminated shall cease to be leased to Tenant and shall no longer be subject to the terms of this Sublease, and, if relocated, the relocated space, shall automatically be subject to the terms of this Sublease. Pursuant to the Concession Area Lease, if American desires to relocate all or a portion of the Premises to other space within the Terminal, such relocated space shall be reasonably comparable to the Premises in terms of passenger traffic, size and potential for generation of Gross Receipts and any Base Building Work required to make the new space suitable for concession operations is the responsibility of American. If Tenant is unable to operate its business in the Premises as a result of

the exercise of any of such rights, Tenant's payment of Rentals shall be abated during the period which Tenant is unable to operate. Further, if the net contraction of the Premises exceeds ten percent (10%), and Tenant demonstrates that such contraction is having a material adverse impact on its Gross Receipts that is distinct from other conditions that may be adversely affecting Tenant's business operations, then, at Tenant's request, Landlord will engage in good faith negotiations with Tenant and grant to Tenant an equitable reduction of the Guaranteed Rent and/or corresponding adjustments to the applicable Percentage Rent Rates. Any such equitable reductions/adjustments are subject to American's and the Authority's approval, determined in their respective sole and absolute discretion.

(b) If Landlord desires to relocate Tenant to a substitute area as provided in Section 6.02(a), Tenant shall have the right, in its sole discretion, to terminate this Sublease within thirty (30) days after receipt of Landlord's relocation notice, provided, however, Landlord can negate Tenant's election to terminate within twenty (20) days after receipt of Tenant's termination notice by revoking Landlord's election to relocate the Premises and thereafter this Sublease shall continue to remain in full force and effect in accordance with its terms. If Tenant elects to so terminate this Sublease due to the proposed relocation of the Premises, this Sublease shall terminate on the effective date thereof as reasonably specified by Landlord and Tenant shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Tenant under this Sublease up to and including the effective date of such termination. **Under no circumstances shall Landlord or any other third party including American or the Authority have any obligation to Tenant, nor shall Tenant be entitled to any payment from either Landlord or any other third party including American and the Authority for Tenant's Eligible Costs (as defined below) or any other sums if Tenant so elects to terminate this Sublease.**

(c) If American exercises its right to cause a contraction or relocation of the Premises (not including carts and other temporary facilities) from one (1) location to another after Tenant has commenced construction of the Premises or the Premises have been opened for business: (1) the Concession Area Lease provides that American shall in the case of a relocation, reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days for reasonable and actual moving costs, and for reasonable and actual costs incurred to construct Fixed Improvements in the new space according to Final Drawings approved by Landlord and American; and (2) if Tenant does not relocate to other space or if this Sublease is terminated by American or the Authority without cause under Section 6.03 and Tenant, in either case, does not have any outstanding uncured material defaults under this Sublease beyond applicable notice and cure periods, the Concession Area Lease provides that American shall reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days after the effective date thereof, an amount equal to the then unamortized portion of Tenant's Eligible Costs (based upon the Depreciation Schedule previously submitted by Tenant and approved by Landlord and American) detailing such investment in Tenant's Fixed Improvements or Refurbishments, if applicable. Within twenty (20) days after request by Landlord, and in any event not later than the effective date of such contraction or termination, Tenant shall provide Landlord with its calculations in reasonable detail, together with appropriate back-up or confirmatory data, of the amount which Tenant claims to be due pursuant to this Section 6.02 based upon the approved Depreciation Schedule. **If Tenant fails to provide such information within the time frame provided herein, Tenant shall have forever waived its right to any such reimbursement from Landlord and American and forever released Landlord and American from any obligations under this Section 6.02.**

Section 6.03 **TERMINATION BY AMERICAN OR THE AUTHORITY.** (a) Tenant acknowledges that this Sublease may be terminated, without cause for any reason and at any time, by the Authority upon thirty (30) days notice by means of revocation of the Consent Agreement, or by American upon one

hundred eighty (180) days notice; and in neither event shall the Authority be responsible, directly or indirectly, for any portion of Tenant's investment (amortized or un-amortized) in, at or to the Premises. It is hereby acknowledged by Tenant that the Authority shall have no obligation or liability to Tenant with respect to such termination, including without limitation any reimbursements, credits, offsets or otherwise for investments in the Fixed Improvements. In such event, Tenant shall be reimbursed for the unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

(b) If Landlord's leasehold interest under the Concession Area Lease is terminated by either American or the Authority in accordance with their respective rights under the Concession Area Lease and Landlord's Operator Permit with the Authority, then, in such event, at the option of American determined in accordance with the applicable provisions of the Concession Area Lease: (1) this Sublease shall be assigned by Landlord to and assumed by American (or its designee) and this Sublease shall remain in full force and effect and Tenant shall not have any approval or rejection rights with respect to any such assignment/assumption and, in the event of such an assignment/assumption, Tenant shall attorn to American or its designee and recognize American or its designee as landlord for all purposes hereunder; or (2) this Sublease shall immediately terminate upon termination of the Concession Area Lease without direct recourse of any kind, except as specifically provided in this Section 6.03(b) below, against Landlord, American or the Authority and thereafter neither party shall have any further obligations or liabilities to the other party except for any accrued obligations or liabilities of Tenant, whether monetary or non-monetary, which have arisen prior to the effective date of such termination and have not yet been fully performed and/or paid by Tenant or which are expressly stated to survive the expiration or earlier termination of this Sublease. Within sixty (60) days following the date that Tenant shall have vacated and surrendered the Premises in the condition required under this Sublease, paid all Rentals and performed all of its other accrued obligations under this Sublease through the effective date of such termination, Tenant shall be reimbursed by Landlord for any unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

Section 6.04 **SURRENDER OF PREMISES.** Tenant shall quit and deliver peaceably to Landlord possession of the Premises, and Tenant shall release and not attempt to retain any interest in the Fixed Improvements and Refurbishments, on the date that the Term expires, whether by early termination, expiration, or otherwise. Prior to the expiration of the Term or earlier termination of this Sublease, Tenant shall, at its sole expense, remove signs and trade fixtures (other than trade fixtures and other property which it is otherwise prohibited from removing under the Authority Lease) from the Premises and shall surrender the Premises and appurtenances thereto in broom-clean and sightly condition and in good repair, except for reasonable wear and tear arising from use of the Premises to the extent permitted elsewhere in this Sublease. Tenant shall deliver to Landlord all keys to the Premises. Any personal property of the Tenant placed on or kept at the Premises as to which the letting pursuant to this Sublease has ceased shall be removed as soon as practical but in no event later than the expiration or earlier termination of this Sublease. If Tenant shall fail to so remove its personal property at the end of the Term or any earlier termination, Landlord may at its option, and at the risk and expense of the Tenant, remove such property to a public warehouse, or may retain the same in its own possession, and, in either event, after the expiration of thirty (30) days, may sell the same at public auction or, at Landlord's or American's discretion, the personal property will be deemed abandoned and ownership thereof will be vested in American; the proceeds of any such sale shall be applied first to the expenses of removal, sale and storage, second to any sums owed by Tenant to Landlord, American or the Authority; and any balance remaining shall be paid to the Tenant.

Section 6.05 **WAIVER OF CLAIMS BY TENANT. Tenant specifically acknowledges that the relocation, contraction and termination provisions are a material inducement to Landlord in entering into this Sublease with Tenant. Except as specifically provided in this Article VI, such**

termination and the removal and surrender obligations of Tenant, shall in no event give rise to any claims, causes of actions, suits, or damages that Tenant may have or rights to payment to Tenant by either Landlord, American or the Authority including, without limitation: (a) any and all awards in the nature of land damages under all applicable laws; and (b) any and all rights under the terms of this Sublease; and (c) incidental, consequential, special or severance damages as a result of Tenant's use and occupancy of the Premises. Tenant hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and claims for relocation and termination benefits under any Federal, state or local law, ordinance or regulation or otherwise.

ARTICLE VII. CONDUCT OF BUSINESS BY TENANT

Section 7.01 PERMITTED USE. Tenant shall use the Premises only for the purpose of conducting the business specifically set forth in the Data Sheet ("**Permitted Use**") and for no other use or purpose. Notwithstanding anything to the contrary contained herein, including Tenant's Permitted Use, if Landlord, American or the Authority reasonably determine that any item displayed, offered for sale or sold by Tenant is objectionable or inappropriate for display or sale at the Terminal, Tenant shall, upon delivery of Landlord's written notice to the Premises, immediately remove such item from display and its inventory (if the objectionable item and/or service displayed, offered for sale or sold shall be deemed to be potentially dangerous to the public or violate any security regulations, as determined by Landlord, American or the Authority from time to time, Tenant shall remove such potentially dangerous item and/or service or violation immediately upon verbal notice from Landlord) and Tenant shall not thereafter display, offer for sale or sell any such item or service. If Tenant shall fail to remove any such item from display or cease providing such service as may be required from time to time as provided herein, then Tenant shall pay as liquidated damages and not as a penalty the amount of Fifty Dollars ($50.00) per day for the first (1st) violation in any twelve (12) month period and the amount of One Hundred Dollars ($100.00) per day for the second (2nd) and any subsequent violations in any twelve (12) month period until such time as Tenant has complied. Further, Landlord shall be entitled to remove such item without any liability. This remedy shall be in addition to any and all other remedies provided in this Sublease or by law to Landlord, including, but not limited to the graduated fines listed in **Exhibit K**. Tenant represents and warrants to Landlord that it holds all certificates, meets all Authority Requirements, licenses and other entitlements required by federal, state and local, laws, rules and regulations in order to enable Tenant to conduct its operations and to engage in its Permitted Use and that such certificates, Authority Requirements, licenses or other entitlements are and shall be kept current, valid and complete at all times during the Term. Tenant shall submit any/or all of the foregoing for inspection by Landlord from time to time. Tenant, at Tenant's expense, shall at all times comply with the requirements of each such certificate, permit, license and other entitlement. Tenant shall not conduct or permit operations in the Premises that in the reasonable judgment of Landlord or American or the judgment of the Authority that (a) interfere or might interfere with the reasonable use by others of common facilities at the Terminal or the Airport, (b) hinder or might hinder police, firefighters or other emergency personnel in the discharge of their duties, (c) would or would be likely to constitute a hazardous condition at the Airport, (d) would increase the premium for insurance policies maintained by Landlord, American or the Authority, unless such operations are not otherwise prohibited hereunder and Tenant pays the increase in insurance premiums occasioned by such operations, (e) would involve any illegal purposes, or (f) are not in accordance with the commitment of Tenant to operate first-class concessions in the Concession Area. Prohibited uses which are expressly agreed to include all "**American Reserved Uses**" and "**Port Authority Reserved Uses**" as such terms are defined in the Concession Area Lease.

Section 7.02 OPERATION OF BUSINESS. (a) General. Tenant and its Operating Staff (as defined below) agree to actively and diligently conduct business at all times in a first-class, professional and business-like reputable manner, using best efforts so as to maximize revenues in accordance with best

industry practices and standards observed generally by first-class business enterprises of local, regional and national scope which operate at other major US airports, provide superior customer satisfaction and maintain at all times a complete stock of high-quality merchandise and products. Tenant agrees not to divert or allow or cause to be diverted any business from the Terminal and/or Airport. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements and Operating Equipment shall be maintained in good condition and repair. Tenant shall accept at least two (2) nationally recognized credit cards for payment, shall offer all of its customers shipping, delivery and gift wrap services (if appropriate for the type and size of merchandise or product being requested) at cost and shall provide, without charge, change making service at each cashier's location in the Premises, regardless of whether a purchase is made. At all times from and after the Rental Commencement Date, Tenant covenants that it shall continuously and uninterruptedly occupy and use the Premises for the Permitted Use and shall keep the Premises open for business during all required Terminal concession hours unless otherwise agreed to by Landlord and American or prevented by Force Majeure (as defined in Section 27.04). Tenant shall install and maintain at all times a display of non-perishable merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises. Tenant shall not permit the installation or operation of any coin or credit/debit-card operated vending machines or pay telephones in the Premises, including, but not limited to, the rental of cellular phones, facsimile machine services, other public communication devices, sales of entertainment event tickets, reservations for ground transportation, hotels or other lodging and the sale of pre-paid telephone calling cards without the prior written consent of the Authority. Tenant shall not sell or display any items except within the areas outlined in the Design Guidelines unless such sale or display shall be expressly approved on the Final Drawings or otherwise approved by Landlord, in writing and in accordance with the TAA Process except that Tenant shall be permitted to display merchandise in the display windows, if any. Tenant shall not use the areas adjacent to or outside the Premises for business purposes or any other purposes, including the display or sale of merchandise, products or services in any areas outside the Premises without Landlord's advance written approval, which approval may be withheld in Landlord's sole discretion. Tenant shall not store anything in service or exit corridors. All receiving and delivery of items for the Premises, and all removal of supplies, equipment, trash and debris and all storage of trash and debris from the Premises shall be made only by way of, or in, the areas provided therefor. No trash, trash containers, hand trucks, carts, racks or movable fixtures designed for the movement of products and/or trash within the Premises or to or from the Premises may be left unattended in the storefront, corridors or other public areas; nor may such items or devices in non-public areas be visible from public areas of either the Premises or the Terminal. Tenant shall be solely responsible for prompt disposal within the Premises, or in such areas as may be provided by Landlord, of all trash and debris from the Premises. Tenant shall not install any radio, television, communication dish or other similar device or related equipment exterior to the Premises except as otherwise specifically approved as part of Tenant's Final Drawings and TAA, shall not cause or make any penetration of the roof of the Premises or the building in which the Premises is located and shall not erect any aerial or antenna on the roof or exterior walls of any building within the Terminal without the prior written approval of Landlord, American and the Authority, determined in their discretion. Tenant shall not abandon or permanently vacate the Premises without the prior, advance written approval of Landlord. For the purposes of this Sublease "abandonment" shall mean closing the Premises to customers for two (2) or more consecutive days, unless such closing is permitted by other provisions of this Sublease. Notwithstanding the requirements set forth herein, Landlord shall have the right to make reasonable objections to the number or quality of staff used by Tenant, the prices for merchandise or products sold or services rendered, the number or quality of items sold, the character of the service offered to the public, responses to customer complaints and the appearance and condition of the Premises. Tenant agrees to take reasonable steps to promptly comply with Landlord's reasonable objections.

(b) Continuous Operations and Service Hours. Tenant agrees to be open for business during the hours of operation specified in the Data Sheet and such other hours as may be required hereunder and to continuously and uninterruptedly operate in all of the Premises during the entire Term. The Airport is open for business every day, three hundred sixty-five (365) days per year and is busy during non-traditional working and shopping hours. Accordingly, service hours shall include the hours the Terminal's concession program shall be open as directed by Landlord from time to time, including without limitation, the hours necessary to provide service for the earliest daily incoming and outgoing flights (including the provision of service to passengers who arrive in advance of same) and the latest daily incoming and outgoing flights, including non-scheduled activity by charter airlines as Landlord may notify Tenant verbally from time to time. To that end, Tenant shall open and operate its business in the Premises during hours directed by Landlord; provided that, if passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the opinion of Landlord or as Landlord is directed by American, the Terminal's concession program, including the Premises, shall be open at times not then scheduled. The following are the minimum operating hours: (1) for newsstand concessions, a minimum of sixteen (16) hours per day, each day of the year, with the opening for business each day at least one (1) hour prior to the first scheduled flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (2) for all food and beverage concessions, at a minimum, opening at 5:30 a.m. and closing at 10:00 p.m., each day of the year, or at least one (1) hour prior to the first flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (3) for duty-free and foreign currency exchange concessions, at a minimum, opening at 7:00 a.m. and closing at 10:00 p.m., each day of the year, or other hours necessary to service the earliest scheduled international flight departure and the latest scheduled international flight departure from the Terminal on the respective day, whichever constitutes the earlier opening and later closing; and (4) for all other concessions, 7:00 a.m. to 10:00 p.m., each day of the year. Landlord reserves the right to direct Tenant to change or adjust the service hours at any time, and Tenant agrees and covenants to adequately staff the Premises and be open for business during the hours directed by Landlord. In addition, in an emergency, as determined by Landlord or American, Tenant shall open or keep open the Premises upon two (2) hours prior verbal notice. Tenant expressly acknowledges the need for flexibility in the service hours from time to time. Any modifications to the required operating hours that may be requested from time to time by Tenant shall be subject to Landlord's prior written approval determined in its discretion. Tenant agrees to otherwise abide by all service hours of operation as set by Landlord. Tenant acknowledges that the concession program and its business operations are essential services at the Terminal and Tenant's failure to cause continuous operation of its business in the Premises will result in damages to Landlord, American and the Authority that are difficult to quantify in light of airport operational and customer service factors. Therefore, in addition to any other remedies set forth herein, including, but not limited to the graduated fines listed in **Exhibit K,** Tenant shall pay to Landlord as liquidated damages and not as a penalty, the amount One Hundred Dollars ($100.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the first (1st) violation in any twelve (12) month period, and the amount of Two Hundred Fifty Dollars ($250.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the second (2nd) and any subsequent violations in any twelve (12) month period. Failure by Tenant to be open for business and to operate shall entitle Landlord, in addition to other remedies provided in this Sublease or by law, including, but limited to, a mandatory injunctive relief if awarded by a court of competent jurisdiction.

(c) Staffing/Personnel. Tenant shall employ a full-time professional staff ("**Operating Staff**") at all times during the Term of sufficient size, expertise, ability, suitability, and experience in sales and customer service to carry out all of its obligations under this Sublease. Tenant shall maintain a sufficient number of Operating Staff on site at the Premises (including, without limitation, on-site sales, cashiers, management and supervisory personnel) to provide good, friendly, prompt and efficient service adequate to fully meet the demands of all customers at all times and shall furnish said service on a fair, equal and nondiscriminatory

basis to all users thereof and shall increase such number of Operating Staff, upon the reasonable request of Landlord, to provide outstanding customer service and satisfaction. All such personnel shall be knowledgeable, helpful to the public, courteous, efficient, neat in appearance and appropriately attired and shall not act in a loud, offensive or otherwise objectionable manner. Tenant's employees shall wear appropriate uniforms and name tags and security identification badges at all times. Tenant shall not employ at or about the Premises any person who shall use offensive language, makes persistent announcements of its merchandise and products and/or services over loud speakers or whose conduct is loud or offensive or otherwise detrimental to the best interests of the Terminal and/or Airport. Tenant's Operating Staff shall be available by telephone and such other communication device as Landlord may require during the operating hours. Tenant's Operating Staff and employees shall have sufficient knowledge of the Terminal and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

(d) Store Manager/Emergency Contact. In order to assure compliance with the terms, covenants and conditions of this Sublease, Tenant shall retain a qualified, competent manager suitably experienced to provide on-site management of Tenant's business on a full-time basis to manage all of Tenant's obligations and responsibilities under this Sublease ("**Store Manager**"). Tenant shall notify Landlord of the identity of its Store Manager and of any changes in such identity. Tenant shall assure that the Store Manager or his or her designee, is available on-site during all required operating hours and by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies. Tenant shall notify Landlord of the name and telephone number or such representatives and shall update such information as necessary. The Store Manager or his or her designee must be able to arrive by car at the Airport within two (2) hours of being called in an emergency situation.

(e) Customer Complaints. Tenant agrees that it will reasonably and promptly respond to all customer complaints regarding unsatisfactory service and/or unsatisfactory quality of merchandise, products and/or service, including all refunds as appropriately requested from time to time by any customer. In the event that Tenant receives any written complaint concerning its operations, Tenant shall within twenty-four (24) hours of receipt of such complaint by Tenant forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint. Tenant shall submit a copy of the response to complaint to Landlord upon issuance of said response. If Landlord receives a written complaint regarding Tenant, it shall forward a copy of the same and Tenant shall respond as set forth herein. Tenant shall provide copies of the complaints and answers to American and the Authority not less than one (1) time during any calendar month.

(f) Compliance with Laws. Tenant, at its expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations ("**Legal Requirements**"), applicable business licenses and requirements of Landlord, American, the Authority and all governmental authorities having jurisdiction over the Premises or the cleanliness, safety, occupancy and use of the same, whether or not any such law, ordinance, order, rule, regulation or requirement is foreseen or unforeseen, ordinary or extraordinary, necessitates changes or improvements (other than structural changes or structural improvements) and/or interferes with the use and/or enjoyment of the Premises. Tenant shall promptly correct any deficiencies reported by Landlord, American, or any other governmental authorities having the aforesaid jurisdiction. Tenant shall not do or permit anything to be done in or about the Premises, nor bring anything therein, which will in any way conflict with any such Legal Requirements or requirement affecting the occupancy or use of the Premises or the Terminal which has been or may hereafter be enacted or promulgated by

Landlord, American, the Authority or any governmental authorities, or in any way obstruct or interfere with the rights of others; nor shall Tenant use or allow the Premises to be used for any improper, immoral or objectionable purposes or do any act tending to injure the reputation of the Terminal and/or Airport. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive and unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord, American, and the Authority and in accordance with any and all Legal Requirements that may be promulgated from time to time by governmental agencies or authorities. All apparatus, utensils, devices, cooking equipment, machines and piping used by Tenant shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and/or serving of all food and/or beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. If Landlord or American does not contract for pest control service for all concessions in the Terminal, then Tenant, at its sole cost and expense, shall contract directly with a pest control service reasonably acceptable to Landlord at such reasonable intervals as Landlord may require.

(g) Street Pricing. Tenant shall not charge prices to its customers in excess of Street Prices (as hereinafter defined) and shall conspicuously display notices, in form and substance satisfactory Landlord in the Premises, to the effect that the Tenant adheres to the Authority's Street Prices policy. The term "**Street Prices**" means: (1) if Tenant conducts a similar business in off-airport location(s) in the Greater New York City – Northern New Jersey Metropolitan Area ("**Metro Area**"), the price regularly charged by Tenant for the same or similar item or service in those off-airport locations; (2) if Tenant does not conduct a similar business in off-airport location(s) in the Metro Area, the average price regularly charged in the Metro Area by similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar items or service; (3) if neither Tenant nor any other similar retailers sell a particular item or provide a similar service in the Metro Area, the price regularly charged by Tenant or similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar item or service in any other geographic area with a reasonable adjustment for any cost-of-living variance between such area and the Metro Area; and (4) if Tenant is in the business of selling duty-free goods, the price regularly charged by Tenant or other similar retailer (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar duty-free item or service at other major airports serving large urban areas in the northeast region of the United States, including, without limitation, the Airport. Tenant agrees to adjust its prices to ensure that they meet the Street Prices without any further notice or immediately upon written notice from Landlord if Tenant is not in compliance therewith. Prior to opening for business, Tenant agrees to supply to Landlord a detailed list of all merchandise, products and services to be offered at the Premises and the prices to be charged therefor. Tenant agrees to continue to provide this data on a quarterly basis throughout the Term hereof. Tenant shall, at all times, observe and comply with the pricing policy as set forth in **Exhibit E**. Further, for the benefit of the users of the Terminal, Landlord has the obligation to promote a "free market" competitive environment within the Terminal and, to the extent possible, Landlord may cluster concession operators with similar products and services in groups to help stimulate competition, provide superior service and competitive pricing.

(h) Coordination of Operational Matters with Landlord and Performance Standards. Tenant shall: (1) cooperate in the testing of pressure, water-flow, and other appropriate tests of the fire-extinguishing

system and apparatus located within the Premises (and elsewhere in the Concession Area to the extent Tenant's cooperation is required for such testing) from time to time and as often as reasonably required by Landlord, American or the Authority, and if requested by Landlord, furnish Landlord with copies of written reports of such tests; (2) keep in proper functioning-order all fire-fighting equipment in the Premises and at all times maintain in the Premises adequate stocks of fresh, suitable chemicals for use in such system and apparatus; and (3) notify Landlord prior to conducting such tests. Tenant agrees that, after it has taken delivery of the Premises, it will contact Landlord on all operational matters pertaining to its occupancy including but not limited to the following areas (1) hours of operation, (2) employee parking and security requirements, (3) customer inquiries and complaints, (4) facility maintenance issues, (5) utility services, and (6) staffing issues. To ensure that Tenant is in compliance with the quality of products, pricing and service standards set forth in this Section 7.02 and in the Service and Operating Performance Standards ("**Performance Standards**") attached hereto as **Exhibit K**, and that Landlord's, American's and the Authority's objectives are met, Landlord or an agent shall perform service audits, such as surprise shopper programs and inspections, of the conduct of Tenant's operation of its business in the Premises at any time during the Term of this Sublease. The results of such service audits performed on behalf of Landlord may be employed by Landlord to enforce Tenant's obligations under this Sublease. The Performance Standards address three (3) main categories of performance: product and service quality/price, customer service/personnel, and Premises cleanliness and maintenance (collectively, the "**Performance Categories**"), among other matters and includes a set of minimum performance standards ("**Minimum Performance Standards**") for each of the Performance Categories. Tenant acknowledges the desires of Landlord and American, as part of their obligation to ensure the highest level of public service, to provide the public and passengers with the level and quality of service as described herein. Pursuant to the Concession Area Lease, American may monitor, test or inspect the requirements imposed on tenants for applicable business operations standards at any time and to consult with Landlord to correct any deficiencies in standards required hereunder.

(j) Liquidated Damages and Fines. If Tenant fails to comply with any of the provisions of this Section 7.02 or any of the provisions of the Performance Standards, Tenant shall pay as liquidated damages and not as a penalty, or as a series of graduated fines on a daily basis for such failure in the correction of deficiencies of the Performance Standards, the amounts set forth in **Exhibit K** until such time as Tenant is in compliance with any such requirements. The liquidated damages and fines set forth in **Exhibit K**, are in addition to the liquidated damages for failure to provide continuous operations during all Terminal concession service hours as set forth in Section 7.02(b) above. This remedy shall be in addition to any and all other remedies provided herein or by law to Landlord. The provisions of this Section 7.02 shall survive the expiration or earlier termination of this Sublease.

(k) Tenant acknowledges that although it is subleasing the Premises directly from Landlord (1) American and the Authority control the Terminal, (2) the Authority controls the overall operations at the Airport, and (3) pursuant to the Authority Lease and the Concession Area Lease, as well as the Consent Agreement and state and federal laws and regulations, including the Authority's rules and regulations, American and the Authority have the right to regulate and control certain aspects of the operations at the Premises including but not limited to the matters listed in this Section 7.02. In the event any question or dispute arises as to the sale of any specific item or category of items in the Concession Area and whether such sale violates the Street Prices policy or does not comply with the Performance Standards, Tenant may submit a request in writing to Landlord and American asking that the matter be reviewed. American is obligated under the Concession Area Lease to render a decision in writing, after consultation with the Port Authority, within fifteen (15) days after such submission and such determination shall be considered final. Tenant shall, as of the date of the decision, immediately abide by and conform to the decision of American.

Section 7.03 HAZARDOUS MATERIALS. (a) As used herein, the term "**Toxic or Hazardous**

Materials" means hazardous or toxic chemicals or any supplies, materials and wastes containing hazardous or toxic chemicals or substances at levels or content which cause such materials to be classified as hazardous or toxic as then prescribed by the highest industry standards or as set from time to time by the United States Environmental Protection Agency ("**EPA**") or the United States Occupational Safety and Health Administration ("**OSHA**") or as defined under 29 CFR 1910 or 29 CFR 1925 or other applicable governmental laws, rules or regulations in any way applicable to Toxic or Hazardous Materials (collectively, "**Environmental Laws**"). Tenant shall never incorporate into, or dispose of, at, on or under the Terminal or elsewhere at the Premises or at the Airport, or any portion thereof, any Toxic or Hazardous Materials. Tenant agrees not to use at, place on, or store at the Premises or at the Airport any Toxic or Hazardous Materials, except for those Toxic or Hazardous Materials that are either (1) office supplies, or (2) cleaning materials that are generally considered to be a household cleaner and are purchased in a container not larger than one (1) gallon, and then only if: (i) all such Toxic or Hazardous Materials arising therefrom, are properly labeled and contained; (ii) all such Toxic or Hazardous Materials arising therefrom, are stored, handled, transported and disposed of in accordance with highest accepted industry standards and all Environmental Laws; and (iii) if a material safety data sheet or other reporting or registration document is required under applicable Environmental Laws to accompany the Toxic or Hazardous Materials, supplies or materials or wastes or to be filed with any federal, state or local authority, a copy of such current material safety data sheet or other reporting or registration document shall be provided to Landlord. If there is a spill or other discharge of a Toxic or Hazardous Materials in the Premises which spill or discharge is required to be reported to any federal, state or local authority by applicable Environmental Laws, Tenant shall immediately notify Landlord and American of the method, time and procedure for any clean-up and removal of such Toxic or Hazardous Materials; and Landlord and American shall have the right to require reasonable changes in such method, time or procedure (provided that such changes may not contradict applicable law). Tenant shall further notify Landlord and American if any such spill or other discharge, whether reportable or otherwise, would in any way endanger or pose a threat to any employees, Terminal maintenance or custodial personnel or the general public. In the event there is a spill or other discharge of any Toxic or Hazardous Materials outside the Premises, which spill or discharge is required to be reported to any federal, state or local authority by applicable laws, rules or regulations, and upon being so notified American is required under the Concession Area Lease to undertake to clean-up, remove and abate the condition at its cost initially, reserving the right to seek indemnification of its costs for failure of Tenant to abide by the requirements of this section. In the event Tenant fails to comply with this Section 7.03 in respect of any contamination within the Premises, or in the event of a contamination of any other part of the Terminal and/or Airport caused by Tenant, in addition to any other consequences thereof, Tenant shall pay or reimburse to Landlord and/or American, as the case may be, all of such party's costs for the removal, abatement and clean-up of the involved Toxic or Hazardous Materials. Similarly, if a contamination was caused by Landlord or American in the Premises, Landlord (or American as required under the Concession Area Lease), as the case may be, shall reimburse all costs incurred by Tenant for the removal, abatement and/or clean-up of the involved Toxic or Hazardous Materials.

(b) If a lien is filed against Tenant's leasehold interest, the Premises, the Terminal or the Airport relating to Tenant's violation of any Environmental Laws, then Tenant shall, within ten (10) days or such shorter period as may be required under any Environmental Laws, or such even shorter period as is prior to a governmental authority commencing steps to cause any of the foregoing to be sold pursuant to such lien, either: (1) immediately pay the claim and remove the lien; or (2) immediately furnish a cash deposit, bond or such other security as is satisfactory in all respects to Landlord and legally sufficient to effect a complete discharge of such lien.

(c) Landlord at its cost, reserves the right to conduct annually an environmental audit of the Premises and Tenant's operations, equipment, facilities and fixtures thereon. It shall be a material default and breach

hereunder if the resulting audit report reveals non-compliance or violations by Tenant of any Environmental Laws. American shall have the same rights as Landlord under this sub-section (c).

(d) Except with respect to Landlord's, American's or the Authority's direct violation of Environmental Laws (and, in such case, such exception only applies to the party that is in direct violation) Tenant hereby agrees to indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York), their respective Affiliates, parent corporations, subsidiaries, partners, management companies, and the agents, employees, officers, commissioners, directors and contractors of any and all of them from and against any and all losses, claims, demands, penalties, causes of action, fines, settlements, damages, costs and expenses of whatever kind or nature (including reasonable attorneys' and consultants' fees and expenses, investigation and laboratory fees and expenses, court costs and litigation expenses) arising directly or indirectly out of or in any way related to: (1) any default by Tenant of this Section 7.03; (2) any violation or failure to comply by Tenant with any of the Environmental Laws; (3) any personal injury (including death) or property damage as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (4) any litigation brought or threatened by any governmental authority as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (5) the presence of Toxic or Hazardous Materials at, above, in and/or the Premises; and (6) the use of Toxic or Hazardous Materials by Tenant. As used herein "costs and expenses" shall also include, in addition to those set forth above, costs associated with administrative and judicial proceedings, costs arising from any lien, costs of any remedial actions and business interruption resulting from any remediation, or any executive, administrative or judicial order. This indemnification shall constitute the personal recourse undertaking, obligation and liability of Tenant. The obligations set forth in this Section 7.03 shall survive the expiration or earlier termination of this Sublease.

ARTICLE VIII. USE OF TERMINAL, PUBLIC AREAS, LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE

Section 8.01 OPERATION AND MAINTENANCE OF TERMINAL. Tenant acknowledges that American is required to cause to be operated and maintained during the Term all public areas to the extent required in the Concession Area Lease and the Authority Lease. The manner in which such public areas and facilities are operated and maintained, and the expenditures therefor, are at American's sole discretion. Accordingly, the use of such public areas and facilities is subject to reasonable rules and regulations, including security directives as American, the Authority or authorized regulatory agencies may make from time to time.

Section 8.02 USE OF PUBLIC AREAS IN TERMINAL. The term "**public areas**" as used herein shall mean all improved areas within the Terminal which are not devoted to the exclusive use by any airline, tenant or other occupant occupying space in the Terminal including, without limitation, public transportation, loading and unloading facilities, pedestrian walkways and horizontal pedestrian movers, delivery areas, landscaped areas, community rooms, elevators, escalators, stairs and ramps, public restrooms and comfort stations, service areas, service and fire exit corridors, passageways and those areas adjacent to the Terminal containing parking facilities, if any. Tenant shall have as appurtenant to the Premises the right to the non-exclusive use in common with others of all public areas and facilities in the Terminal as designated as such by Landlord from time to time, and such reasonable access, during Tenant's normal

operating hours, to the Premises. Landlord, the Authority and American each shall have the right, but not the obligation, from time to time, to modify the public areas, remove portions of the public areas from common use, permit entertainment events, advertising displays, educational displays and other displays in the public areas and lease retail merchandising units or temporary pushcarts or carts ("**RMUs**"). If Landlord determines in its discretion to place RMUs in the public areas near the Premises, such placement shall not be within fifteen (15) feet of Tenant's storefront entrance and shall not materially interfere with ingress or egress to the Premises by the public. Tenant shall not be entitled to any credit for income earned by Landlord with respect to the public areas. Tenant and its employees shall not park their cars or any other vehicles in the parking facilities except in the areas specifically designated by Landlord for employee parking. There is no free parking at the Airport for Tenant or any of Tenant's employees, contractors or customers. Tenant and its agents, employees, contractors and subcontractors shall comply with the rules and regulations with respect to parking as the same may be amended or modified from time to time and will be subject to any enforcement action (including towing) pursued by the Authority's airport police without any notice thereof. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York and their employees, agents, and representatives from and against any and all claims of the employee and/or owner of any vehicle so towed.** Landlord, American or the Authority may at any time close any public areas to make repairs or changes, to prevent the acquisition of public rights in such area, to use areas for attendant or valet parking, and to do such other acts in and to the public areas as in its judgment may be desirable.

Section 8.03 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE.** (a) All deliveries of equipment, supplies, materials, inventory, merchandise or products required to support the operations of Tenant shall be made to the designated loading dock areas of the Terminal. American has developed food courts and public seating areas in various locations in the Terminal which are intended to benefit all Tenants, their patrons and the public. For purposes of this Sublease "**public seating areas**" means a non-exclusive, common public seating area for patrons of both retail and food service concession facilities and for the traveling public. All sanitation, cleaning, maintenance and trash removal services for such food courts and public seating areas shall be controlled by Landlord. Such responsibilities shall include, but not be limited to, cleaning including floors, trash removal, trash receptacles, food court trays (operating food court tray washing equipment and well as retrieval and distribution of food court trays to food court concession facilities), public seating area tables and chairs, related public seating area furniture and fixtures, if any, and repair, maintenance and/or replacement thereof. No deliveries of any items shall be made by any Person directly to the Premises without the prior written authorization of Landlord; and, if given by Landlord, Landlord shall have the right to revoke any such authorization at any time and for any reason. Tenant shall be advised by Landlord of all shipments for all items received at the loading dock area and Tenant shall be responsible, at its sole cost and expense, for promptly transporting all such items from the loading dock area to the Premises or to any related Storage Premises leased by Tenant. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of Landlord for such items which may include, but not limited to, the transporting of equipment, supplies, materials, inventory, merchandise or products in the Terminal, pest control extermination services, trash removal, refuse, recycling and compactor services, grease trap maintenance and cleaning (including waste grease removal) to the extent not required to be performed by Tenant, repair and maintenance of food courts and public seating areas furniture, fixtures and equipment maintenance and cleaning (including exhaust hood, duct and roof top maintenance and cleaning and exhaust hood fire suppression equipment inspection and maintenance to the extent not required to be performed by Tenant), all of which shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances including, but not limited to, FAA and TSA rules and regulations as well as all Airport rules and regulations promulgated from time to time by Landlord, American or the Authority. Tenant shall comply with all rules, regulations and directives of Landlord, American the Authority, the FAA, the TSA or any other federal or state agency of competent jurisdiction with respect to deliveries which may include, but not be limited to: (1) restrictions

on delivery times (days and hours) and the time in which any vehicle may remain in the loading dock areas; (2) methods of delivering equipment, supplies, materials, inventory, merchandise or products from the loading dock areas to the Premises such as rolling carts, wheels, pallet or plastic wrap requirements; (3) delivery escort guidelines, badging, background checks, rules, instructions and training if so required which must be complied with by Tenant and all transportation companies and vendors delivering any such items to the loading dock areas; and (4) security screening of equipment, supplies, materials, inventory, merchandise or products. Landlord, American and the Authority may deny access or require any vehicle to be removed for failure to follow any such rules, regulations, directives and guidelines that may be established by Landlord, the Authority or applicable governmental agencies from time to time. The foregoing is in addition to the requirements of Section 27.24.

(b) Tenant shall have the non-exclusive use, in common with other tenants and users of the Terminal, to the loading dock areas as provided in this Section 8.03 and to the food courts, public seating areas and other designated common areas of the Concession Area subject to the control and management thereof at all times by Landlord, provided that Landlord and American, at their sole cost, each reserves the right to make any changes which they deem appropriate to the loading dock areas and the food courts, public seating areas and other designated common areas of the Concession Area, including relocating and/or eliminating all or any part thereof to assure public safety and convenience or to assure efficient operation of the Concession Area or the Terminal.

(c) Pursuant to the Concession Area Lease, (1) American is generally responsible for all structural maintenance, repair and/or replacement of the Base Building Work in the Concession Area and the Terminal, and (2) Landlord is otherwise generally responsible for the maintenance, upkeep and repair of the Concession Area to the extent not the obligation of the tenants of the Concession Area.

Section 8.04 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE FEE.** (a) Tenant and all of Landlord's other subtenants, shall use and share the prorated cost of common logistical support and common operation maintenance service providers provided by various independent contractors selected and contracted with in the sole discretion of Landlord. Tenant shall pay to Landlord, as Additional Rent, a fee (the "**Logistical Support and Maintenance Fee**") equal to Tenant's proportionate share (as described in Section 8.04(b) below) of Landlord's actual and commercially reasonable out-of-pocket costs and expenses incurred in order to manage the loading dock areas and maintain and service the food courts, public seating areas and other designated common areas of the Concession Area ("**Operating Costs and Expenses**"). These expenses include, without limitation: all costs and expenses of every kind and nature, foreseeable or unforeseeable, paid or incurred by Landlord for any service providers with respect to the food courts, public seating areas, purchase of tray wash equipment; floor cleaning (sweeping and mopping) and storefront cleaning services and cleaning of food court amenities, furnishings and equipment; food tray retrieval, washing and distribution; management of the loading dock areas for Tenant deliveries and distribution and delivery vehicle escort services; trash removal; repair and replacement of tray wash equipment and food court chairs, tables, and food trays. By way of example, Operating Costs and Expenses shall include, but not be limited to, the full cost of all labor costs (including both on-site and independent third party off-site supervisory personnel) as well as the cost of uniforms and identification badges for all such personnel employed to: (1) provide centralized trash, refuse and recycling material removal services in the Terminal for all concession facilities, and in loading dock areas and storefront façade cleaning services for all concession facilities; (2) manage, operate, maintain, repair, clean and replace the loading dock areas and equipment and the areas surrounding the trash dumpsters; (3) operate the vehicle escort delivery service across the airfield and to maintain, repair and/or replace the escort delivery service equipment; (4) assist in the delivery of equipment, supplies, goods, inventory, merchandise and products (which may need to include a central commissary system); (5) to the extent not otherwise charged directly to subtenants, provide security screening services for equipment, supplies, goods, inventory, merchandise and

products; (6) operate, maintain and clean the food courts and public seating areas, cleaning and maintenance of the grease trap system, waste grease removal, cleaning and maintenance of exhaust hood, duct and roof top systems and inspection and maintenance of exhaust hood fire suppression equipment; (7) provide pest extermination services for all concession facilities; (8) the cost of all supplies and equipment utilized to clean the food courts and public seating areas; (9) cost of all trash removal receptacles and equipment for the food courts and public seating areas; (10) the cost to purchase, maintain, repair and/or replace all public seating areas tables, chairs, trash removal receptacles and equipment, furniture and fixtures; (11) the cost to purchase, clean, maintain, repair and/or replace the food trays used by patrons and to operate, maintain, repair and/or replace the food tray washing facilities and equipment; (12) any and all other direct costs and expenses which Landlord deems reasonably necessary or desirable in order to properly maintain and provide such services described herein in an efficient and acceptable manner. The preceding is for definitional purposes only and shall not impose any obligation upon Landlord to incur such expenses or provide such services. Tenant shall comply in all respects with such procedures and the policies established by Landlord with respect to common logistical support and common operation maintenance services.

(b) The proportionate share to be paid by Tenant shall be that portion of Operating Costs and Expenses which the Floor Area in the Premises bears to the total Floor Area in the Concession Area which has been leased to subtenants who are in occupancy and contributing to the Logistical Support and Maintenance Fee; provided, however, any Floor Area in the Concession Area which is excluded from the foregoing calculation shall not exceed twenty percent (20%) of the gross leaseable Floor Area of all concession facilities in the Concession Area but such restriction shall not be applicable until Landlord has completed the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Tenant's proportionate share shall only include those items passed through by Landlord for specialty retail uses and shall not include any such items applicable only to food and beverage uses or with respect to any public food court areas. Annual increases in Tenant's proportionate share shall not exceed fifteen percent (15%) other than extraordinary costs imposed by local, state or federal regulations or as may otherwise be requested by Tenant from time to time as compared to the immediately preceding Lease Year following completion of the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Tenant's proportionate share of Operating Costs and Expenses for the first partial Lease Year (2007 calendar year) is estimated to be in the amount of $9.00 per square foot of Floor Area in the Premises calculated on an annual basis and pro-rated for the number of days in such first partial Lease Year.

(c) The Logistical Support and Maintenance Fee following the Rental Commencement Date shall be paid to Landlord as Additional Rent in equal, consecutive monthly installments on or before the first (1st) day of each calendar month, in advance, in an amount estimated by Landlord from time to time. All sums not received within five (5) days after written notice from Landlord shall be delinquent and shall be a default as defined in Article XIX. Subsequent to the end of each Lease Year, Landlord shall furnish Tenant with a detailed statement of Tenant's proportionate share of such Operating Costs and Expenses for such period showing the general method of computing such proportionate share. Tenant shall not have any inspection or audit rights of any of Landlord's books and records pertaining to Operating Costs and Expenses and the Logistical Support and Maintenance Fee. Tenant hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on Landlord's statement, Tenant shall pay the difference between the amount paid and the actual amount due within thirty (30) days after the furnishing of each such statement. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Tenant to Landlord for Operating Costs and Expenses under this Sublease. If at the end of the Term of this Sublease, the total amount paid by Tenant under this Section 8.04 for such final Lease Year shall exceed the actual amount due for such final Lease

Year, such excess shall be refunded to Tenant within sixty (60) days after Tenant has vacated the Premises in the condition required at the conclusion of this Sublease and after all Rentals and other sums due Landlord from Tenant under this Sublease have been paid in full; or Landlord shall be entitled to deduct any such remaining sums due from any such excess. Landlord may estimate the annual budget and charge the same to Tenant on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Operating Costs and Expenses for the Logistical Support and Maintenance Fee.

(d) If Tenant suffers damages to equipment, materials, supplies, inventory, merchandise and products or any injuries to persons as a result of the activities of the various independent contractor service providers, Tenant shall only look to the independent contractor service provider who caused such damage or injuries for any recovery. Landlord, American and the Authority (including their members, shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits arising out of or relating to the activities of the various service providers, except to the extent that any such damage is due solely to the negligence or willful misconduct of Landlord or the gross negligence or willful misconduct of American.

ARTICLE IX. SIGNS

Section 9.01 TENANT'S SIGNS. The design, construction, location, use and maintenance of Tenant's signs (whether blade or band signs) are subject to the provisions of the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall affix a sign to the exterior surface of the storefront of the Premises subject to the advance approval of Landlord, American and the Authority in compliance with the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall pay all costs of fabricating, constructing, operating and maintaining such exterior storefront sign(s). Tenant shall keep said sign(s) well lit during such hours as Landlord shall designate and shall maintain said sign(s) in good condition and repair during the entire Term hereof. Said sign(s) shall conform to the criteria for signs contained in the Tenant Construction Review Manual, the Design Guidelines; and the size, content, design and location thereof shall be subject to the prior written approval of Landlord, American and the Authority pursuant to the TAA Process. Except as hereinabove mentioned, Tenant shall not place or cause to be placed, erected or maintained on any exterior door, wall, window or the roof of the Premises, or on the interior or exterior surface of the glass of any window or door of the Premises, or on any sidewalk or other location outside the Premises, or within any display window space in the Premises, or within one (1) foot of the front of the storefront leaseline, whether or not there is display window space in the Premises, or within any entrance to the Premises, any sign (flashing, moving, hanging, handwritten, or otherwise), decal, placard, decoration, flashing, moving or hanging lights, lettering, or any other advertising matter of any kind or description; provided, that subject to the prior written approval of Landlord with respect to design and placement, Tenant may place decals relating to charge cards accepted and alarm system used for safety purposes on glass storefronts where warranted. No symbol, design, name, mark or insignia adopted by either Landlord, American or the Authority for the Terminal or the Airport shall be used without their prior written consent. Notwithstanding the foregoing, if Landlord or American, in their reasonable business judgment, determines that any such materials are unacceptable, improper or inappropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter without any liability. Tenant, upon obtaining Landlord's prior consent not to be unreasonably withheld, may utilize its customary interior signs, placards and decorations provided they are professionally prepared and in good taste and are utilized in a manner substantially similar to the manner which Tenant employs in its first-class stores located in large, urban airports and regional shopping centers in the United States, and, further, so long as the same comply with American's and the

Authority's requirements and the Authority's TAA Process. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.01 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Fifty Dollars ($150.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

Section 9.02 **TENANT'S INTERIOR ADVERTISING AND DISPLAY WINDOWS.** Tenant acknowledges and agrees that the condition and appearance of its interior advertising and display windows facing into or in any manner visible from the Terminal property including exterior glass windows (if any) is important to Landlord, American and the Authority. If Tenant installs such interior advertising displays or window displays or any signs in the window display facing into or in any manner visible from the public areas of the Terminal which any of Landlord, American or the Authority reasonably determines to be objectionable to the general character and appearance of the Terminal, Tenant agrees to remove the stanchions, window display and/or signs within forty-eight (48) hours after notice. If Tenant fails or refuses to remove such advertising, window displays or signs, Tenant hereby grants Landlord the right to remove the objectionable advertising, displays or signs at Tenant's expense. Tenant agrees that its interior advertising displays and window displays will be designed and printed in a professional manner and will contain only first class products. Tenant shall not display any advertising, promotional or informational pamphlets, circulars, brochures or similar materials outside the Premises without the prior written consent of Landlord and American. No temporary signs or displays will be used by Tenant including any employment opportunity signs, except for temporary holiday decorations, which shall also be designed and printed in a professional manner. Notwithstanding the foregoing, if Landlord or American determine that any such materials are not appropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter, at Tenant's expense. At a minimum, Tenant shall refresh and change the interior advertising items and signs in the display windows on a quarterly basis during each Lease Year. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.02 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of One Hundred Fifty Dollars ($150.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

ARTICLE X. MAINTENANCE AND REPAIRS

Section 10.01 **TENANT'S OBLIGATIONS FOR MAINTENANCE.** (a) Except for American's obligations pursuant to the Authority Lease and the Concession Area Lease for structural maintenance, repair and/or replacement of the Base Building Work in the Premises, Tenant, at Tenant's sole cost and expense, shall keep and maintain in a first-class appearance, in a "like new" condition equal to or better than that which existed when Tenant initially opened the Premises for business, reasonable wear and tear excepted, and in a safe, clean, neat, sanitary and lawful order, good condition and repair (including replacement of parts and equipment, if necessary), the Premises and every part thereof and any and all appurtenances thereto wherever located, including, without limitation, surfaces of all walls, windows and window casings and sills (both interior and exterior), the interior and exterior portion of all doors, door frames and door checks, other entrances, plate glass (except outside surfaces of windows, window casings and sills located on the exterior of the Terminal building, if any), storefronts, wall coverings, floor coverings, ceilings, relamping and/or replacement of light fixtures, trade fixtures, Fixed Improvements, Operating Equipment, HVAC (as defined in Section 12.01(d)) and electrical and other utility systems and utility branch lines exclusively serving the Premises (whether or not located within the Premises), sprinkler systems and sprinkler heads exclusively serving the Premises (whether or not located within the Premises), and all other repairs, replacements, renewals, restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen that relate to all work by or on behalf of Tenant pursuant to Article V, **Exhibit D**

and the Design Guidelines. For the purposes of this Article, the installation, maintenance, repair and replacement of a sprinkler system, fire alarm system, communication system or any repairs or work involving asbestos or other hazardous materials or involving compliance with Local Laws #5 of 1973, #16 of 1984, #58 of 1987 and the Americans With Disabilities Act and any successor laws of like import shall be deemed to (a) be non-structural maintenance, repairs and/or replacements, and (b) not involve the Base Building Work.

(b) Tenant's maintenance and repair of the Premises is an obligation which runs directly to Landlord, American and the Authority and includes all of the following duties:

(1) Tenant, at its own expense, shall install and maintain fire extinguishers, fire hoses and other fire protection devices as may be required by Landlord, American, the Authority, the applicable fire marshall official, any agency having jurisdiction over the Premises or by the insurance underwriter insuring the Terminal.

(2) Tenant shall obtain Landlord's prior written approval of the materials used in any plate glass or window glass installation, repair or replacement and of the contractor performing any such repair or replacement (the foregoing is subject to Landlord's sole discretion).

(3) Tenant, at all times and at its sole cost and expense, shall use the Premises with care. Maintenance, repairs and replacements shall be accomplished as necessary to maintain the Fixed Improvements and Operating Equipment and trade fixtures in a first-class "like-new" condition. Tenant shall repaint, retile, recarpet or replace wall coverings, floor coverings and ceiling coverings as reasonably necessary; and high traffic areas shall be repainted, retiled, recarpeted on a regular basis or as otherwise reasonably directed by Landlord to maintain a high quality, first-class appearance; and all furniture and furnishings that become worn or torn shall be promptly replaced.

(4) Tenant, at its own expense, shall provide complete and adequate arrangements for the sanitary handling and disposal of all trash, garbage, recycling materials and other refuse generated in the Premises, including suitable receptacles situated in locations determined by Landlord. Such shall be removed at times and in a manner which will cause minimum interference with the use of the Terminal by the public and other authorized persons. Tenant shall be required to participate in American's recycling program, if any, as appropriate. Tenant shall also furnish, at its own expense, custodial services for the Premises. The piling of boxes, cartons, containers or other similar items in the public areas or in the Premises is not permitted.

(5) With respect to utility systems and lines servicing the Premises, (a) in areas where such utility systems and lines serve other areas in the Terminal in addition to the Premises, Tenant, at its own expense, shall only be responsible for the maintenance of the utility branch systems and utility branch lines located within or exclusively serving the Premises, (b) where utility systems and lines are installed by Tenant and solely for its use, Tenant shall have the sole responsibility, at its own expense, for the maintenance, repair and replacement thereof from the Premises up to the American-maintained main utility systems or lines or to the shut-off valves located in the Terminal, as appropriate, (c) Tenant shall have sole responsibility, at its own expense, for the maintenance, repair and replacement, as necessary, of all electrical, telephone, data transmission and other communication cables, conduits, wiring, fire alarm systems and protection devices, wiring panels and associated equipment located within or exclusively serving the Premises. American reserves the right to maintain, repair or replace any such utility systems and lines.

(6) Tenant shall prepare a comprehensive preventive maintenance program for all equipment and lines for which it is responsible to maintain and submit the same to Landlord and shall maintain such program on a current basis. Tenant shall report all malfunctions to all systems, lines, devices and equipment installed or located within the Premises to Landlord as promptly as possible after discovery and shall

provide timely notice to Landlord as required by this Sublease with respect to maintenance issues.

(7) All repairs, replacements and maintenance by Tenant hereunder shall comply with all of the applicable provisions of the TAA Process, as the same may be amended from time to time by the Authority in their sole discretion, shall be performed in accordance therewith and with the applicable provisions of the Design Guidelines and shall be subject to the Landlord's prior written approval, such approval to be determined in Landlord's sole discretion. All such maintenance, repairs and replacements shall be of a quality equal to the original in materials and workmanship; Landlord shall have the right to disapprove any improvements, replacements or alterations which, in its judgment, are of a design, quality, condition or in any color or in any other way deemed to be inconsistent with the Design Guidelines, the TAA Process or the general character and design of the Terminal.

(8) Landlord, American and the Authority each reserves the right to interrupt temporarily the heating, air conditioning, plumbing, fire sprinkler, electrical services and any and all other utility services when necessary to make repairs, alterations, replacements or improvements thereto; and no such party shall have any responsibility or liability to Tenant (including consequential damages and lost profits) for failure to supply heat, air conditioning, any other utilities or plumbing or, when prevented from doing so by laws, orders or regulations of any federal, state or local agency or as a result of strikes, accidents, force majeure or by any other cause whatsoever beyond their control. Landlord shall provide Tenant with as much advance notice as reasonably possible and under the circumstances shall use reasonable efforts to avoid interrupting Tenant's business operations except as deemed necessary by Landlord, American or the Authority.

(c) In no event shall Landlord be liable for consequential damages or Tenant's lost profits claimed to be caused by any failure of maintenance or repair. If Tenant does not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then Landlord, American or the Authority, in addition to any other remedy which may be available to them, may enter the Premises and perform such maintenance or repair, as they determine, in their sole and absolute discretion, is required. **Tenant shall indemnify and save harmless Landlord, American, the Authority and the City of New York from all injury, loss or damage to any Person or property occasioned by Landlord's, American's or the Authority's completion of such maintenance or repair, except to the extent such loss or damage is solely the result of the gross negligence or willful misconduct of Landlord, American, or their respective employees, agents or contractors.** Tenant shall reimburse Landlord for any and all reasonable costs incurred in completing such maintenance or repair (including without limitation an administrative fee equal to fifteen percent (15%) of such costs), together with Late Interest from the date Landlord, American or the Authority incurred such costs. Landlord, without prior notice to Tenant, may enter the Premises and make inspections as often as it considers necessary, to determine the proper maintenance of the Premises by Tenant. The provisions of this Section 10.01 shall survive the expiration or earlier termination of this Sublease.

ARTICLE XI. INSURANCE AND INDEMNITY

Section 11.01 TENANT'S INSURANCE. (a) Tenant, at its sole cost and expense, shall, during the entire Term hereof, procure and maintain the following insurance in not less than the following amounts: (1) commercial general liability insurance with respect to the Premises and the operations in, on or about the Premises, in which the combined limits shall be not less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, insuring for bodily injury, death and property damage and including, without limitation, premises operations, products-completed operations, explosion, collapse, underground property damage and independent contractors coverage, with such commercial general liability insurance containing a contractual liability endorsement covering the obligations assumed by

Tenant under Sections 7.03, 11.03 and all other of Tenant's indemnification obligations under this Sublease, such insurance not to contain any care, custody or control exclusions which would conflict with or in any way impair coverage under the contractual liability endorsement and business automobile liability insurance covering all owned, hired and non-owned vehicles, in which the limits for landside vehicle/mobile equipment operation shall be not less than Two Million Dollars ($2,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage and in which the limits for airside vehicle/mobile equipment operation, if applicable, shall be not less than Twenty-Five Million Dollars ($25,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage; (2) all risk property insurance, including plate glass coverage, against fire, extended coverage, vandalism, malicious mischief, water damage, which does not exclude backup from sewers or drains or sprinkler leakage, and such other additional perils including flood as now are or hereafter may be included in a standard extended coverage "ISO Special Form" policy or its equivalent from time to time in general use in the county in which the Terminal is located, insuring Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property of Tenant located on or in the Premises or the Terminal in an amount equal to the full replacement cost thereof; (3) statutory workers' compensation coverage as required by the State of New York from time to time and including Employer's Liability Insurance in the amount of One Million Dollars ($1,000,000.00) for each accident, One Million Dollars ($1,000,000.00) for each employee, by disease, One Million Dollars ($1,000,000.00) policy aggregate by disease; (4) builder's risk (ALL RISK) insurance covering construction and installation of the Fixed Improvements and Refurbishments and Operating Equipment during the performance thereof, including, without limitation material delivered to the site but not attached to the realty as more particularly described in **Exhibit D**, naming Landlord, American, the Authority, the City of New York, Tenant and their respective contractors and subcontractors as additional insureds or as loss payees (as applicable to the type of insurance provided) and provide that the loss shall be adjusted with and payable to Tenant and used for the repair, restoration or rebuilding of the Fixed Improvements and Refurbishments and Operating Equipment, as necessary; (5) business interruption insurance in amounts at least sufficient to cover, and applicable to, all Rentals, fees, charges and other payments that are payable by Tenant to Landlord under this Sublease for a period of not less than twelve (12) months for any business interruption losses in business revenue that occur when the Premises or any portion thereof is unusable or is out of operations due to fire or any other risks or hazards that are normally covered under a standard form of "ISO Special Form" policy or its equivalent or for any other reason; (6) the insurance required under the Authority's TAA Process; (7) such other insurance as may be required by Landlord, American or the Authority from time to time after suitable notice thereof based upon circumstances in the Terminal and imposed upon other concession operators in the Terminal; and (8) if the Permitted Use permits the sale of alcoholic beverages, Tenant shall also procure and keep in force liquor law liability insurance (on an occurrence basis), in which the limits shall not be less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, which shall insure against all claims, demands and actions for injury to, and/or death to, one (1) or more persons in one (1) or more accidents, and for property damage, as well as for damages due to time loss and means of support; so that at all times Landlord, American and the Authority will be fully and completely protected against any claims that may arise by the dispensing of beer, wine and/or other spirited or alcoholic beverages in the Premises; provided, however, that Landlord and Tenant acknowledge and agree that commercially available liquor law liability insurance coverage contains specific exclusions. **Tenant agrees to indemnify and hold harmless Landlord, American, the Authority and the City of New York, their respective Affiliates, parent corporations, subsidiaries, directors, officers, partners, shareholders, representatives, members, management companies, agents and employees, from and against any loss or claim arising under such exclusions.** Notwithstanding the foregoing, Tenant specifically understands and agrees that Landlord and American have the right, on their own initiative or as requested by the Authority, to require Tenant to make reasonable additions, deletions, amendments or modifications to the above minimum insurance requirements or may require such other and additional insurance, in such

reasonable amounts, against such other insurable hazards, as American may deem reasonably necessary or as the Authority may deem necessary. Landlord will not increase the above-required coverage amounts or limits in excess of five percent (5%) in any Lease Year during the Term, unless such increase is required for reasons beyond Landlord's control, and Tenant shall so adjust the amounts or limits of the insurance carried by Tenant hereunder and shall provide Landlord with Certificates indicating the adjusted amounts or limits as provided in this Section 11.01. All policies of insurance required to be carried by Tenant pursuant to this Sublease shall be written by insurance companies of adequate financial capacity (having a A.M. Best's rating and Financial Size Category of not less than A-VII or better) and qualified to do business in the State of New York. Any such insurance required of Tenant hereunder may be furnished by Tenant under any blanket policy carried by it, with any amendments or endorsements that may be necessary to conform to the requirements of this Article XI or under a new or separate policy therefor. An insurance certificate or certificates (and endorsements where same become necessary) from Tenant's insurer, certifying that such policy has been issued, provides the coverage required by this Section 11.01 and contains all of the provisions specified in this Section 11.01 (including, without limitation, naming of additional insured and/or loss payee entities as required by Section 11.01(b) below), shall be delivered to Landlord prior to the commencement of the Term hereof, and certificates in connection with all renewals (if any), not less than thirty (30) days prior to the expiration of the term of each such policy. In addition, if requested by American, Tenant shall promptly deliver to Landlord a certified copy of each policy bearing the endorsement of or accompanied by evidence of payment of the premium thereof. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant and certificates delivered to Landlord prior to any such expiration or termination.

(b) Each policy evidencing insurance required to be carried by Tenant pursuant to this Section 11.01 shall contain the following clauses and provisions: (1) a provision that such policy and the coverage evidenced thereby shall be primary and noncontributing with respect to any policies carried by Landlord, American or the Authority and that any coverage carried by Landlord, American or the Authority be excess insurance; (2) except for workers' compensation and employers' liability coverage, a provision including the parties set forth on **Exhibit F** and any other parties designated in writing by Landlord from time to time as additional insured and/or loss payee entities, as applicable; (3) a waiver by the insurer of any right to subrogation against Landlord, American and the Authority and other additional insured and/or loss payee entities, their respective agents, commissioners, directors, employees, insurance carriers, officers and representatives which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, American or the Authority, their respective agents, commissioners, directors, employees, insurance carriers, officers or representatives; (4) a severability of interest clause or endorsement; (5) a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving Landlord, American and the Authority at least thirty (30) days prior written notice; (6) a provision that such policy is an occurrence-form policy; and (7) a provision or endorsement that the insurer shall not, without obtaining the express advance written permission from the Authority's General Counsel, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Authority, the immunity of the Authority, its commissioners, officers, agents and employees, the governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority. Such liability policies shall also provide or contain an endorsement providing that the protections afforded Tenant thereunder with respect to any claims or actions against Landlord by a third Person shall pertain and apply with like effect with respect to any claim or action against Tenant by Landlord, American or the Authority, and that such protections shall also pertain and apply with respect to any claim or action against Landlord, American or the Authority, including by Tenant, but such endorsement shall not limit, vary or affect the protections afforded Landlord, American and the Authority thereunder or other named insureds as an additional insured. The "All Risk" property insurance coverage shall name Landlord, American and the Authority as additional loss payees to the extent of their respective interests and shall provide that any loss shall be adjusted with and payable to Tenant, Landlord and American (to the extent of Landlord's or

American's loss) and to the extent Landlord or American receives insurance proceeds from such policies or otherwise participates in the adjustment of claims thereunder, Landlord shall (and American is obligated under the Concession Area Lease to) cooperate with Tenant and shall make all of such proceeds available to Tenant to cover the cost of restoration of such Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property.

(c) In the event that Tenant fails to procure and to maintain, at the times and for the duration specified in this Section 11.01, any insurance required by this Section 11.01, or fails to carry insurance required by law or governmental regulation, Landlord may (but shall not be required to) at any time and from time to time, and upon five (5) days notice to Tenant, procure such insurance and pay the premiums therefor; and the cost of same shall be deemed Additional Rent and shall be payable by Tenant within ten (10) days after receipt of Landlord's written demand. Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's, American's, the Authority's or the Airport's policies of hazard or liability insurance or which will prevent Landlord, American or the Authority from procuring such policies in companies acceptable to Landlord, American and the Authority.

(d) If at any time any of Tenant's insurance policies shall be or become unsatisfactory to Landlord, American or the Authority, in their reasonable judgment, as to form or substance, of if any of the Tenant's insurers issuing such policies shall not maintain the minimum rating required above, Tenant shall promptly obtain a new and satisfactory policy in replacement.

Section 11.02 LANDLORD'S AND AMERICAN'S INSURANCE. Landlord has the obligation to carry the insurance set forth in the Concession Area Lease but only to protect the interests of Landlord, American and the Authority. Landlord, by virtue of this Sublease or otherwise, has no obligation to protect the interests of Tenant or to name Tenant as an additional insured under any of its insurance covering the Terminal. American is obligated to maintain the types of insurance required under the Authority Lease.

Section 11.03 INDEMNIFICATION. **(a) Tenant shall defend, indemnify and hold harmless Landlord, American, the Authority and the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York) and their respective directors, officers, employees, agents, commissioners, representatives and Affiliates (collectively, the "Indemnitees") from and against any and all claims, demands, actions, causes of action, suits, fines or judgments asserted, imposed or obtained by third parties, and the costs (including reimbursement of Indemnitees' reasonable costs and expenses of any related legal proceedings or attorneys' fees), expenses, losses, liabilities (including, without limitation, claims and demands for death or personal injuries, or for property damages) and damages of all kinds related to such third party claims, arising out of the construction of Fixed Improvements or Refurbishments or the improper use or occupancy of the Premises by Tenant or out of any other acts or omissions of, or any breaches or defaults under the terms or conditions of this Sublease by Tenant, its directors, officers, employees, representatives, contractors, guests and/or invitees in the Premises or other areas in the Terminal and/or elsewhere at the Airport including, without limitation, claims and demands of any of the occupants in the Concession Area or of the City of New York, from which the Authority derives its rights in the Airport (collectively, the "Claims"). The foregoing indemnification shall not apply to a particular Indemnitee, other than the Authority, to the extent that a Claim is caused or contributed to by the negligence or willful misconduct of such Indemnitee other than the Authority. As a condition to the foregoing indemnification with respect to Claims and demands for indemnification made by Landlord: (1) Landlord or the Indemnitee shall give Tenant prompt written notice specifying with**

reasonable particularity any Claim that Landlord or the Indemnitee reasonably believes may become the basis for indemnification pursuant to this Section 11.03; (2) Landlord, the Indemnitee and their directors, officers, employees and representatives shall cooperate fully in the defense of such Claim; (3) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the right to contest, defend or litigate, and to retain counsel of its choice in connection with any proceeding or litigation which would give rise to a claim for indemnification under this Section 11.03; and (4) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the sole and exclusive right to settle any proceeding or litigation which could give rise to a claim for indemnification under this Section 11.03 (provided such settlement would not result in any loss, cost, harm, expense, damage or liability to any of the Indemnitees). A failure by Landlord or an Indemnitee to timely notify Tenant of any Claim shall excuse Tenant's obligations hereunder only to the extent the defense of such Claim is prejudiced thereby.

(b) Tenant represents that it is the owner of or fully authorized to use or sell any and all intellectual property used or sold by it in its activities under or in any way connected with this Sublease. **Without in any way limiting its obligations hereunder, Tenant agrees to indemnify, defend and hold harmless the Indemnitees of and from any loss, liability, expense, suit or judgment in connection with any actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the activities of Tenant under or in any way connected with this Sublease.** With respect to claims or demands against Indemnitees for actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or for actual or alleged unfair competition or other similar theories arising out of the operations of Tenant, Tenant shall pay or reimburse Indemnitees all actual and reasonable attorneys' fees and costs of defense that Indemnitees may incur in defending any such intellectual property or unfair competition claims or demands.

(c) Tenant agrees to include in all franchise or license agreements and construction contracts and other agreements involving Tenant, a provision by which such franchisee, licensee or contractor agrees to defend, indemnify and hold harmless the Indemnitees, on at least the same basis and to the same extent as required of Tenant under this Section 11.03. The obligations set forth in this Section 11.03 shall survive the expiration or earlier termination of this Sublease.

Section 11.04 **INJURY CAUSED BY THIRD PARTIES.** Tenant covenants and agrees that Landlord, American and the Authority (including their respective agents, employees, officers, directors, commissioners, members and shareholders) shall not be responsible or liable to Tenant, or any entity or person claiming by, through or under Tenant, for any injury, death or damage to persons or property resulting from any latent defect in the Premises, the Terminal, the Airport or appurtenant areas; or from any acts or omissions of entities, persons, tenants or other occupants occupying adjoining premises in the Terminal or any other part of the Airport or the agents, servants, employees, contractors or invitees of such entities, persons, tenants or occupants; or from fire, electricity, water, snow or leaks from any part of the Terminal or Terminal systems or Airport, including sprinkler systems; or from any other cause of whatever nature, unless caused by or due to the direct gross negligence or direct willful misconduct of Landlord (or as American, as obligated under the Concession Area Lease), its agents and employees, in which case only the party that acted grossly negligent or with willful misconduct shall be responsible or liable.

ARTICLE XII. UTILITIES

Section 12.01 **UTILITY SERVICES AND CHARGES.** (a) Pursuant to the Concession Area Lease, American is obligated to provide access to reasonable and normal amounts (as determined by Landlord and

American) of electric, heat, air conditioning, domestic cold water (if applicable), high temperature hot water (if applicable), gas (if applicable) and sewage (if applicable) services to the Premises for use by Tenant provided by utility systems, connections and related equipment existing as of the Commencement Date; but neither Landlord nor American have any obligation to provide telephone or data transmission and communication services to the Premises. The types, capacities and amounts of the various utilities which are being provided by American to the Concession Area, including the Premises, are set forth on the Utilities Matrix, which is included as an exhibit to the Concession Area Lease. All of such utilities, except for electricity for all food & beverage concession locations, and telephone and data communication services, are to be provided without charge by American in accordance with the Concession Area Lease. Should Tenant require access to utility services over and above those provided by American as set forth on such Utilities Matrix, Tenant shall pay directly for the costs of extending those additional utilities to the Premises, if available. Tenant shall be solely responsible for all fees, deposits and charges, including use or connection fees, hook-up fees, standby fees, and the like, for fire alarm, burglar alarm, telephone, data transmission and communication and cable television used in or upon or furnished to the Premises, including, without limitation, any services to be supplied by American, irrespective of whether any of the foregoing are initially paid in advance by American, Landlord or otherwise.

(b) Tenants who operate a food & beverage concession facility shall be solely responsible for, and shall promptly pay for the construction and installation of, electric check meters required for all electricity to be consumed within the Premises. Any such check meters required for the conduct of business operations in the Premises shall be installed by Tenant, at its sole cost and expense, in locations approved by Landlord, American and/or the appropriate public utility service provider. If the Permitted Use provides for display and sale of food and beverages, Tenant shall pay to Landlord American's actual cost of purchasing the electricity consumed as measured by a separate check meter to be installed by Tenant pursuant to the Final Drawings. Any such charges shall be billed to Tenant in arrears and shall be paid, as Additional Rent, to Landlord with the next monthly installment of Guaranteed Rent following Tenant's receipt of the invoice therefor from Landlord.

(c) Landlord, American or the Authority shall not be liable for damages, loss of business, loss of profits or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, services from a central utility plant or any other utility or other service, or if either the quantity, quality or character thereof is changed or is no longer available for Tenant's requirements, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character will not excuse or relieve Tenant from its obligations hereunder, including but not limited to the payment of Rentals or all other sums, damages, fees, costs and expenses payable under this Sublease. Except as otherwise provided by applicable law, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character shall not constitute or be deemed to constitute actual or constructive eviction of Tenant. Any obligation of American to furnish utilities is conditioned upon the availability of adequate energy sources. American has the right to reduce heating, cooling and lighting within the Premises and the public areas as required by any mandatory or voluntary fuel or energy saving allocation, or similar statute, regulation, order or program. No such interruptions, reductions, disruptions, curtailments or failures shall entitle Tenant to any abatement of Rentals or relieve Tenant from fulfillment of any covenant or agreement set forth in this Sublease, except specifically provided in this Section 12.01(c). Notwithstanding the foregoing, if Tenant is prevented from opening to the public for more than five (5) days during any Lease Year by an interruption in utility services due to the negligence of Landlord or American, including, without limitation, electricity, gas, water, plumbing, sewage, telephone communications, heating, ventilation, or air conditioning, but American's operations and the flow of Enplaned Passengers nevertheless continue normally through such interruption of utility services in the Premises, Guaranteed Rent that would otherwise apply during such period will be reduced by the proportion that three hundred sixty-five (365) days bears to the actual number of days Tenant was able to operate during such calendar

year.

(d) If applicable, Tenant shall operate its additional heating, ventilating and air conditioning system(s) ("**HVAC**") serving the Premises so as to maintain comfortable conditions during its hours of operation. Temperatures in the Premises shall be compatible with temperatures in the Terminal. Tenant's obligation to connect to the services supplied by American, as set forth in this Section 12.01 and **Exhibit D**, as well as Tenant's operation and maintenance of its HVAC system(s) within the Premises, shall be as set forth herein, in **Exhibit D** and in any related document(s), such as the Design Guidelines or approved Final Drawings. If Tenant desires to install any equipment which shall exceed the capacity of any utility facilities or which shall require additional utility facilities, Tenant shall not have the right to do so without Landlord's and American's prior written approval of Tenant's plans and specifications therefor. If such installation is approved by Landlord and American, and if such additional facilities are provided to accommodate Tenant's installation, Tenant agrees to pay Landlord, on demand, the cost of providing such additional utility facilities or utility facilities of greater capacity. Tenant shall in no event use any of the utility facilities in any way which shall overload or overburden the utility systems at the Terminal and the Airport. Landlord and American shall have the right to impose reasonable restrictions and to require Tenant to comply with any and all state and local regulations and measures adopted from time to time with respect to conservation of any utilities, including water usage.

ARTICLE XIII. ATTORNMENT AND SUBORDINATION

Section 13.01 **ATTORNMENT.** Landlord shall be permitted to assign this Sublease to American or its designee; and, in the event of such assignment, Tenant shall attorn to American or its designee and recognize American or its designee as the landlord for all purposes hereunder.

Section 13.02 **SUBORDINATION.** Tenant further agrees that this Sublease shall be subordinate to the Concession Area Lease, the Authority Lease and to any and all mortgages, deeds of trust and ground leases that may now exist or at any time hereafter constituting a lien or charge upon the Concession Area or the Terminal or other improvements that constitute a part of the Concession Area and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacement and extensions thereof. Tenant, within no more than fifteen (15) days after written request, shall execute any and all instruments, releases and other documents that may be required by each and every mortgagee, trustee and holder thereof for the purpose of subjecting and subordinating this Sublease to the lien of any such mortgage or deed of trust.

Section 13.03 **ESTOPPEL STATEMENT.** Within twenty (20) days after request therefor by Landlord, Tenant shall execute, in recordable form, and deliver to Landlord a statement, in writing, certifying (a) that this Sublease is in full force and effect, (b) the Rental Commencement Date and the Expiration Date hereof, (c) that Rentals and all other charges hereunder are paid currently without any offset or defense thereto, (d) the amount of Rentals and all other charges hereunder, if any, paid in advance, (e) whether this Sublease has been modified and, if so, identifying the modifications, (f) that, to the best of its knowledge, there are no uncured defaults by Landlord or stating in reasonable detail those claimed by Tenant, and (g) such other matters as may be reasonably requested by Landlord.

ARTICLE XIV. ASSIGNMENT AND SUBLETTING

Section 14.01 **RESTRICTIONS, PROCEDURES AND OTHER ASPECTS GOVERNING TENANT.** (a) Tenant shall not transfer or assign this Sublease or Tenant's interest in or to the Premises or any part thereof without having first obtained the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion; provided, however, the transfer of Tenant's

securities in connection with Tenant becoming a publicly held company or issuing securities in connection with an additional public offering of securities shall not constitute a transfer or assignment of this Sublease. The public trading of Tenant's securities on a nationally recognized stock exchange or on the NASDAQ market shall not constitute or be considered to result in any such transfer or assignment of this Sublease. Each transfer, assignment or subletting to which there has been consent shall be by instrument in writing, in form satisfactory to Landlord, and shall be executed by the transferee, assignee or subtenant who shall agree in writing for the benefit of Landlord to be bound by and to perform the terms, covenants and conditions of this Sublease. Failure to first obtain in writing Landlord's consent, or failure to comply with the provisions herein contained shall operate to prevent any such transfer, assignment or subletting from becoming effective. The receipt by Landlord of rent from an assignee, transferee, subtenant or any other occupant of the Premises shall not be deemed a waiver of the covenant in this Sublease against assignment, transfers and subletting or an acceptance of the assignee, transferee, subtenant or any other occupant as a tenant or a release of the Tenant from further observance or performance by Tenant of the covenants contained in this Sublease.

(b) Notwithstanding the foregoing provisions of this Article 14, Tenant shall have the right to transfer or assign this Sublease, with Landlord's consent, such consent not to be unreasonably withheld, to: (1) a subsidiary of Tenant or its parent entity or to an entity that is an Affiliate of Tenant or its parent entity; (2) any entity with which Tenant shall merge, reorganize or consolidate; or (3) any entity acquiring all or substantially all of the assets of, or equity interests in, Tenant or which may succeed to a controlling interest in the business of Tenant; provided that in the case of any and each such transfer or assignment under clauses (2) and (3) above which is permitted hereunder, Landlord shall have the discretionary right to withhold its consent unless: (i) such transferee or assignee shall have a net worth equal to or greater than Tenant (or its guarantor, if any) as of the effective date of any proposed transfer or assignment; (ii) such transferee or assignee shall have proven airport concession operating experience and the ability to efficiently and effectively operate the business in the Premises consistent with at least as high a standard as then exists in the Premises; (iii) the business conducted in the Premises by such transferee or assignee shall be conducted under the same Permitted Use and under a trade name required to be used by Tenant hereunder; (iv) Tenant shall not be in default after the applicable notice and cure periods under any of the terms and provisions hereof; (v) the use of the Premises by such transferee or assignee shall not violate any agreements affecting the Premises, Landlord or other tenants or occupants in the Airport and shall not disrupt the concession mix within the Terminal as determined in the sole and absolute discretion of Landlord; (vi) if Tenant is a certified M/W/DBE or if Tenant's certified M/W/DBE participant is a member/partner of a limited liability company/general partnership or joint venturer of a joint venture with Tenant, any such transfer or assignment of this Sublease shall not effect, modify or otherwise jeopardize the required M/W/DBE participation interest under this Sublease; (vii) except as may otherwise be prohibited under federal securities laws, notice of any proposed transfer or assignment shall be given to Landlord at least thirty (30) days prior to its proposed effective date, and there shall be delivered to Landlord instruments evidencing such proposed transfer or assignment and the agreement of such transferee or assignee to assume and be bound by all the terms, conditions and covenants hereof, all in form reasonably acceptable to Landlord; and (viii) Tenant and its guarantor, if any, shall continue to remain fully liable for the payment of all sums due and the performance of all the terms and conditions hereof.

(c) Tenant shall not sublet the Premises or any part thereof without having first obtained the prior written consent of Landlord. In the event Tenant requests permission to sublease, the request shall be submitted to Landlord prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the subtenant, the area or space to be subleased, the rental to be charged, the type of business to be conducted, recent audited financial statements and history and all other information requested by Landlord shall be specified. In the event of an assignment or sublease where the rental per square foot established in the

sublease exceeds the rental per square foot established in this Sublease, Tenant shall pay to Landlord as Additional Rent the excess of the rental received from the transferee or subtenant over that specified to be paid by Tenant herein per square foot. Should any method of computation of rental to be paid by a transferee or subtenant, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Premises by Tenant exceeds the rental paid to Landlord for said proportionate area of the Premises.

(d) If Tenant is a corporation, limited liability company, association or partnership which, under the current laws, rules or guidelines promulgated by the governmental body or agency having jurisdiction and authority to promulgate the same, is not deemed a public corporation, or is an unincorporated association or partnership, the transfer, assignment or hypothecation, in the aggregate of more than a controlling interest of the total outstanding voting stock or voting interests in such corporation, limited liability company, association or partnership shall be deemed an assignment and transfer within the meaning and provisions hereof. Irrespective of the foregoing, the transfer of the membership or ownership interests among the existing members of Tenant or to their estates or heirs upon the death of any such existing member of Tenant shall not require the prior written consent of Landlord. Tenant shall promptly notify Landlord within ten (10) days thereafter of any such transfer of the membership or ownership interests in Tenant among the existing members of Tenant or to their estates or heirs upon the death of any such existing member of Tenant.

(e) Notwithstanding anything to the contrary set forth in this Article XIV and regardless of any Landlord approval noted herein, any and all proposed assignments, transfers and subletting and/or any other arrangement pursuant to which Tenant authorizes any other Person to use and occupy the Premises shall also be subject to the written consent of American and the Authority determined in their sole and absolute discretion and not be effective until any such required consents of American and the Authority have been obtained.

ARTICLE XV. WASTE OR NUISANCE

Section 15.01 **WASTE OR NUISANCE.** Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, invitees, subtenants or agents to, injure, deface or otherwise harm the Premises, Concession Area, Terminal or the Airport, nor commit any waste upon the Premises, Concession Area, Terminal or the Airport, and shall not place a load upon the floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry. Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, subtenants or agents to, commit any nuisance or other act or thing which may constitute a menace or which may affect either American's operation of the Terminal, Landlord's operation of the Concession Area or the Authority's operation of the Airport or which may disturb the quiet enjoyment of any other occupant or tenant of the Airport. Tenant shall not use or permit to be used any medium that might constitute a nuisance, such as loudspeakers, sound amplifiers, tape decks, compact disc players, radios, televisions, or any other sound-producing or other device which will carry sound or objectionable odors outside the Premises except as may otherwise be approved in advance in writing by Landlord and, upon notice from Landlord to Tenant's business representative at the Premises, Tenant shall cause any such noise or odors to cease immediately. Tenant shall not allow any use of the Premises or any other portion of the Concession, Area, Terminal and/or the Airport in a manner which is a source of annoyance, disturbance or embarrassment to Landlord, American and/or the Authority, or to the other tenants and occupants of the Concession Area, Terminal and/or the Airport or which is deemed by Landlord or American, in their sole discretion, as not in keeping with the character of the Concession Area, Terminal and/or Airport. The Premises shall not be used for any unlawful or immoral purpose or which will invalidate or increase the premiums on any of the Landlord's, American's or the Authority's insurance.

ARTICLE XVI. TRADE NAME, TRADEMARKS AND THE JOINT MARKETING FUND

Section 16.01 **TRADE NAME.** Tenant shall operate its business in the Premises under the name specifically set forth in the Data Sheet ("Trade Name") and shall not change the Trade Name or character of the business operated in the Premises, including, without limitation, Tenant's Permitted Use, without the prior written approval of Landlord, which may be withheld in Landlord's absolute discretion.

Section 16.02 **TRADEMARKS.** "**Trademarks**" means the trademarks, trade names, logos, service marks, trade styles, trade dress and other proprietary marks of American and its Affiliates, including American Eagle, Inc. Tenant acknowledges that the Trademarks are and will remain at all times the exclusive property of American and its Affiliates. No interest in, license or other right to use the Trademarks is granted or may be deemed to granted to Tenant under this Sublease or otherwise. Tenant may not make any use of the Trademarks, or any colorable imitation or abbreviation thereof, including any reference by advertising or otherwise to the names "American Airlines", "American Airlines, Inc.", unless such use or reference has been specifically approved in writing by American in advance.

Section 16.03 **JOINT MARKETING FUND.** Landlord shall cause to be provided a central marketing and promotional program which, in Landlord's sole judgment, will serve to generally market and promote the overall concession operations at the Terminal or on any item that may enhance the overall passenger experience at the Terminal. Tenant, along with other concession facility operators, will contribute to the fund for this program which shall be known as the "**Joint Marketing Fund**". Tenant shall contribute during each month, as Tenant's share to the Joint Marketing Fund, and pay to Landlord as Additional Rent, an amount equal tc Ex. 2.a. of Tenant's monthly Gross Receipts. This amount is payable to Landlord and must be paid no later than the fifteenth (15th) day following the end of each Lease Month. If Tenant is unable to calculate actual Gross Receipts in time to make the required monthly payment to the Joint Marketing Fund, the payment may be based on an estimate of monthly Gross Receipts. Any and all such estimated payments must be adjusted at the end of each 6-month period of each Lease Year. Within thirty (30) days after the end of each such 6-month period, Tenant must submit a report to Landlord reconciling estimated and actual Gross Receipts and showing any under or overpayments to the Joint Marketing Fund. A check for any underpayments must accompany the reconciliation. All overpayments will be credited to the next payment(s) due from Tenant for its contributions to the Joint Marketing Fund; or, if the Sublease has expired or has been terminated for any reason other than a default by Tenant, overpayments shall be refunded, without interest, to Tenant within sixty (60) days of the Sublease termination date by Landlord. Landlord shall not be obligated to expend more for marketing and promotional programs than is actually collected from Tenant and other concession facility operators in the Terminal. Any services and personnel so provided shall be under the exclusive control and supervision of Landlord, who shall have the sole authority to employ and discharge personnel, retain third-party independent contractors and to establish all budgets with respect to the Joint Marketing Fund. The primary purpose, but in no way a limitation, of the Joint Marketing Fund, will be to fund intra-Terminal promotional and advertising programs such as permanent directories, graphics, take-one directory pamphlets and establishing customer service and training programs with respect to the operations of the concession facilities in the Terminal, such as customer surveys, "secret shopper" programs and sales technique seminars, sales/service incentive awards for Tenant and other concession operators' employees or on any other items that may enhance the user's overall experience in the Terminal. Landlord shall conduct quarterly meetings to discuss the promotional and advertising programs and customer service and training programs. In the event the Premises is located within an expansion of or a new area within the Terminal where a grand opening date or grand opening events shall be set by Landlord, then Tenant shall also pay an initial Joint Marketing Fund assessment in the amount set forth in the Data Sheet in addition to Tenant's monthly contributions to the Joint Marketing Fund, such initial assessment to be payable in one lump sum

within sixty (60) days prior to the Rental Commencement Date. Landlord reserves the right at any time to terminate the Joint Marketing Fund and, in such event, shall notify Tenant in writing. Thereafter, in the event of such termination, Tenant shall no longer be obligated to make any further contributions to the Joint Marketing Fund and any remaining funds previously contributed to the Joint Marketing Fund shall be used by Landlord to promote the overall concession program and facilities within the Terminal. Landlord, following any such termination, also reserves the right to reinstate the Joint Marketing Fund and, in such event, shall notify Tenant in writing and thereafter, Tenant, upon any such reinstatement, shall immediately recommence contributions to the Joint Marketing Fund in accordance with this Section 16.03. Upon the expiration or earlier termination of the Concession Area Lease, Landlord is required to remit any unused monies in the Joint Marketing Fund in equal shares to American and the Authority.

ARTICLE XVII. DAMAGE AND DESTRUCTION

Section 17.01 **PARTIAL DESTRUCTION.** (a) Landlord and American shall not be required to make reparation for any injury or damage by fire or other cause, or to make any restoration or replacement of any Fixed Improvements, Refurbishments, or any other real or movable property located or installed in the Premises or in the Concession Area by or on behalf of Tenant, except as otherwise provided herein.

(b) In the event the Fixed Improvements or Refurbishments are damaged by any casualty covered under an insurance policy required to be maintained by Tenant pursuant to this Sublease, then Tenant shall repair the same as soon as reasonably possible (following any repair of Base Building Work by American that may be necessary to permit Tenant repairs to proceed) and this Sublease shall continue in full force and effect. In the event the Fixed Improvements or Refurbishments are damaged by any casualty not covered under any insurance policy required to be maintained by Tenant pursuant to this Sublease, then Landlord may, at Landlord's option (1) repair such damage at Landlord's expense and continue this Sublease in full force and effect, or (2) give written notice to Tenant within ninety (90) days after the date of occurrence of such damage of Landlord's intention to terminate this Sublease as of the date of the damage; provided, however, that if such damage is caused by an act or omission to act of Tenant, then Tenant shall repair such damage, promptly at its sole cost and expense. Any repair or restoration of the Premises by Landlord after the termination of this Sublease shall not be deemed to reinstate this Sublease or give Tenant any right to have this Sublease reinstated. In the event Landlord elects to terminate this Sublease under this section, Tenant shall have the right, within thirty (30) days after receipt of the notice from Landlord, to notify Landlord in writing of Tenant's intention to repair such damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible. If Tenant does not give such notice within the above thirty (30) day period, this Sublease shall be terminated as of the date specified by Landlord in its notice to Tenant.

Section 17.02 **TOTAL DESTRUCTION.** If the Concession Area or the Premises are totally destroyed during the Term by any cause whether or not covered by the insurance required under this Sublease (including, without limitation, any destruction required by any authorized public authority), and the Concession Area or the Premises cannot be repaired or replaced within sixty (60) days of such total destruction, this Sublease shall terminate as of the date of such total destruction at the option of American, Landlord or the Authority with a total abatement of Rental obligations as of such date, but without affecting any of Tenant's obligations which may have accrued or other rights or remedies of American, Landlord or Tenant which may have arisen as a result of such termination, including insurance claims based on the destruction.

Section 17.03 **DAMAGE OR DESTRUCTION OF THE TERMINAL.** If fifty percent (50%) or more of the Terminal shall be damaged or destroyed by an insured risk, or if twenty-five percent (25%) or

more of the Terminal shall be damaged or destroyed by an uninsured casualty, notwithstanding that the use and occupancy of the Premises is not materially affected thereby, and if as a result of any such damage or destruction American's flight operations at the Terminal are suspended or more than fifty percent (50%) curtailed for a period of sixty (60) days or more, Landlord shall have the right to terminate this Sublease within ninety (90) days from the date of such damage or destruction. In such event, this Sublease shall terminate upon a mutually agreeable date (or, in the absence of a mutually agreed upon date, on the date reasonably specified by Landlord or American which shall be within one hundred eighty (180) days from the date of such damage or destruction) and Tenant, upon such termination, shall surrender the Premises to Landlord. American shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Terminal; and Landlord shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Concession Area or the Premises; provided, however, Tenant shall not be obligated to repair any damage or destruction to its Fixed Improvements or Refurbishments pursuant to Section 17.01 or 17.04 to the extent and for so long as any damage or destruction to the Terminal precludes such repairs to the Concession Area, the Premises, Fixed Improvements or Refurbishments.

Section 17.04 **DAMAGE OR DESTRUCTION NEAR END OF TERM.** If, during the last Lease Year of the Term, more than twenty-five percent (25%) of the Premises is partially destroyed or damaged, either party may at its option terminate this Sublease as of the date of occurrence of such destruction or damage by giving written notice to the other of its election to do so within twenty-five (25) days after the date of occurrence of such destruction or damage; provided, however, if Landlord elects to terminate this Sublease pursuant hereto, Tenant shall have the right within fifteen (15) days after receipt of the required notice to notify Landlord in writing of Tenant's intention to repair such destruction or damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible.

Section 17.05 **ABATEMENT OF RENTALS, REMEDIES.** If twenty-five percent (25%) or more of the Premises is destroyed or damaged, and such destruction or damage materially and adversely impairs or interferes with Tenant's use and occupancy of the Premises as reasonably determined by Landlord and will be repaired pursuant to this Sublease, then in addition to any other remedies which may apply under this Sublease, Landlord and Tenant shall negotiate in good faith to reach a mutually satisfactory agreement on an equitable abatement, for the period during which such damage and repair continues, of the amounts which may be due and owing as Rentals, which abatement shall be based on any projected resulting reduction in Tenant's Gross Receipts. Except for abatement of Rentals (if any), Tenant shall have no claim against Landlord or American for any damage suffered by reason of any such damage, destruction, repair or restoration unless said damage is caused by the gross negligence or willful misconduct of Landlord or American, nor shall Tenant have any claim against the Authority for any such damage regardless of its cause. It is understood that, in the application of the foregoing Sections in this Article XVII, American's and Landlord's obligations shall be limited to repair and restoration of the Base Building Work for the Premises to, as nearly as possible, a condition and quality as existed at the commencement of Tenant's Work hereunder. In no event shall Landlord or American be responsible to repair or restore any portion of the Premises relating to Tenant's Work and/or installed by Tenant in the Premises including, but not limited to, Tenant's Fixed Improvements, Refurbishments, Operating Equipment, personal property, products and inventory.

Section 17.06 **WAIVER.** Tenant hereby expressly waives the provisions of Section 227 of the New York Real Property Law, and of any successor law of like import then in force; and Tenant agrees that the provisions of this Sublease shall govern and control in lieu thereof.

ARTICLE XVIII. CONDEMNATION

Section 18.01 **CONDEMNATION.** (a) If more than thirty percent (30%) of the Floor Area of the Premises shall be taken or condemned for any public or quasi-public use under any governmental law, ordinance or regulation or by the right of eminent domain or in the event of a private conveyance, by purchase, sale or otherwise, in lieu thereof ("**Taking**"), this Sublease shall terminate as of the date of such Taking; and the Term hereof shall cease as such date of Taking and all Rentals shall be abated during the unexpired portion of this Sublease, effective on the date physical possession is commenced by the taking or condemning authority.

(b) If thirty percent (30%) or less of the Floor Area of the Premises should be taken or condemned as aforesaid, this Sublease shall not terminate; rather, the amounts which may be due and owing as Rentals during the unexpired portion of the Term (or for such shorter period during which such Taking or condemnation shall continue) shall be reduced proportionally based on the projected reduction, if any, in Tenant's Gross Receipts as mutually agreed to by Landlord and Tenant (and, if unable to agree, Landlord's reasonable decision with respect thereto shall be conclusive and binding) effective on the date physical possession is commenced by the taking or condemning authority, such reduction to end on the date (if such date falls during the Term) that the Premises is returned to Tenant in a condition which reasonably allows for the commencement of business; provided, however, that in all events any reduction under this section in the Authority's allocated share of Rentals shall require the prior written approval of the Authority. If the taking or condemning authority does not specify the actual portions of floor area of the Premises to be taken or condemned as aforesaid, then Landlord, Tenant and American shall endeavor to agree on such actual portions (and, if they are unable to so agree, American's reasonable decision with respect thereto shall be conclusive and binding).

(c) A voluntary sale or transfer of interest of all or any part of the Premises or the public areas in the Terminal by Landlord or American to any public or quasi-public body, agency, person or other entity having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a Taking under the power of eminent domain for the purposes of Article XVIII. Tenant hereby waives the provisions of any statute or other law that may be in effect at the time of the occurrence of any such Taking under which a lease/sublease is automatically terminated or pursuant to which a tenant is given the right to terminate a lease/sublease by reason of such a Taking.

Section 18.02 **AWARD.** All compensation awarded for any Taking or condemnation (or, in either case, the proceeds of a private sale in lieu thereof) of the Premises shall be the property of the party entitled to any such compensatory award under the Authority Lease and to the extent Tenant is not entitled to any such compensatory award under the Authority Lease, Tenant hereby assigns its interest in any such award to American. The distribution of any such compensatory awards shall be made to the Authority, American, Landlord, if any, and Tenant, if any, as set forth in the Authority Lease.

ARTICLE XIX. DEFAULTS, REMEDIES AND DAMAGES

Section 19.01 **EVENTS OF DEFAULT.** The occurrence, at any time prior to or during the Term, of any one (1) or more of the following events (referred to herein, singly, as an "**Event of Default**" and collectively as "**Events of Default**") shall be an Event of Default by Tenant under this Sublease:

(a) Tenant fails to pay any Rentals or any other charges or sums whatsoever due hereunder (including without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure so to perform) for more than five (5) days after written notice from Landlord to Tenant that such Rentals or any other charges or sums whatsoever due

hereunder were not received on the date required for payment pursuant to this Sublease together with all Late Interest accrued from the due date, provided, that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws and, provided, however, if Landlord gives such written notice once during a twelve (12) month period and the delinquent payment has not been fully cured (including Late Interest), no further written notice of default shall be required with respect to that payment or any other payment during such twelve (12) month period to establish a payment default and, thereafter, during such twelve (12) month period an Event of Default shall be deemed to have occurred if any payment under this Sublease is not made when due and such failure continues for a period of five (5) days after such payment was due; or

(b) Tenant fails to perform any other of the terms, conditions, or covenants of this Sublease to be observed or performed by Tenant for more than twenty (20) days after written notice from Landlord to Tenant of such default (unless such default cannot be cured within said twenty (20) days, in which event Tenant shall not be deemed to be in default hereunder if Tenant shall have commenced to cure said default promptly within said twenty (20) days and shall thereafter proceed to prosecute such cure to completion with all reasonable dispatch and diligence, provided that in no event shall such cure period extend beyond seventy-five (75) days or such longer period of time as is approved by Landlord in writing, and if Tenant's cure period is so extended, Tenant must, within five (5) days after the written extension notice, provide a written plan to Landlord outlining all steps Tenant is taking to cure the default and when the cure shall be completed), provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws; or

(c) Tenant fails to submit any statement or report required on or before the date required by this Sublease, including without limitation the statements and reports required by Article III, and such failure continues for five (5) days after written notice by Landlord, provided such notice shall not be required if Landlord has previously given two (2) notices of such a failure during the preceding twelve (12) month period; or

(d) Tenant fails to commence construction of Tenant's Work within twenty (20) days of the Authority's approval of the TAA for such Tenant's Work and such failure is not occasioned by reason of Force Majeure; or

(e) Tenant fails to complete Tenant's Work, move into and merchandise/stock the Premises with high-quality goods, products or services and to initially open for business on or before the Latest Rental Commencement Date and such failure is not due to Force Majeure; or

(f) Tenant fails to operate continuously in the manner and during the hours established by Landlord pursuant to Section 7.02 hereof or for the Permitted Use or discontinues its business operations in the Premises for a period in excess of forty-eight (48) consecutive hours; or

(g) Tenant's abandonment of the Premises, or permitting this Sublease to be taken under any writ of execution or similar writ or order; or

(h) Tenant fails to comply with any obligation as a result of any inspection or audit and such failure continues for ten (10) days after written notice from Landlord to Tenant of such failure; or

(i) If applicable, the failure of Tenant to obtain and maintain continuously throughout the Term, its eligibility and certification from the Authority of its M/W/DBE status and/or to renew such eligibility and certification as may be required by the Authority from time to time and such failure shall continue for a period of twenty (20) days; or

(j) Tenant fails comply with any of the other operational requirements set forth in Section 7.02 or any of the exhibits referenced therein (such as compliance with staffing/personnel, street pricing or fails to achieve the Minimum Performance Standards, for example) and such failure shall continue for a period of two (2) days; or

(k) Tenant shall fail to carry insurance as required under this Sublease on the date of such failure or to comply with any applicable law, rule or regulation concerning security, and such failure continues for forty-eight (48) hours after written notice from Landlord thereof; or

(l) A governmental authority, board, agency or officer with competent jurisdiction terminates or suspends any certificate, license, permit or authority held by Tenant without which Tenant shall not be lawfully empowered to conduct its business operations in the Premises; or

(m) Except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within thirty (30) days after it is begun, or if Tenant shall file or consent to a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of substantially all or general payment of debts; and/or

(n) Any act or omission to act by Tenant which, directly or indirectly, puts Landlord in default of its obligations to American under the Concession Area Lease or puts Landlord in default of its obligations to the Authority under the Operator Permit;

then, during such time as such Event(s) of Default is/are continuing, Landlord may at any time, at Landlord's option, give to Tenant five (5) days' notice of termination of this Sublease (which shall be in lieu of any notice required under New York law) and, in the event such notice is given, this Sublease and the Term shall come to an end and expire (whether or not said Term shall have commenced) upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date, but Tenant shall remain liable for damages and all other sums payable pursuant to the provisions of Section 19.03.

Section 19.02 REMEDIES. (a) If Tenant shall default in the payment when due of any installment of Rentals or if Tenant shall default in the performance of any of the other terms, provisions, conditions or covenants of this Sublease, or if this Sublease and the Term shall expire and come to an end as provided in Section 19.01: (1) Landlord and its agents and servants may immediately, or at any time after such default or after the date upon which this Sublease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or by force or otherwise (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and dispossess Tenant and any other Person from the Premises and remove any and all of their property and effects from the Premises; and/or (2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises, from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure

to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Sublease or otherwise to affect any such liability; Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Sublease or otherwise affecting any such liability.

(b) Tenant hereby waives the service of any notice of intention to re-enter or to institute legal proceedings to that end which may otherwise be required to be given under any present or future law. Tenant, on its own behalf and on behalf of all Persons claiming through or under Tenant, including all creditors, does further hereby waive any and all rights which Tenant and all such persons might otherwise have under any present or future law to redeem the Premises, or to re-enter or repossess the Premises, or to restore the operation of this Sublease, after (1) Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or (2) any re-entry by Landlord, or (3) any expiration or termination of this Sublease and the Term, whether such dispossess, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Sublease. The words "re-enter", "re-entry" and "re-entered" as used in this Sublease shall not be deemed to be restricted to their technical legal meanings. In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord shall have the right to enjoin such breach and the right to invoke any other remedy allowed by law or in equity as if re-entry, summary proceedings and other special remedies were not provided in this Sublease for such breach. The right to invoke the remedies hereinbefore set forth in this Sublease is cumulative and shall not preclude Landlord from invoking any other remedy allowed by law or in equity.

(c) No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Sublease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Sublease for such previous breach and shall have the remedies provided herein.

(d) In the event of re-entry by Landlord, Landlord may remove all Persons and property from the Premises; and such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, with notice but without resort to legal process and without Landlord being deemed guilty of trespass, conversion or becoming liable for any loss or damage which may be occasioned thereby. In the event Tenant shall not remove its property from the Premises within five (5) days after Tenant has vacated the Premises, then such property shall be deemed abandoned by Tenant; and Landlord may dispose of the same without liability to Tenant subject to the rights of the City of New York, the Authority, American and their designees to such property. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rental then due, then, after the property has been stored for a period of thirty (30) days or more, Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in this subsection 19.02(d).

(e) Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil

Practice Law and Rules and of any successor law of like import then in force, in connection with any holdover summary proceedings which Landlord may institute to enforce the foregoing provisions of this Sublease.

Section 19.03 DAMAGES. (a) If this Sublease and the Term shall expire and come to an end as provided in Section 19.01, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 19.02(a), or by or under any summary proceeding or any other action or proceeding, then, in any of such events:

(1) Tenant shall pay to Landlord, American and the Authority all Rentals and other charges payable under this Sublease by Tenant to Landlord to the date upon which this Sublease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be; and

(2) Tenant shall also be liable for and shall pay to Landlord, as damages, any deficiency ("**Deficiency**") between the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 19.02(a) for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Sublease or Landlord's re-entry upon the Premises and with such reletting including, but not limited to, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and other expenses of preparing the Premises for such reletting). Any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Sublease for payment of installments of Guaranteed Rent, Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's right to collect the Deficiency for any subsequent month by a similar proceeding. Solely for the purposes of this Section 19.03(a)(2), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have terminated or expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted, from time to time, to reflect any increases which would have been payable pursuant to any of the provisions of this Sublease including, but not limited to, the provisions of the Data Sheet and Section 2.01 of this Sublease if the Term hereof had not been terminated; and

(3) At any time after the Term shall have expired and come to an end or Landlord shall have re-entered upon the Premises, as the case may be, whether or not Landlord shall have collected any monthly Deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, as and for liquidated and agreed final damages, a sum equal to the amount by which the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of four percent (4%) per annum. If, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting. Solely for the purposes of this Section 19.03(a)(3), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted to reflect any increases preceding such event pursuant to the provisions of the Data Sheet and Section 2.01.

(b) If the Premises, or any part thereof, shall be relet together with other space in the Concession Area, the rents collected or reserved under any such reletting and the expenses of any such reletting shall be equitably apportioned for the purposes of this Section 19.03. Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Guaranteed Rent reserved in this Sublease. Nothing contained in Sections 19.01, 19.02 or this Section 19.03 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in Section 19.03(a).

Section 19.04. LANDLORD'S RIGHT TO CURE TENANT'S DEFAULT. If Tenant shall default in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord, at any time thereafter and without notice (except as notice may otherwise be required to be given to Tenant pursuant to any specific term or provision of this Sublease) may remedy such default for Tenant's account and at Tenant's expense, without thereby waiving any other rights or remedies of Landlord with respect to such default.

ARTICLE XX. BANKRUPTCY OR INSOLVENCY

Section 20.01 TENANT'S INTEREST NOT TRANSFERABLE. Neither Tenant's interest in this Sublease, nor any estate hereby created in Tenant, nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the United States Bankruptcy Code, as amended (the "**Code**").

Section 20.02 ELECTION TO ASSUME SUBLEASE. Even though this Sublease is a sublease of real property in an airport, the parties contractually agree that this Sublease shall be construed to be a lease of real property in a shopping center within the meaning of Section 365(b)(3) of the Code. If Tenant becomes a Debtor under Chapters 7, 11 or 13 of the Code, and the Trustee (as defined in the Code) or Tenant, as Debtor-In-Possession (as defined in the Code), elects to assume this Sublease for the purpose of assignment to a third party or otherwise, such election and assignment, if any, may only be made if all the terms and conditions of the applicable provisions of the Code are satisfied. If the Trustee or Tenant, as Debtor-In-Possession, fails to elect to assume or reject this Sublease by the 60th day after the entry of the Order for Relief in a case under Chapters 7, 11 or 13 of the Code, this Sublease shall thereafter be deemed rejected and terminated in accordance with Section 365 of the Code. The Trustee or Tenant, as Debtor-In-Possession, shall thereupon immediately surrender possession of the Premises to Landlord, and Landlord shall have no further obligation to Tenant or Trustee hereunder. The acceptance of Rentals by Landlord after the 60th day shall not be deemed a waiver of Landlord's rights herein and under Section 365 of the Code, and Landlord's right to be compensated for damages in such bankruptcy case shall survive.

Section 20.03 OCCUPANCY CHARGES. When, pursuant to the Code, the Trustee or Tenant, as Debtor-In-Possession, shall be obligated to pay reasonable use and occupancy charges for the use of the Premises or any portion thereof, such charge shall not be less than the Guaranteed Rent and Percentage Rent and all other monetary obligations of Tenant for the payment of Additional Rent.

Section 20.04 OTHER LAWS. The provisions of this Article 20 concerning the rights of Landlord and the obligations of Trustee, Tenant, Debtor (as defined in the Code), Receiver (as defined in the Code), Debtor-In-Possession and each and every permitted assignee are in addition to such rights and obligations provided by law, including applicable provisions of the Code. Nothing contained in this Article 20 shall limit or reduce in any manner whatsoever rights and/or obligations which are otherwise provided by law.

ARTICLE XXI. ACCESS BY LANDLORD, AMERICAN AND THE AUTHORITY

Section 21.01 **RIGHT OF ENTRY.** Landlord, American and the Authority and their respective officers, employees and representatives shall each have the right to enter the Premises for any reasonable purpose (including inspecting the condition of the Premises and any equipment used by Tenant) during ordinary business hours. Tenant shall cooperate upon receipt of any such notice and arrange for its personnel to be available during any such entry. The Authority, American and Landlord and their respective officers, employees and representatives shall each have the further right to enter the Premises to make such repairs, alterations, improvements or additions as they may deem necessary or desirable; and such parties shall be allowed to take all material into and upon the Premises that may be required without the same constituting an eviction of Tenant in whole or in part; and Rentals and other charges reserved hereunder shall not abate while said repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant or otherwise. In exercising such right of entry, Landlord shall use reasonable efforts not to disrupt Tenant's business in the Premises. The Authority, American, Landlord and their agents shall each have the further right to enter the Premises without notice at any time in the event of an emergency. Tenant shall assure Landlord, American and the Port Authority emergency access to all enclosed areas of the Premises either by delivering duplicate keys to the Premises to Landlord's General Manager and American's JFK Airport Manager or by providing emergency telephone numbers by which the Store Manager can be reached on a twenty-four (24) hour basis. Finally, Landlord, during the last six (6) months prior to the expiration of the Term, may enter the Premises for the purpose of exhibiting the same to prospective tenants and their representatives.

ARTICLE XXII. TENANT'S PROPERTY

Section 22.01 **TAXES ON TENANT'S PROPERTY.** Tenant shall be responsible for, and agrees to pay prior to delinquency, any and all taxes and other assessments, levies, fees and other governmental charges and impositions or every kind or nature, regular or special, direct or indirect, presently foreseen or unforeseen, known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (a) Tenant's leasehold interest in the Premises, (b) the Fixed Improvements, the Operating Equipment, all furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Premises by or on behalf of Tenant, and (c) all alterations, additions, or improvements of whatsoever kind or nature, if any, made to the Premises, by or on behalf of Tenant, irrespective of whether any such tax is assessed, real or personal, and irrespective of whether any such tax is assessed to or against, American, the Authority, Landlord or Tenant (collectively, "**Tenant's Taxes**"). Tenant shall provide Landlord with evidence of Tenant's timely payment of such Tenant's Taxes upon Landlord's request. If at any time any of such Tenant's Taxes are not levied and assessed separately and directly to Tenant (for example, if the same are levied or assessed to Landlord, American or the Authority, or upon or against the building containing the Premises and/or the land underlying said building), Tenant shall pay to Landlord Tenant's share thereof as reasonably determined and billed by Landlord. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Tenant's Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Tenant's Taxes described in this Section 22.01.**

Section 22.02 **LOSS AND DAMAGE.** Except with respect to Landlord's own negligence, Landlord shall not be responsible or liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying premises or any part of the premises adjacent to or connected with the Premises or any part of the building of which the Premises are a part, or any other area in Concession Area,

the Terminal or the Airport, or for any loss or damage resulting to Tenant or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes, or (without limiting the foregoing) for any damage or loss of property within the Premises from any cause whatsoever. Tenant shall give immediate notice to Landlord in case of any damage to or destruction of all or any part of, or of accidents occurring within the Premises, or of defects therein, or of any damage to or destruction of any inventory, fixtures or equipment within the Premises. In no event shall American or the Authority have any liability to Tenant whatsoever for the foregoing damage and destruction.

ARTICLE XXIII. HOLDING OVER

Section 23.01 **HOLDING OVER.** If, at the termination or expiration of this Sublease, Tenant has not delivered possession of the Premises to Landlord as required in Section 6.04, and, for any reason, Tenant retains possession of the Premises or any portion thereof, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes either: (a) the creation of a month-to-month tenancy, or (b) the creation of a tenancy at sufferance, in either case upon the terms and conditions set forth in this Sublease; provided, however, that the monthly Guaranteed Rent shall, in addition to all other sums which are to be paid by Tenant hereunder, whether or not as Additional Rent, be equal to double the highest monthly Guaranteed Rent paid in the preceding twelve (12) month period (and prorated in the case of (b) on the basis of a three hundred sixty-five (365) day year for each day Tenant remains in possession), plus Additional Rent accruing during the period of Tenant's occupancy based on a termination for an Event of Default if such unlawful holding over exceeds five (5) days after the natural expiration or earlier termination of the Term. The provisions of this Section 23.01 shall not constitute a waiver by Landlord of any right of re-entry as herein set forth; nor shall receipt of any hold-over rent or other amount under this Sublease or any other act in apparent affirmation of the tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the terms, covenants, or obligations to be performed by or on behalf of Tenant. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Sublease except as otherwise expressly provided. The preceding provisions of this Section 23.01 shall not be construed as consent for Tenant to retain possession of the Premises in the absence of prior written consent thereto by Landlord. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York from and against any and all loss, claims, demands, liabilities, damages (including, without limitation, consequential damages), costs and expenses (including, without limitation, attorneys' fees and expenses) resulting from any failure by Tenant to surrender the Premises in the manner and condition required by this Sublease upon the expiration of the Term or earlier termination of this Sublease, including, without limitation, any claims made by any proposed new tenant founded upon such failure.**

Section 23.02 **SUCCESSORS.** All rights and liabilities herein given to, or imposed upon, the parties hereto shall inure to and be imposed upon the respective heirs, executors, administrators, successors and assigns of the said parties; and, if there shall be more than one (1) entity or individual comprising Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant unless the assignment to such assignee has been approved in advance by Landlord in writing as required by Article XIV.

ARTICLE XXIV. RULES AND REGULATIONS

Section 24.01 **RULES AND REGULATIONS.** Tenant shall at all times comply with any and all Rules and Regulations (as hereinafter defined) in effect at the Airport or the Terminal. The term "**Rules and Regulations**" means all rules and regulations governing the conduct and/or operations of the Airport or the Terminal as may be promulgated from time to time, by any governmental authorities, including but not limited to, the FAA, the U.S. Department of Transportation ("**DOT**"), the TSA and/or the EPA, and

any rules and regulations promulgated from time to time by Landlord or American specifically for or otherwise affecting conduct and/or operations in the Terminal and/or Concession Area, provided that Landlord's and American's rules do not have an unreasonable and material adverse discriminatory impact on concession operations within the Concession Area. Landlord shall not have any duty or obligation to enforce the Rules and Regulations or the terms and conditions in any other lease or sublease as against any other tenant; Landlord and American shall not be liable to Tenant for violations of the same by other tenants, invitees, their servants, employees, contractors, subcontractors and agents. Tenant's failure to keep and observe the Rules and Regulations shall constitute a material breach of the terms hereof in the same manner as if the Rules and Regulations were contained herein as covenants.

ARTICLE XXV. QUIET ENJOYMENT

Section 25.01 . LANDLORD'S COVENANT. Subject to the terms and conditions hereof, the terms and provisions of the Concession Area Lease, the Authority Lease as well as the Consent Agreement, upon payment by Tenant of Rentals herein provided and other charges payable by Tenant hereunder, and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term without hindrance or interruption by Landlord.

ARTICLE XXVI. PERFORMANCE GUARANTY

Section 26.01 PERFORMANCE GUARANTY. (a) Tenant shall provide Landlord with the Performance Guaranty in the amount specified in the Data Sheet, which shall be at Landlord's option, in the form of either immediately available funds or the unconditional, irrevocable standby letter of credit ("**Letter of Credit**") or a Payment and Performance Bond ("**Bond**"), as security for the faithful observance and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed. Such Letter of Credit must be in form and content as set forth in **Exhibit H**. If Landlord permits Tenant to provide a Letter of Credit or Bond, the following shall be applicable. Such Letter of Credit or Bond must be for a term of not less than one (1) year which term shall be automatically renewed for successive one (1) year periods, unless the Bank or Surety gives not less than sixty (60) days prior written notice that it will not so renew the Letter of Credit or Bond for such successive term and the last term of the letter of credit or bond shall end not less than sixty (60) days after the Expiration Date. If such letter of credit or bond is not automatically renewed as aforesaid, Tenant agrees to cause the Bank or Surety to renew such Letter of Credit or Bond or another bank or surety to issue a new letter of credit or bond, from time to time, during the Term, at least ninety (90) days prior to the expiration of said letter of credit or bond or any renewal or replacement, upon the same terms and conditions or in lieu thereof, Tenant may provide a cash security deposit in immediately available funds in the amount of any Letter or Credit or Bond so being replaced. In the event of any transfer of said Letter of Credit or Bond pursuant to Section 26.05, and notice of such transfer to Tenant, Tenant, within twenty (20) days thereafter, shall cause a new Letter of Credit or Bond to be issued by said Bank or Surety to the transferee, upon the same terms and conditions, in replacement of the Letter of Credit so transferred and Landlord agrees that, simultaneously with the delivery of such new Letter of Credit or Bond, it will return to said Bank or Surety the Letter of Credit or Bond being replaced. The Letter of Credit or Bond shall be held in trust by Landlord for the purposes set forth in this Article and shall not be transferred except for transfer (a) to an agent for collection, or (b) pursuant to the provisions of Section 26.05. In the event Tenant defaults beyond any applicable grace period hereunder in the performance of its obligations to issue a replacement Letter of Credit or Bond, or in the observance or performance of Tenant's agreement to cause the Bank or Surety to renew the Letter of Credit or Bond, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the

right to require the Bank or Surety to make payment to Landlord of the entire sum of the Letter of Credit or Bond or the undrawn portion thereof, as the case may be, which sum may be held by Landlord as the Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article. If payment of the entire sum of the Letter of Credit or the undrawn portion thereof is made to Landlord by reason of Tenant's failure to renew or replace the Letter of Credit in accordance with the foregoing provisions of this Article, Landlord shall have the right, at any time on behalf of Tenant, to replace said Performance Guaranty with a new Letter of Credit or Bond issued by the Bank, the Surety or any other bank or surety selected by Landlord, in Landlord's sole discretion, and Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's agent and attorney-in-fact to cause the Bank or Surety or any such other bank or surety selected by Landlord to issue such a replacement Letter of Credit or Bond. The Letter of Credit or Bond provides for partial drawings. In the event Tenant defaults in the payment when due of an installment of Rentals and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default or if this Sublease and the Term shall expire and come to an end, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, then Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, may from time to time, draw on the Letter of Credit or Bond in one (1) or more drawings for the amount of any Rentals then due and for any amount then due and payable to Landlord under this Sublease. In the event of a partial drawing, as provided in the immediately preceding sentence, Tenant shall, within five (5) days after demand, cause the Bank or Surety to issue an amendment to the Letter of Credit or Bond restoring the amount available thereunder to the amount required under this Sublease. Notwithstanding anything to the contrary set forth in this Sublease, including, but not limited to, the foregoing provisions of this Article, in addition to all rights granted to Landlord pursuant to the provisions of the Sublease, if this Sublease and the Term shall expire and come to an end as provided in Article XIX, or by or under any summary proceeding, or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank or Surety to make payment to Landlord of the entire sum of the Letter of Credit or Bond or the undrawn portion thereof, as the case may be, which sum shall be held by Landlord as a Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article.

(b) Any Performance Guaranty held by Landlord in the form of immediately available funds (cash) shall be held subject to the provisions of any and all legal requirements applicable thereto. Landlord agrees that, if not prohibited by law or the general policies of lending institutions in New York, Landlord shall deposit the Performance Guaranty held by Landlord either in an account that does not bear interest or in an interest-bearing account at a bank or banks selected by Landlord, and all interest, if any, accruing thereon shall be added to and become a part of the Performance Guaranty and shall be retained by Landlord under the same conditions as the principal sum held as the Performance Guaranty. Notwithstanding anything to the contrary set forth in the preceding sentence of this Section 26.01(b), in the event the Performance Guaranty is held in an interest-bearing account, Landlord shall be entitled to retain the one percent (1%) administrative fee permitted by law to by landlords with respect to security deposits.

Section 26.02 **APPLICATION OF PERFORMANCE GUARANTY.** In the event Tenant defaults in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, including, but not limited to, the covenant for the payment of Rentals, beyond the applicable notice and cure periods provided under this Sublease for curing such default, Landlord may use, apply or retain the whole or any part of any Performance Guaranty held by Landlord under any of the provisions of Section 26.01, to the extent required for the payment of any Rentals or performance of any

other obligations, without thereby waiving any other rights or remedies of Landlord with respect to such default, and Landlord shall hold the remainder of such Performance Guaranty as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed with the same rights as hereinabove set forth to use, apply or retain all or any part of such remainder in the event of any further default by Tenant under this Sublease.

Section 26.03 **RESTORATION OF PERFORMANCE GUARANTY.** If Landlord uses, applies or retains the whole or any part of the Performance Guaranty held by Landlord under any of the provisions of this Article, Tenant, promptly after notice thereof, shall deliver to Landlord, in cash or by cashier's check or certified check, payable to the order of Landlord, the sum necessary to restore the Performance Guaranty to the sum required under this Sublease.

Section 26.04 **RETURN OF SECURITY.** The Letter of Credit or Bond and/or any remaining portion of any Performance Guaranty then held by Landlord for the performance of Tenant's obligations under this Sublease as security shall be returned to Tenant after (a) sixty (60) days following the Expiration Date and (b) the full observance and performance by Tenant of all of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed.

Section 26.05 **TRANSFER OF LETTER OF CREDIT OR BOND.** In the event of a transfer of Landlord's interest in this Sublease, Landlord shall transfer the Letter of Credit or Bond and/or any remaining portion of any Performance Guaranty then held by Landlord as security for the performance of Tenant's obligations under this Sublease to the transferee, and Landlord shall thereupon be released from all liability for the return of such security; Tenant agrees to look solely to the transferee for the return of any such security and it is agreed that the provisions of this sentence shall apply to every sale or transfer of the Premises or Landlord's interest in this Sublease by Landlord named herein or its successors, and to every transfer or assignment made of any such security. Any transferee shall be deemed to have agreed that any Letter of Credit or Bond or Performance Guaranty transferred to such transferee pursuant to this Section shall be held in trust for the purposes of this Article.

Section 26.06 **NO ASSIGNMENT OF SECURITY BY TENANT.** Tenant agrees that it will not assign, mortgage or encumber, or attempt to assign, mortgage or encumber, the Letter of Credit or Bond or any Performance Guaranty held by Landlord under this Sublease, and that neither Landlord nor its successors or assigns shall be bound by any such assignment, mortgage, encumbrance, attempted assignment, attempted mortgage or attempted encumbrance. Landlord shall not be required to exhaust its remedies against Tenant before having recourse to the Letter of Credit or Bond, the Performance Guaranty or any other security held by Landlord. Recourse by Landlord to the Letter of Credit or Bond, the Performance Guaranty or any other security held by Landlord shall not affect any remedies of Landlord which are provided in this Sublease or which are available in law or equity.

ARTICLE XXVII. MISCELLANEOUS

Section 27.01 **WAIVER; ELECTION OF REMEDIES.** One (1) or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same covenant or condition by the other party, and the consent or approval to or of any act by Tenant requiring consent or approval shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act by Tenant. No breach by either party of a covenant or condition hereof shall be deemed to have been waived by the non-breaching party unless such waiver is in writing and signed by a representative of the non-breaching party. The rights and remedies of Landlord hereunder or in any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have elsewhere hereunder or at law or equity, whether or not such Section, subsection or clause

expressly so states.

Section 27.02 **ENTIRE AGREEMENT.** This Sublease supersedes all prior agreements between the parties and sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises; and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein (other than the Concession Area Lease, the Consent Agreement and Authority Requirements), and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. **Neither Landlord nor its agents or representatives have made any representation or warranty regarding the profitability of the Premises, the enplaned passenger and/or airline volume in the Terminal and/or the Airport or operating airlines in the Terminal and/or the Airport; and Tenant has not entered into this Sublease in reliance on any such representations, warranties or financial projections prepared or furnished to Tenant by Landlord or its agents or representatives.** No alteration, amendment, change or addition to this Sublease shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party.

Section 27.03 **INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION.** Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint ventures between the parties hereto; it being understood and agreed that neither the method of computation of Rentals, nor any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If this Sublease is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this Sublease on behalf of such corporation, partnership or entity.

Section 27.04 **DELAYS; FORCE MAJEURE.** "**Force Majeure**" means, strictly in relation to the conditions that may cause a party to be temporarily or partially prevented from performing its obligations to the other party under this Sublease, and not for any other purpose or for any benefit of a third party: (a) strikes, boycotts, lockouts, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of Tenant; (b) embargoes, shortages of material, acts of God, acts of the public enemy, acts of a governmental authority (including, without limitation, the FAA, the DOT, the TSA and the EPA or defense authorities), extreme weather conditions, riots, rebellion, or sabotage, war (declared or undeclared), invasion, insurrection, or terrorism; or (c) any other circumstances for which an affected party is not responsible and which are not within its ability to control in the exercise of commercially reasonable efforts. In the event either party is delayed in the performance of any obligation required by this Sublease, such performance shall be excused (unless the specific provision otherwise provides) for the period of the delay, and performance of any such obligation shall be extended for a period equal to the delay, if and only if the delay is by reason of Force Majeure. However, the time for Tenant's performance of any obligation shall not be extended due to any lack of funds, financial or economic problems of either Tenant or Tenant's architects, contractors, suppliers, agents, consultants and/or employees If Tenant shall claim a delay due to Force Majeure, Tenant must notify Landlord in writing for receipt by Landlord within fifteen (15) days of the first occurrence of an event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming force majeure and the anticipated delay in Tenant's performance. In no event shall any delay extend Tenant's performance beyond a sixty (60) day period without the specific written approval of Landlord. Under no circumstances shall any such condition or delay (unless the specific provision provides for abatement of Rentals), whether such condition or delay is claimed by Landlord or Tenant, excuse or delay Tenant's payment of any Rentals and other charges due hereunder. Further, Landlord's, American's or the Authority's reasonable reduction but not elimination of heat, light, air conditioning or any other services whatsoever to the Terminal or the Premises shall not

relieve or excuse Tenant from any of its obligations hereunder.

Section 27.05 **NOTICES.** Notwithstanding the fact that certain descriptions elsewhere in this Sublease of notices required to be given by one (1) party to the other may omit to state that such notices shall be in writing, any notice, demand, request or other instrument which may be or is required to be given hereunder shall be in writing and sent by (a) United States certified mail, return receipt requested, postage prepaid, (b) United States express mail, (c) recognized overnight national air courier (such as Federal Express, Airborne or UPS for example), (d) personal delivery or (e) any other overnight method creating a receipt, waybill or other indication of delivery. Notices shall be addressed if to the Landlord, at the address as set forth on the Data Sheet, or such other address or addresses as Landlord may designate by written notice, together with copies thereof to such other parties designated by Landlord, and if to Tenant, the address set forth on the Data Sheet, or such other address or addresses as Tenant shall designate by written notice, together with copies thereof to such other parties designated by Tenant. Notices shall be deemed given on the 3rd day after deposit for notices sent under (a) and (b) above, on the first (1st) day after deposit for notices sent under (c) and (e) above and on the date delivered for notices sent under (d) above. Nothing contained in this Section 27.05 shall preclude, limit or modify Landlord's service of any notice, statement, demand or other communication in the manner required by law, including, but not limited to, any demand for rent under Article 7 of the New York Real Property Actions and Proceedings Law or any successor law of like import.

Section 27.06 **CAPTIONS AND SECTION NUMBERS.** The captions, section numbers, article numbers appearing herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles hereof nor in any way affect this Sublease.

Section 27.07 **BROKER'S COMMISSION.** Each party represents and warrants to the other party that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Sublease, and each party agrees to indemnify the other and hold it harmless from all liabilities arising from any claim due to its own acts for brokerage commissions and finder's fees in connection with this Sublease. Such indemnity shall survive the termination hereof. Notwithstanding the foregoing, each party shall be solely responsible for the payment of any claims for brokerage commissions or finder's fees as a result of such party's retaining a broker or similar entity in connection with this Sublease.

Section 27.08 **RECORDING.** Tenant shall not record this Sublease or any short form or memorandum hereof.

Section 27.09 **FURNISHING OF FINANCIAL STATEMENTS.** Tenant has provided Landlord at or prior to the date of this Sublease with statements reflecting its financial condition and a credit report as of a date within the last twelve (12) months as an inducement to Landlord to enter into this Sublease, and Tenant hereby represents and warrants that its financial condition and credit rating have not materially changed since the date of those statements and reports. Upon Landlord's written request, Tenant shall promptly furnish Landlord, from time to time, but not more frequently than once in any Lease Year, with financial statements and a credit report reflecting Tenant's then current financial condition. Landlord shall treat such financial statements, credit reports and information provided to it confidentially, and shall not disclose them except to Landlord's lenders or otherwise as reasonably necessary for the operation of the Terminal or administration of Landlord's business or unless disclosure is required by any judicial or administrative order or ruling.

Section 27.10 **TENANT'S WAIVERS IN ACTION FOR POSSESSION.** Landlord and Tenant agree that in any action brought by Landlord to obtain possession of the Premises, the parties desire an expeditious resolution of such litigation. Accordingly, Tenant shall not file and hereby waives the right to file any non-compulsory counterclaim in such action. Tenant also shall not file and hereby waives the right to file any

defense to such action for possession other than the defense that the default alleged by Landlord did not occur unless Tenant would otherwise be precluded from the filing of any such other defense in a separate action.

Section 27.11 **TRANSFER OF LANDLORD'S INTEREST.** In the event of any transfer or transfers of Landlord's interest in the Premises, the transferor shall be automatically relieved of any and all obligations on the part of Landlord accruing from and after the date of such transfer, provided that (a) the interest of the transferor, as Landlord, in any funds in the hands of Landlord in which Tenant has an interest shall be turned over, subject to such obligations, to the then transferee; and (b) notice of such sale, transfer or lease shall be given to Tenant as required by law. Landlord also has the right at any time to assign this Sublease to American, the Authority or to any successor operator to American or the Authority in the Terminal or the Airport in the event of the expiration, termination or assignment of the Concession Area Lease without notice to Tenant.

Section 27.12 **FLOOR AREA.** The term "Floor Area" as used in this Sublease means with respect to any leasable area of the Premises the aggregate number of square feet of interior floor space of all floor levels therein, including any mezzanine space which shall be measured: (a) with respect to the front and rear width thereof, from the exterior face of the adjacent exterior or corridor wall, or if none, to the center of the demising partition; and (b) with respect to the depth thereof, from the front of the lease line as shown on **Exhibit A-2** to the exterior face of the exterior wall, or corridor wall, or if none, to the center of the demising partition. No deduction or exclusion from Floor Area shall be made by reason of columns, ducts, stairs, elevators, escalators, shafts or other interior construction or equipment.

Section 27.13 **INTEREST ON PAST DUE OBLIGATIONS.** Any amount due from Tenant to Landlord hereunder which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the lesser of: (a) the prime rate of interest plus four percent (4%); (b) or the highest rate permitted by the laws of the State of New York (collectively, "**Late Interest**") from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant hereunder. The "prime rate of interest" means the average interest rate per annum published in the national addition of The Wall Street Journal "Money Rates" section as of the relevant date of determination under this Sublease. If The Wall Street Journal ceases to publish such an average prime rate, the rate shall be the prime rate established by the commercial bank having an office in the City of New York with the highest net worth and which is a member of the New York Clearing House Association, then establishing and publishing a prime rate, or if no such commercial bank shall establish a prime rate, the rate to be used shall be a comparable rate for the purposes of establishing the cost of money as reasonably determined by Landlord. The parties hereto agree that such late payment charge represents a fair and reasonable estimate of costs and expenses Landlord will incur by reason of any such late payment.

Section 27.14 **LIABILITY OF LANDLORD AND LIMITATION OF DAMAGES.** If Landlord shall fail to perform any covenant, term or condition hereof upon Landlord's part to be performed, and if as a consequence of such default Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the management fees from the concession program in the Terminal received by Landlord; and neither Landlord nor any of the officers, directors, employees, agents, partners or Affiliates of Landlord shall be liable for any deficiency. No shareholder, director, officer, agent or employee of Landlord shall be charged personally or held contractually liable under any term or provision of this Sublease or because of any breach thereof or because of the execution or attempted execution of this Sublease. Landlord (including its shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, special, consequential or exemplary damages or lost profits.

Section 27.15 **EXECUTION OF SUBLEASE; NO OPTION.** The submission of this Sublease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of an option for Tenant to lease, or otherwise create any interest by Tenant in the Premises or any other premises in the Terminal. Execution of this Sublease by Tenant and the return of same to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has executed and delivered this Sublease to Tenant and the parties have obtained the required Consent Agreement executed by the Authority. Once so executed and delivered by Landlord as aforesaid and the parties have obtained the required Consent Agreement executed by the Authority, this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives and assigns where permitted by this Sublease.

Section 27.16 **GOVERNING LAW.** All obligations of the parties hereunder are performable in Queens County, New York. This Sublease shall be governed by and construed under and in accordance with laws of the State of New York except where any state law shall be preempted by any rules, laws or regulations of the government of the United States of America and all agencies thereof. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible; in any event, all other provisions hereof shall be deemed valid and enforceable to the full extent.

Section 27.17 **SPECIFIC PERFORMANCE OF RIGHTS.** Each party shall have the right to obtain specific performance of any and all covenants or obligations of the other party hereunder except to the extent otherwise provided herein for the benefit of Landlord excusing any such performance by Landlord, and nothing contained herein shall be construed as or shall have the effect of abridging such right.

Section 27.18 **SURVIVAL OF OBLIGATIONS.** All obligations of Tenant hereunder which cannot be ascertained to have been fully performed prior to the end of the Term or any earlier termination hereof shall survive any such expiration or termination. Further, all of the terms, conditions, covenants, provisions, restrictions or requirements imposed upon Tenant hereunder shall be deemed to extend to Tenant's agents, employees, officers, directors, partners, guarantors, contractors, invitees, concessionaires, licensees and subcontractors; and Tenant shall cause all such persons and entities to comply herewith and include any applicable provisions in any agreements, contracts, subcontracts or the like entered into by Tenant with such persons and/or entities with respect to Tenant's activities and operations in the Premises, the Terminal and the Airport.

Section 27.19 **CERTAIN RULES OF CONSTRUCTION.** Time is of the essence in Tenant's performance of this Sublease. Notwithstanding the fact that certain references elsewhere in this Sublease to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Sublease by Tenant, omit to state that such acts shall be performed at Tenant's sole cost and expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant hereto shall be performed or fulfilled at Tenant's sole cost and expense, and all breaches or defaults by Tenant hereunder shall be deemed material. Tenant shall be fully responsible and liable for the observance and compliance by concessionaires, franchisees, subtenants and licensees of Tenant and with all the terms and conditions of this Sublease, which terms and conditions shall be applicable to concessionaires, franchisees, subtenants and licensees as fully as if they were the Tenant hereunder; and failure by a concessionaire, franchisee, subtenant or licensee fully to observe and comply with the terms and conditions of this Sublease shall constitute a default by Tenant. Nothing contained in the preceding sentence shall constitute consent by Landlord to any concession, subletting or other arrangement. Further, although the printed provisions of this Sublease were drawn by Landlord, the parties agree that this circumstance alone shall not create any presumption, canon of

construction or implication favoring the position of either Landlord or Tenant; and the deletion of language from this Sublease prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, adverse or opposite of the deleted language.

Section 27.20 **CONFIDENTIALITY.** Any and all information contained in this Sublease or provided to or by Tenant and/or Landlord by reason of the covenants and conditions hereof, economic or otherwise, shall remain confidential between Landlord and Tenant and shall not be divulged to third parties other than American and the Authority except as required to be disclosed by law. Landlord shall be permitted to divulge the contents of statements and reports derived and received in connection with the provisions of Articles 3 and 4 in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Concession Area Lease or in connection with any administrative or judicial proceedings in which Landlord is involved.

Section 27.21 **ATTORNEY FEES.** If at any time after the date that this Sublease has been executed by Landlord and Tenant, either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions hereof or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs and disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Any such amounts due from Tenant to Landlord under this provision shall be considered as Additional Rent hereunder and shall be paid by Tenant to Landlord within twenty (20) days after written demand. Any such amounts due from Landlord to Tenant under this provisions shall be paid by Landlord to Tenant within twenty (20) days after written demand.

Section 27.22 **WAIVER OF TRIAL BY JURY.** Landlord and Tenant desire and intend that any disputes arising between them with respect to or in connection with this Sublease be subject to expeditious resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waives the right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or other hearing brought by either Landlord against Tenant or Tenant against Landlord or any matter whatsoever arising out of, or in any way connected with, this Sublease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Section 27.23 **A.D.A. & OTHER HANDICAP ACCESS AND NON-DISCRIMINATION LAWS COMPLIANCE.** Tenant agrees that with respect to the Premises, its Fixed Improvements and Operating Equipment (including communications equipment) thereon, Tenant shall be responsible for compliance with the Americans with Disabilities Act of 1990 ("**ADA**", 42U.S.C.§§12101 et seq.) and the Regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto ("**ADAAG**"). Within five (5) days after receipt, Tenant shall advise Landlord in writing and provide copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises. Tenant acknowledges that a portion of the Premises is to be used by the traveling public. Tenant shall make available such space to the traveling public on a nondiscriminatory basis, including ensuring access by disabled persons, and shall coordinate its activities and operations with abutting tenants so as to maximize efficient use of available space. If Tenant fails to comply with the requirements of this Section, Landlord, upon

reasonable notice to Tenant and an opportunity to cure, shall have the right, but not the obligation, to enter the Premises and perform all necessary tasks to ensure Tenant's compliance with the ADA and other handicap access and nondiscrimination laws and requirements as set forth in this Section 27.23. **Tenant shall indemnify, defend and save harmless Landlord and American from all injury, loss or damage to any Person or property occasioned by Landlord's completion of any necessary tasks to ensure compliance with this Section, except to the extent such loss or damage is the result of the gross negligence or willful misconduct of Landlord or American.** Tenant shall reimburse Landlord for any and all actual costs plus an administrative fee equal to fifteen percent (15%) of such costs incurred in completing such necessary tasks to ensure Tenant's compliance with this Section, including, but not limited to, reasonable attorneys' and consultants' fees and disbursements and costs of corrective measures.

Section 27.24 AIRPORT SECURITY. Tenant shall be fully responsible, at its sole cost, for providing security for the Premises with no right of reimbursement from Landlord. Tenant hereby agrees that it shall take such reasonable security precautions with respect to the Premises and its operations and personnel as Landlord, American and the Authority, in their discretion, may require from time to time. Notwithstanding the foregoing, Tenant shall comply with security policies, regulations, rules, statutes, orders, directives, mandates and/or practices as such now exist or as they may be changed, amended, or replaced with new and different requirements in the future as Landlord, American (including, without limitation, American's FAA-approved "Safety Program" as it is in effect from time to time), the Authority or any local, state or federal agency of competent jurisdiction, including the FAA and/or the TSA, may from time to time require, including, but not limited to, compliance, at Tenant's sole cost and expense, with any background investigation, fingerprinting, verification of citizenship and residency and badging requirements for all of its personnel employed at the Terminal (including Tenant's employees and employees of any of Tenant's contractors, subcontractors, concessionaires, franchisees, subtenants and licensees) and with respect to screening of all of the equipment, supplies, materials, merchandise, goods, products and inventory. **Tenant hereby covenants and agrees with Landlord that Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York and their respective officers, directors, agents, representatives, elected officials and employees from and against any and all liabilities, claims, costs, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing out of or in any way connected with, directly or indirectly, the failure by Tenant to strictly comply with the requirements of local, state and federal law, including, but not limited to, the FAA's, the TSA's, the Authority's, American's and Landlord's rules and regulations concerning the subject matter set forth in this Section 27.24.**

Section 27.25 NON-DISCRIMINATION AND AFFIRMATIVE ACTION. With respect to non-discrimination and affirmative action, Tenant, its agents, employees, licensees, contractors and subcontractors shall comply at all times with all of the terms and conditions set forth in **Exhibit I.** Tenant, for itself, its successors in interest, and assigns, as a part of the consideration for the Sublease, shall covenant and agree that: (a) no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (b) in the construction of any improvements on, over, or under the Premises and furnishing of services thereon, no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in such activities, denied the benefits thereof, or otherwise be subject to discrimination; and (c) Subtenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United

States of America with respect thereto which from time to time may be applicable to Subtenant's operations at the Premises, whether by reason of agreement between American, the Authority and the United States Government or otherwise. Furthermore, during the performance of this Sublease, the parties hereto hereby incorporate by reference the provisions set forth in 41 CFR § 60-1.4, §60-250.5 and §60-741.5, which provisions apply to all nonexempt contractors and vendors.

Section 27.26 LABOR HARMONY. Tenant agrees that in the use of the Premises or any work performed in or about the Premises that Tenant will employ only labor which can work in harmony with all elements of labor being employed at the Airport. Tenant shall use its best efforts, taking all measures and means, to insure labor harmony in its activities at the Terminal and the Airport, all to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. Tenant particularly recognizes the essential necessity of the continued and full operation of the whole Airport as a transportation center. Tenant shall immediately give oral notice to Landlord (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. If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Tenant or against any of Tenant's operations pursuant to this Sublease which in the opinion of Landlord, American and/or the Authority: (a) physically interferes with the operation of the Terminal or the Airport, or (b) physically interferes with access by the public between the Premises and any portion of the Terminal or the Airport, or (c) physically interferes with access by the public to other areas of the Terminal or the Airport, or (d) physically interferes with the operations of other tenants, concessionaires, lessees or licensees at the Terminal or the Airport, or (e) presents a danger to the health or safety of users of the Terminal or the Airport, persons employed thereat, or to members of the public, whether or not the same is due to the fault of Tenant or is caused by employees of Tenant or of others, Landlord, American and/or the Authority shall have the right at any time during the continuance thereof, by twenty-four (24) hours oral notice, to suspend Tenant's operations hereunder effective at the time specified in such oral notice. During any suspension, Tenant shall cease all its activities and operations hereunder and take such steps to secure and protect the Premises as shall be necessary or desirable. The period of suspension shall end automatically no later than twenty-four (24) hours after the cause thereof has ceased or been cured. While Tenant shall be relieved of its obligation to continually conduct its business in the Premises during a suspension period, suspension shall not relieve Tenant of its payment or reporting obligations hereunder; and there shall be no abatement of Rentals under any circumstances whatsoever unless otherwise approved in writing by Landlord determined in its sole and absolute discretion.

Section 27.27 CROSS DEFAULT. Notwithstanding anything to the contrary contained in this Sublease, a default of Tenant's obligations under the provisions of any other lease with Landlord covering any other concession facilities within the Terminal shall constitute a default by Tenant under this Sublease, entitling Landlord to the rights and remedies provided to it under this Sublease at law, and at equity.

Section 27.28 DISCOUNT TO CERTAIN EMPLOYEES AND CUSTOMER VOUCHERS. Notwithstanding anything to the contrary contained in this Sublease, Tenant is hereby required to give a discount for all merchandise, products and/or services sold and/or rendered hereunder except with respect to the sale of newspapers, magazines and other publications to all individuals employed at the Airport, all American employees and to all Terminal airline employees. The discount to be given as required under this Sublease shall be in the amount of ten percent (10%) as compared to Tenant's normal non-sale prices offered to the general public and the discounted portion of the sale shall be separately stated. All Tenants shall honor, for reimbursement by American, food and beverage vouchers issued by American from time to time by passengers bearing a boarding pass or other verifying documentation deemed sufficient by American.

Section 27.29 LOCAL BUSINESS ENTERPRISE COMMITMENT. Tenant commits to use good

faith efforts to implement an extensive program to utilize Local Business Enterprises in accordance with, and as set forth on, **Exhibit J.**

Section 27.30 **TENANT'S CERTIFICATION.** Tenant hereby represents and warrants to Landlord that Tenant is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. Tenant acknowledges that Landlord is executing this Sublease in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing Landlord to enter into and execute this Sublease. In the event of any breach of the foregoing representations and warranties by Tenant, Landlord shall have the right, in addition to any other remedies provided under this Sublease or at law, to immediately terminate this Sublease upon written notice to Tenant. In the event of any such termination by Landlord, Tenant shall, immediately on receipt of Landlord's termination notice, close the Premises for business and surrender possession of the Premises to Landlord without Landlord resorting to any other legal process.

IN WITNESS WHEREOF, Landlord and Tenant, personally or by their duly authorized agents, have executed this Sublease as of the day and year first above written.

TENANT:

NEWSLINK OF JFK, LLC,
a Florida limited liability company

By: Raymond J. Kaya, Jr.

Print Name: Raymond J. Kaya, Jr.

Title: President of Non-Member Manager, NewsLink Group, LLC

ATTEST:

By: Maria E. Venzal

Print Name: MARIA E. VENZAL

Title: DIRECTOR OF FINANCE

LANDLORD:

WESTFIELD CONCESSION MANAGEMENT, LLC,
a Delaware limited liability company

By: Arnold L. Mayersohn, Jr.

Print Name: Arnold L. Mayersohn, Jr.
Assistant Vice President & Secretary

Title: _____

EXHIBIT B

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN
AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. _____
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of _____, 200_ ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), _____ ("Sublessee"), a (corporation/partnership/limited liability company) organized and existing under the laws of the State of _____ with an office and place of business at _____, whose representative is _____, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate each consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to Paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; (e) or such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee

with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under Paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of Paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably

hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this Paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. (a) The Sublessee acknowledges that it has received, and is familiar with the contents of, a copy of the

Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 (the "City Lease").

(b) In accordance with the provisions of the City Lease, the Port Authority and the Sublessee hereby agree as follows:

(1) This Consent is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(2) The Sublessee shall not pay fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(3) With respect to this Consent, the Sublessee on the termination of the City Lease will, at the option of The City of New York (the "City"), attorn to, or enter into a direct permit on identical terms with, the City;

(4) The Sublessee shall indemnify the City with respect to all matters to the extent described in Section 31 of the City Lease;

(5) The Sublessee shall not engage in the privilege permitted hereunder for any use other than as permitted under the City Lease;

(6) The Sublessee shall use, operate and maintain the privilege granted hereunder in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(7) The failure of the Sublessee to comply with the forgoing provisions shall be an event of default under this Consent, which, after the giving of reasonable notice, shall provide the Port Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have hereunder; and

(8) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to the Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline, the Permittee or the Sublessee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

[Note: Signature Blocks and Notary Forms will be provided in the Consent Agreement to be signed]

EXHIBIT C

MONTHLY STATEMENT & ANNUAL STATEMENT FORMS

EXHIBIT D

DESIGN AND CONSTRUCTION REQUIREMENTS

I. INTRODUCTION AND DEFINITIONS.

A. American has constructed or is in the process of constructing all of the existing improvements for the Terminal as generally shown on Exhibit A-1, including the base building structure and the base building utility systems. American shall have the right to perform the safe removal, encapsulation, enclosure or other disposition of Toxic or Hazardous Materials, if any, that exist within the Premises as of the date Tenant is delivered possession of the Premises. American is obligated under the Concession Area Lease to remediate or remove (or reimburse Tenant for the reasonable costs incurred by Tenant) any such pre-existing Toxic or Hazardous Materials that American determines, in its sole discretion, to be necessary in order for Tenant to perform Tenant's Work. If Tenant encounters any such pre-existing Toxic or Hazardous Materials during the performance of Tenant's Work for the initial construction of the Premises, Tenant shall immediately notify Landlord and American in writing and provide all details related thereto. In no event shall Tenant perform any of Tenant's Work that will in any way disturb any such Toxic or Hazardous Materials so encountered until American has determined whether it is necessary to remediate or remove the same.

B. The term "**American's Work**" shall mean American's total responsibility for construction of improvements for the Premises within the Terminal as set forth in this Exhibit D. The cost of American's Work shall be borne as set forth in this Exhibit D. American's Work shall be of a design, type, size, location, quality and nature as may be selected by American from time to time. Any item of work necessary to complete the Premises which is not hereinafter specifically included as part of American's Work under this Exhibit D shall be considered as part of Tenant's Work.

C. The term "**Tenant's Work**" shall mean Tenant's total responsibility (or any portion thereof) for the construction and improvement of the Premises. Tenant's Work shall be performed at Tenant's sole cost and expense. Tenant's Work shall include, but not be limited to, all work necessary or required to complete the Premises, except those items of work that are specifically included under this Exhibit D as part of American's Work.

II. GENERAL REQUIREMENTS AND PROVISIONS.

A. Tenant's Work shall be subject to Landlord's, American's and the Authority's prior approval, such approval to be determined in their sole discretion, and shall be designed, fabricated, constructed and installed to comply with all of the requirements set forth in the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process and with all of the requirements set forth in other various documents and requirements of the Authority pertaining to Tenant's construction within the Terminal. All details and information contained in either the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process, whether appearing on Tenant's Conceptual Plans and Final Drawings or not, shall be considered a part of Tenant's Conceptual Plans and Final Drawings and design and construction requirements. By this reference the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements are incorporated herein and made a part of this Exhibit D and the Sublease. This Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements may, when the context requires, hereinafter be collectively referred to as "**Tenant's Construction Requirements**".

B. The design, fabrication, construction and installation of Tenant's Work must comply with each of the following requirements:

1. This Exhibit D.

2. The Design Guidelines.

3. The Tenant Construction Review Manual, the Alteration Application and the TAA Process.

4. Tenant's Final Drawings, as approved by Landlord, American and the Authority.

5. All applicable laws, ordinances, codes, regulations and the requirements of all federal, state or local permitting, building and inspection agencies, including the Authority.

6. All applicable standards of the American Insurance Association, The National Electric Code (latest edition), the American Society of Heating, Refrigeration and Air Conditioning Engineer's Guide (latest edition), the Authority's, American's and Landlord's insurance carriers, the local building codes and regulations and all other agencies having jurisdiction.

In the event of a conflict between any of the above-referenced items, the most stringent requirement shall govern each increment of Tenant's Work.

C. All aspects of Tenant's Work shall be performed in a professional, first-class and workmanlike manner and shall be in a good and first-class and usable condition as of the date of completion and maintained in such condition at all times. All materials used in Tenant's Work, Tenant's construction of the Premises and installations made as a part of Tenant's Work shall be of new, commercial grade and first-class quality. After Tenant's initial construction of the Premises, any and all elective Refurbishments and any and all Refurbishments required of Tenant by Landlord or American under the applicable provisions of the Sublease shall be performed in accordance with all of the requirements set forth in this Exhibit D and the most current editions of the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process.

D. Tenant shall be solely responsible for the investment required for the planning, design, development, construction, fabrication and installation of all Fixed Improvements and other permanent leasehold improvements and Operating Equipment necessary to complete the Premises as required to provide the concession services within the Terminal as provided in the Sublease. Such investment shall be subject to the detailed review and approval by Landlord and American as provided elsewhere in the Sublease and in the Tenant's Construction Requirements.

E. All contracts and subcontracts for any portion of Tenant's Work shall require: (i) that all contractors and subcontractors provide labor that can work in harmony with other elements of labor employed or to be employed at the Airport as specified in Section 27.25 hereof; (ii) insurance coverage and suretyship reasonably satisfactory to Landlord, American and the Authority for the protection of Landlord, American, the Authority and their respective laborers, suppliers, contractors, subcontractors and the general public; (iii) that all contractors and subcontractors comply strictly with all of the applicable provisions of the Authority Lease, the Concession Area Lease, this Sublease, this Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process; and (iv) for all Fixed Improvements and other permanent leasehold improvements to the Premises, performance bonds and payment bonds from the Tenant or its general contractor, in form and substance satisfactory to Landlord and American, each of which shall name Landlord, American and the Authority as an additional obligee and which shall be in the penal

sum equal to the amount of Tenant's total construction contracts and subcontracts. Further, Tenant shall comply and shall cause all of its contractors and subcontractors to comply with the Authority's non-discrimination and affirmative action provisions contained in **Exhibit I** and shall require the inclusion of such provisions in all contracts and subcontracts relating in any way to Tenant's Work.

III. AMERICAN'S WORK.

A. As required by the Concession Area Lease, American shall perform the "**Base Building Work**" which is defined to mean the subflooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures and fixtures which American installs or causes to be installed at the Concession Area in accordance with the Authority Lease. Base Building Work includes delivery of portions of the Concession Area designated for concession activities including the Premises, in "shell condition". "Shell condition" is defined, for purposes of this Sublease, as smooth concrete floors, demising studs and walls, and utility services (conduits, lines, pipes, etc.) of commercially adequate capacity and size located at the lease lines of the Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), heating ventilating and air conditioning systems including access for exhaust ducts for food & beverage locations ("**HVAC**"), fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises. American's Work to be performed or provided at American's sole cost and expense shall be limited to the following:

1. A basic building in "shell condition" for the Premises (for in-line concession facility locations only) to American's specifications. Neither Landlord nor American shall provide any finished walls or wall coverings, finished ceiling or ceiling covering or finished floor covering within the Premises, all of such to be performed by Tenant as part of Tenant's Work.

2. Utility stub-ins of a commercially adequate capacity and size located at the lease lines of each of Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), HVAC systems including access for exhaust ducts for food & beverage locations, fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises, as more fully detailed on the utilities matrix ("**Utilities Matrix**") attached as an exhibit to the Concession Area Lease. Tenant acknowledges that a copy of the Utilities Matrix has been provided to Tenant.

3. Public use service corridors, if any, located as required by code or as selected by American, with such corridor walls, if any, finished on the corridor side only.

B. American and Landlord may, but shall not be required to, provide additional items of basic building shell or base building utility conduit services for the Premises as part of American's Work. If applicable, such additional items, if any, shall be provided in accordance with American's specifications.

IV. TENANT'S WORK.

A. Tenant shall prepare preliminary conceptual plans ("Conceptual Plans") for the Premises in accordance with the provisions of the Tenant's Construction Requirements and submit them to Landlord, American and the Authority (if American and the Authority determines to review Conceptual Plans) for approval, such

approval to be determined in their sole discretion. The Conceptual Plans must be submitted to Landlord not later than twenty (20) days from the Commencement Date or such shorter period of time as may be required for Tenant to open for business by the Latest Rental Commencement Date, and shall include at a minimum the following:

Floor Plans: To include overall dimensions; interior finishes; construction components; identification of any proposed structural alterations to the Premises.

Fixture Plans: Merchandising layouts of the Premises including fixture locations (permanent and movable); and details and/or catalog cuts of the fixtures including materials with smoke developed ratings and flame spread classifications.

Reflected Ceiling Plans: Showing types and electrical connections for lighting fixtures.

Elevations: Drawings of all interior and storefront elevations of the Premises visible to the public, storefront details illustrating architectural compatibility with surrounding areas, building sections or cross sections to accurately depict design details.

Material Boards: Material boards referenced to floor plans and elevations for the Premises illustrating floor base, wall, door, trim and ceiling materials and color selections; material boards shall include color photos and catalog cuts of furniture and/or fixtures where required; colors and materials for all storefront components. Include smoke developed ratings and flame spread classifications, as applicable.

Project Schedule: A preliminary project schedule describing the actions necessary to implement the project, the sequence of actions and the schedule of actions.

Signage Drawings: The shape, size, color and location of signs, and a description of all methods of fabrication, installation and construction.

B. Landlord shall have the right to require modifications to the Conceptual Plans and any approval granted by Landlord is subject to the Tenant's incorporation of the required modifications and draft set of Tenant specifications to ensure compliance with the Tenant Construction Requirements. In the event Landlord requires any such modifications to the Conceptual Plans, Tenant shall prepare and submit the same for Landlord's review and approval within ten (10) days after receipt of Landlord's modifications. Tenant shall follow the steps as outlined in the Tenant Construction Requirements for submitting the Conceptual Plans required for the Tenant.

C. Tenant shall prepare final drawings and specifications ("Final Drawings") which are based on the approved Conceptual Plans for the Premises as described in the Tenant Design Criteria and Handbook within twenty (20) days from receipt of the approved Conceptual Plans, or earlier as may be required to open the Premises for business no later than the Latest Rental Commencement Date. The Final Drawings shall be prepared, and all calculations must be signed and sealed by a registered architect or a registered engineer licensed in the State of New York, and at a minimum, must include the following:

Drawings: Floor Plans including location of all walls, partitions, and doors; lease lines to adjacent premises; overall dimensions of space with column locations; including room finish schedule with fire rating and door and hardware schedule.

Final Fixturing Plans: Merchandising layouts.

Reflected Ceiling Plans: To include ceiling grid, soffits, drops, recesses, coves, etc.; ceiling heights for each space; all light fixtures; HVAC supply and return grilles; type of ceiling system with fire-rating; sprinklers and smoke detectors; any items attached to or coming through the ceiling, if any, ceiling mounted signs, banners, flags, etc.; and communicated system components.

Structural Drawings: Structural drawings and calculations of proposed structural alterations to the base building.

Signage Drawings: Elevation of storefront showing design, location, size, color and layout of signs, including dimensions, etc., and a description of all methods of construction.

Mechanical Drawings: To include load calculations submitted as required in the Tenant's Construction Requirements and proposed locations of all equipment.

Plumbing Drawings: If applicable, to include location and size of water and supply lines, drains, vents and grease traps; and water and sanitary riser diagrams.

Fire Protection System: Fire suppression system including hydro-calculations, as required, to illustrate Tenant's alteration to existing sprinkler coverage; and fire alarm and location of connection point to the base building fire alarm systems and location of addressable smoke detectors, duct/smoke detectors, combination heat/smoke detectors and addressable heat detectors all per the Tenant's Construction Requirements and all applicable codes and regulations.

Electrical Plans: To include power and lighting layout with circuits and home runs; electrical load requirements; on panel schedules; service riser diagrams; telephone conduits; and load calculations.

Sections: Showing construction materials and design details.

Special Systems: Such as telephone and data transmission line systems; airport access control system (if applicable); paging system (if applicable); cable access television system (if applicable); and master clock system (if applicable).

Locking System: Tenant shall install a lock keying system compatible with American's and the Authority's system on all entrances to the Premises and mechanical room entrances located therein for police, security, fire protection and maintenance reasons.

Specifications: All specifications shall include the requirements contained in the Tenant's Construction Requirements.

D. Tenant shall submit to the Landlord, American and the Authority as part of the Conceptual Plans and Final Drawings, drawings (in color) showing storefronts, window displays, signage and any advertising structures; plus a lighting plan.

E. When Tenant submits any plans and specifications to Landlord it shall include complete sets for each submittal as specified in the Tenant's Construction Requirements.

F. Tenant's Work shall include the procurement of all necessary building permits, licenses, variances, and additional utility services required to facilitate Tenant's construction and occupancy of the Premises, and the payment of any fees associated therewith as may be required by the Authority, other public agencies and

utility companies. Within five (5) days after approval of the Final Drawings or such shorter period of time as may be required for Tenant to open the Premises for business no later than the Latest Rental Commencement Date, Tenant shall make all necessary applications, provide all necessary information, pay all required fees and take all necessary actions to obtain such items and shall endeavor to use due diligence and its best efforts to procure the same as quickly as possible. Please refer to the Tenant's Construction Requirements.

G. Tenant shall comply in all respects with the Tenant's Construction Requirements including, but not limited to, applicable local/state health department requirements, U.S. Department of Labor, Construction Safety and Health Regulations, Part 1926. Tenant shall comply and be liable for all costs associated with adherence to the Americans with Disabilities Act (ADA) codes and guidelines.

H. If the Premises are modified, renovated, or newly-constructed, the Tenant shall: (i) obtain the Architect's/Engineer's New York Seal on two (2) sets of final construction drawings or as may otherwise be specified by the Authority's TAA Process submitted for a building permit; (ii) obtain from the Tenant's contractor(s) a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the Premises. Tenant's contractor(s) shall be required by Tenant in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the Authority, American, Landlord or Tenant occupying the Premises; (iii) obtain all required manufacturers' guarantees, maintenance manuals and other pertinent documents; and (iv) furnish to Landlord the information and documentation specified in Section 5.01, no later than ninety (90) days after completion of the Fixed Improvements or any Refurbishments.

I. Tenant's Final Drawings must be submitted to Landlord in CADD and satisfy all other requirements for Final Drawings as set forth in this Exhibit D and the Tenant's Construction Requirements.

J. Tenant shall not be permitted to commence any work until all requirements of the Tenant's Construction Requirements and this Exhibit D have been completed.

K. Security clearance must be completed as required by American and/or the Authority.

L. Separate construction deposits of a minimum of Ten Thousand Dollars ($10,000.00) each will be required from both Tenant and from Tenant's general contractor and neither shall be released by Landlord to Tenant or Tenant's general contractor until after satisfactory completion of all requirements of this Exhibit D and the documents referenced herein, approval by both Landlord's American's and the Authority's on-site construction supervision personnel specifying that all of Tenant's Work has been completed and accepted by Landlord, American and the Authority, proper completion of any and all punch list items and acceptance thereof by Landlord and delivery to Landlord of all of the construction close-out documents required under this Sublease and acceptance and approval thereof by Landlord.

M. During the construction periods at the Terminal, Tenant and its agents, servants, employees, contractors and subcontractors shall be permitted entry and access to the Terminal and to the Premises for the purpose of performing and completing all work necessary to make the Premises and other improvements ready for use, occupancy and rental. During the construction periods, Tenant and its agents, consultants and employees, contractors and subcontractors shall observe all applicable rules and regulations and applicable directives imposed by American and/or the Authority at the Terminal as to the conduct of their work. Tenant shall be responsible for securing, keeping and maintaining all of their equipment, materials, supplies, tools, work trailers and the like within the Premises, or within a defined staging area for the exclusive purpose of supporting the Premises construction, subject to Landlord and American approval. Tenant shall also be responsible for insuring that all construction debris is removed from the construction site daily, and that the site is neat and clean at all times. Tenant shall comply in all respects with procedures for project close-out and acceptance of the space as detailed in the Tenant's Construction Requirements.

N. All policies of insurance and bonds addressed in this Sublease shall be issued for the protection of the Landlord, Tenant, American and the Authority, in accordance with their respective insurable interests. The terms of the policies and bonds and the insurer or surety shall be subject to the reasonable approval of Landlord, American and the Authority.

O. Tenant shall provide, maintain and identify the Authority, American and Landlord as an additional insured, with respect to the insurance protection required under the provisions outlined in the Sublease.

P. Construction Costs:

1. As part of Tenant's Work and the construction requirements required in this Sublease, Tenant shall submit to Landlord a statement of the total construction costs which it has certified as correct with all supporting documents required by Landlord as specified in the applicable sections of this Sublease.

2. The Authority, American, Landlord, or an independent professional firm retained by any of them, may audit costs associated with the construction, modification or renovation of the Premises. In this regard, the Authority, American, Landlord and/or their auditing firm(s) shall have the right upon seven (7) days advance request by the Authority, American or Landlord during the Term hereof and for such longer period as required by the Authority, to examine and audit books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly all construction costs claimed to have been incurred or anticipated to be incurred, in performing this Sublease. The right of examination shall extend to all documents necessary to allow evaluation of both the validity and reasonableness of said construction costs, including all documents of Tenant who shall make all construction records available to the Authority, American or Landlord within the Port of New York District for examination, audit, or reproduction, upon seven (7) days advance request by the Authority, American or Landlord.

Q. In its construction plans Tenant must insure that the Premises has strong visual appeal and is inviting to the customers; and that the Premises accommodates customers with luggage and meets all Americans With Disabilities Act (ADA) requirements relating to ingress, egress, access and other architectural matters, such as for example, large print price signs for the visually impaired and the ability to communicate with hearing impaired.

V. CONSTRUCTION CHARGEBACKS PAYABLE TO LANDLORD.

A. Landlord may provide items of construction, work or services for the Premises as a part of American's Work at Tenant's sole cost and expense, including, but not limited to the following:

1. Landlord, at Tenant's expense, may install a temporary construction barricade along the storefront area leaseline in a design, material and location approved by Landlord if Tenant fails to install such temporary construction barricade prior to the commencement of any of Tenant's Work in the Premises. If Landlord installs such a barricade, Tenant shall reimburse Landlord therefor as Additional Rent an amount which will be computed at the rate of One Hundred Fifty Dollars ($150.00) per lineal foot of the barricade. Upon completion of Tenant's Work, Tenant shall be responsible, at Tenant's sole cost, to remove such barricade to an appropriate disposal site outside of the Airport.

2. Tenant's general contractor shall pay to American, a non-refundable fee for use of the dumpster, with respect to all construction debris and trash required to be removed from the Terminal by Tenant's general contractor with respect to the performance of Tenant's Work. Such initial fee is estimated to be at the rate of One and 50/100 Dollars ($1.50) per square foot of Floor Area in the Premises and checks are payable to "American Airlines, Inc." but delivered to Landlord's on-site tenant coordinator. If American incurs costs greater than such estimated rate, Tenant shall reimburse American within twenty (20) days of demand for any such actual excess costs.

VI. PROGRESS MEETINGS; MISCELLANEOUS.

A. Representatives of Landlord and Tenant, as designated in writing to each other, shall establish and attend on-site progress meetings with such periods of frequency during the performance of Tenant's Work as may be mutually agreed upon but no less frequently than bi-weekly.

B. Tenant shall perform Tenant's Work so as not to: (i) unreasonably interfere with any other construction being performed at the Terminal or the Airport; or (ii) unreasonably impair the use, occupancy or enjoyment at the Terminal and/or the Airport by Landlord, American, the Authority, other airlines, other subtenants operating concession facilities or customers of any of them.

C. Tenant shall (i) take all safety measures required to protect the Terminal and/or the Airport from injury or damage caused by or resulting from the performance of Tenant's Work and defend, protect and indemnify Landlord, American and the Authority (including their respective agents, commissioners, officers, directors and employees), other airlines, other subtenants operating concession facilities or customers of any of them from any and all claims arising from or in connection with the death of or accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person or entity arising out of, in connection with, or as a result of Tenant's Work; (ii) repair any and all damage to the Terminal and/or the Airport as a result of Tenant's Work; and (iii) require all contractors and subcontractors to comply with all of the Authority's Requirements and Tenant's Construction Requirements for the performance of Tenant's Work.

EXHIBIT E

AUTHORITY STREET PRICING REQUIREMENTS

A. General Authority Street Pricing Policy.

The Aviation Department of the Authority requires specific pricing criteria in all concessions agreements at the Airport. In general, the Authority and American seek to promote fair and reasonable prices in airport concession programs. The street pricing policy is also designed to produce a greater volume of sales, thereby reflecting the Authority's and American's objective to provide high customer service and optimization of financial return. The Authority's street pricing policy requires that prices charged at the Airport will be comparable to off-airport prices. In general, the policy requires any specialty retail, newsstand and food & beverage vendors that operate both on-airport and off-airport to price goods in the on-airport store within the range of prices charged at their off-airport stores. For vendors without off-airport operations in the area, comparable stores in the region are identified to establish the basis for street prices (the specific methodology for this comparison is established based upon the specific type of store and merchandise sold). For duty free concession vendors, where there are no comparable off-airport operations, the pricing policy requires that the prices of duty free merchandise be substantially comparable to the prices charged for duty free goods in duty free stores at other airports in the northeastern United States. Further, vendors must submit price lists for all goods and services in advance for approval. The street pricing policy also requires vendors to post signs in clearly visible locations notifying customers that the store charges fair and reasonable prices that are comparable to other stores in the region. Landlord requires strict adherence to the Authority's street pricing policy.

B. Comparable Locations In the Metro Area.

1. Specialty Retail and Food & Beverage Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the various types of specialty retail and food & beverage concession facilities permitted hereunder shall be compared to similar specialty retail and food & beverage establishments located in major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time.

2. Newsstand and News & Gifts Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for newspapers, magazines and sundries shall be compared to local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for gifts, souvenirs and novelties shall be compared to both similar gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as well as to the local convenience store chains and/or local non-Airport news & gift locations (excluding any locations which do not have multiple independent competitive sources and operators) in the Metro Area as selected by Landlord from time to time.

C. **Specialty Retail and Food & Beverage Concession Facilities Pricing Requirements.**

Tenant's prices for all specialty retail and food & beverage products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor are the same or comparable with comparable brands in specialty retail and food & beverage establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) comparable establishments in such locations within the Metro Area. Tenant's prices may not exceed the average price of those similar items in the five (5) comparable establishments.

D. **Newsstand and News & Gifts Concession Facilities Pricing Requirements.**

Tenant's prices for all news and gift products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor for newspapers, magazines and sundries are the same or comparable to those charged by the local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time and for gifts, souvenirs and novelties to those charged by comparable gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) establishments in such locations within the Metro Area. Tenant's prices on any specific item may not exceed the average price of those similar items in the five (5) comparable establishments.

E. **General Pricing Requirements.**

In all other situations and circumstances for which no specific pricing requirement has been established, Tenant shall abide by the following pricing requirements. Tenant shall offer for sale only goods of first-class quality. For such goods, Tenant shall charge fair, reasonable and competitive prices. When an item has a suggested retail price pre-marked and established by the manufacturer or distributor, Tenant shall not charge the public a price higher than the suggested retail pre-marked price without the prior written approval of Landlord in accordance with the Authority's street pricing policy. When an item has no suggested retail price or pre-marked price, the item shall be sold at a price as first approved by Landlord in accordance with the Authority's street pricing policy.

EXHIBIT F

ADDITIONAL INSURED AND LOSS PAYEE ENTITIES

Each of Tenant's insurance policies (except for workers' compensation and employers' liability coverage) required under Section 11.01 of the Sublease shall name the following entities as additional insureds:

WESTFIELD CONCESSION MANAGEMENT, LLC, a Delaware limited liability company

WESTFIELD, LLC, a Delaware limited liability company

AMERICAN AIRLINES, INC., a Delaware corporation

AMERICAN EAGLE AIRLINES, INC., a Delaware corporation

AMR CORPORATION, a Delaware corporation

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THE CITY OF NEW YORK

NEW YORK CITY ECONOMIC DEVELOPMENT CORPOTATION, a New York not-for-profit corporation

Certificates of Insurance evidencing the Tenant's insurance coverages shall be delivered by Tenant to Landlord upon execution of the Sublease and no later than prior to delivery of the Premises to Tenant at the following address:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

The certificate holder on each of the Certificates of Insurance shall be as follows:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

EXHIBIT G

M/W/DBE CERTIFICATION

To qualify as a Disadvantaged Business Enterprise or Disadvantaged Business ("M/W/DBE"), the firm must meet the criteria established by the U.S. Department of Transportation in 49 CFR Parts 23 and 26 and be certified by the Authority. Currently, to qualify as a DBE, the firm must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed Thirty Million Dollars ($30,000,000.00) and it must be (a) at least fifty-one percent (51%) owned and controlled by one (1) or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one (1) or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one (1) or more of the socially or economically disadvantaged individuals who own it. For other types of business operations, the U.S. Small Business Administration size standards are used to determine eligibility for certification. The DBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Authority makes a "rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged:

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan and Bangladesh; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

"**Minority**" means the following: (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (b) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (c) 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 (d) 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). For purposes hereof, "Minority

Business Enterprise" or "MBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" or "WBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing.

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as M/WDBE, the Authority, as part of the certification process, will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

The Authority has compiled a list, which may be supplemented and revised from time to time by the Authority, to indicate the firms the Authority determined satisfy the criteria for M/W/DBE certification. Such list shall be made available to the proposers upon request. The Authority makes no representations as to the financial responsibility of such firms, their technical competence to perform, nor any other performance-related qualifications. Only listed M/W/DBEs and such firms not so listed, but certified by the Authority as M/W/DBEs hereunder, will count towards M/W/DBE requirements.

Certification of M/W/DBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If a proposer wishes to utilize a firm not so listed but which the proposer believes should be certified as a M/W/DBE, that firm shall submit to the Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required by the Authority from time to time. All such requests shall be in writing, addressed to Mr. John Alexander, Supervisor, Certification Programs or other designee of the Economic Development Department/Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, Newark Legal Center, One Riverfront Plaza, 9PthP Floor, Newark, New Jersey 07102 or such other address as the Authority may designate from time to time. Eligibility for certification shall only be made in writing over the name of the General Manager in charge of the Office of Business and Job Opportunity. The determination of the Authority shall be final and binding on the applicant. For inquiries or assistance, please contact John Alexander at (973) 565-5522.

EXHIBIT H

Westfield Concession Management, LLC
2730 University Boulevard, Suite LL3
Wheaton, Maryland 20902
Attention: Airport Division Project Controller

Date: _____

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

To the Addressee:

At the request of ___A___, we ___B___, hereby open this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. ___C___ in your favor up to an aggregate of $ ___D___ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all of your drafts under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT will be duly honored upon presentation of your draft(s) drawn on us and presented to us at the office of our New York City Branch, now located at ___E___, ___E___ on or before the expiration set forth below or future expiration date as indicated below. Our obligation under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT is the individual obligation of the Bank, in no way contingent upon reimbursement with respect thereto, or upon our ability to perfect any lien or security interest.

All drafts must be marked "Drawn Under ___B___ Letter of Credit No. ___C___ dated _____, 200_." Partial drawings under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT are permitted. Drafts must be accompanied by a statement from an authorized representative of Westfield Concession Management, LLC, or its designee, that ___A___ has not performed certain terms, conditions or covenants contained in the Sublease dated _____, 200_, by and between Westfield Concession Management, LLC and ___A___.

This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT expires at the close of business on ___F___, 200_. This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT within the then applicable expiration date, no statement required. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.**

_____
Bank Officer/Representative

LEGEND:

A: INSERT APPLICANT NAME, I.E. TENANT NAME.
B: INSERT NAME OF ISSUING BANK.
C: INSERT LOC IDENTIFICATION NUMBER.
D: INSERT DOLLAR VALUE OF INSTRUMENT.
E: INSERT EXACT ADDRESS OF LOCAL BANK BRANCH.
F: INSERT EXPIRATION DATE OF SUBLEASE PLUS 90 DAYS.

EXHIBIT I

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY

Part I AFFIRMATIVE ACTION GUIDELINES – EQUAL EMPLOYMENT OPPORTUNITY

I. As a matter of policy the Authority, Landlord and American hereby require Tenant to comply with the provisions set forth hereinafter in this Exhibit I and in sections 41, 68(I)(b) and 79 (b)(1) of the Authority Lease. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

Tenant and Tenant's respective bidders, contractors and subcontractors 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"). Tenant 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. Tenant 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. Tenant 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%; and (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 Tenant and Tenant shall provide written notification to Landlord and the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the 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 herein: (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; and (2) "**Minority**" – as in the Definitions to the Concession Area Lease.

(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 non-working 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 (2) 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 Tenant 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 (6) 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 (1) 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 (6) 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 circulation of solicitations to Minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six (6) months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one (1) or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one (1) or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's Minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is

the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all Minority groups, both male and female, and all women, both Minority and non-Minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific Minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by Tenant. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, Tenant shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Concession Area Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Authority.

PART II MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Authority, Landlord and American require Tenant and Tenant shall itself and shall require all general contractors or other construction supervisors and each of Tenant's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work, pursuant to the provisions of this Exhibit I. For purposes hereof, "**Minority Business Enterprise**" "(MBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and

continuing. For the purposes hereof, "**Women-owned Business Enterprise**" "(WBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing. "**Meaningful participation**" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to Minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that Tenant and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If the Contractor wishes to utilize a firm not already certified by the Authority, it shall submit to the Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Authority. All such requests shall be in writing addressed to the Economic Development Department/Business and Job Opportunity, Port Authority of New York and New Jersey, Newark Legal Center, Riverfront Plaza, 9th floor, Newark, New Jersey 07102, or such other address as the Authority may specify by notice. Certification shall be effective only if made in writing by the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the Authority. The determination of the Authority shall be final and binding.

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

EXHIBIT J

LOCAL BUSINESS ENTERPRISE COMMITMENT

As a matter of policy, Landlord, American and the Authority hereby require Tenant and Tenant shall require any Contractor utilized by Tenant to perform construction work on the Premises to comply with the provisions set forth hereinafter in this Exhibit J.

(1) Tenant and each Contractor shall use every good faith effort to maximize the participation of Local Business Enterprises ("**LBEs**") in all construction work on the Premises, including without limitation, the Section 2B Work. In order to assure familiarity with the services and materials provided by LBEs, the Contractor shall attend such meetings as may be called by the General Manager of the Airport on LBEs and shall contact the Queens Air Services Development Office ("**ASDO**"), located at John F. Kennedy International Airport, Bldg. 80, First Floor, South Service Court, Jamaica, NY 11430 to obtain LBE Vendor Profiles and access ASDO's on-line vendor retrieval system ("**BASIS**"). Landlord, American or the Authority has not checked the references, capabilities or financial background of the LBEs registered with the ASDO, but is referring the Contractor to the ASDO and BASIS solely for the purpose of advising Contractors of LBEs who may be interested in providing services and/or materials to the Contractor.

(2) Good faith efforts to include participation by LBEs in construction work shall include at least the following: (i) Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible. (ii) Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from LBEs registered with ASDO and such other LBEs as the Contractor deems appropriate.

(3) Landlord, American and the Authority are committed to making employment opportunities available to local residents and expects that the Contractor will utilize LBEs.

(4) It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit, diminish or modify any of the obligations under the Concession Area Lease or this Sublease including, without limitation, the obligation to put into effect the affirmative action program and the MBE and WBE programs in accordance with the provisions set forth above in Exhibit I.

EXHIBIT K

PERFORMANCE STANDARDS

All items marked with an "*" denote a Minimum Performance Standard. There shall be no notice and cure periods for failure to comply with any Minimum Performance Standard. For all other Performance Standards which are not Minimum Performance Standards, the graduated fines shall not be applicable until fourteen (14) days after Landlord has provided Tenant with written notice of its failure to comply and such failure to comply by Tenant continues after such fourteen (14) day notice and cure period. These graduated fines are in addition to any other remedies available to Landlord under this Sublease, at law or in equity, including, but not limited to, the liquidated damages provisions set forth in Article VII. The Performance Standards and the Minimum Performance Standards are subject to change from time to time as may be directed by Landlord or the Authority.

PERFORMANCE CATEGORIES

A. PRICE AND PRODUCT QUALITY

"Street" Pricing:

1. Landlord will periodically perform benchmark "street" pricing surveys to establish "street" pricing and to ensure that the price/value relationship is consistent with major regional malls, shopping centers and complexes in the Metro Area as further described in Section 7.02(g) and **Exhibit E**. Upon written notification by Landlord of a pricing discrepancy, Tenant shall adjust prices to comply with the "street" pricing policy. Tenants who fail to do so within two (2) days of such notification shall be subject to fines identified herein until strict compliance has been achieved.

2. Tenant shall participate in marketing campaigns designed to promote the "street" pricing message. Tenant's participation may include, but is not limited to, employee buttons, POS signage and window decals.*

3. Tenant will respond within 72 hours to a complaint received on the Fair Pricing '800' number established and advertised by Landlord. Customers shall be reimbursed by Tenant as appropriate and provide evidence of such reimbursement to Landlord when requested from time to time.*

4. Prices for all products and services must be visible on the product, a menu board, price signage and/or on the shelf.*

5. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

Product and Service Quality:

1. All products displayed and offered for sale and all services rendered shall be authentic, high quality and in brand-new condition at all times.*

2. Tenant shall immediately remove from display and shall thereafter not display nor offer for sale any defective or lesser quality products (even if at a lesser price) or products which are deemed to be non-authentic, the so-called

"grey market", "imitation" or "knock-off" products.*

3. Tenant shall only be permitted to sell products or render services for which Tenant has the right, whether by license or otherwise, to sell or render.*

4. Tenant shall install and maintain at all times a display of non-perishable high-quality merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays.

5. Window displays shall be changed frequently and no less often than on a quarterly basis.*

6. All newsstand and news & sundries concessions shall sell United States postage at face value with associated signage located in the Premises that postage stamps are available.*

7. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

B. CUSTOMER SERVICE AND PERSONNEL

1. Tenant shall continuously operate its business in the Premises during all Terminal concession service hours. Tenant shall open or keep open the Premises for business upon 2 hours prior verbal notice from Landlord.*

2. The level of Tenant's Operating Staff shall include sufficient numbers (including cashiers, management and supervisory personnel) to fully service and meet the needs of customers at all times.

3. All Operating Staff and employees of Tenant must wear nametags identifying the store and the first name of the person at all times.*

4. All Operating Staff, employees and other representatives of Tenant must wear Authority issued security ID badges at all times whenever located in any sterile/secure area (e.g., beyond security checkpoints) of the Airport.* It is recommended that such security ID badge be worn at all time when on Airport property.

5. All Operating Staff and employees of Tenant shall be courteous, neat in appearance, appropriately attired and shall use skill and diligence in the conduct of business and shall not act in a loud, offensive or otherwise objectionable manner or in a manner detrimental to the best interests of Landlord or the Authority.*

6. All Operating Staff and employees of Tenant shall be knowledgeable about all products displayed and offered for sale and all services rendered and able to respond appropriately to questions from customers about products and services.*

7. All Operating Staff and employees shall have sufficient knowledge of the Terminal in which each is employed and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

8. Tenant must accept at least 2 nationally recognized credit cards for payment. Tenant must provide all customers with a receipt for all purchases made. Tenant shall offer shipping and gift wrap services (if appropriate for the type and size of the merchandise or product being offered) at cost. Tenant must provide, without charge, change making service at each cashier's location regardless of whether a purchase is made.*

9. All customers must be greeted in a friendly and timely manner and must thank the customer and provide a friendly goodbye by Tenant's Operating staff and employees.*

10. All Operating Staff and employees must regularly participate in Landlord's TOS training, classroom and in-store training.*

11. The layout of the Premises must be convenient for travelers with luggage, easy to navigate.

12. Tenant shall, within twenty-four (24) hours of receipt of any customer complaint by Tenant, forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint.*

13. Tenant's Store Manager or his or her designee, must be available, by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies.*

14. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

C. PREMISES CLEANLINESS AND APPEARANCE

1. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements (including walls, floors, etc.) and Operating Equipment (including POS systems, fixtures and furniture) shall be maintained in good condition and repair at all times.*

2. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises.*

3. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, spills, stains, offensive or unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord and in accordance with any and all laws, statutes, ordinances and regulations that may be promulgated from time to time by governmental agencies and authorities. Storefronts are to be kept clean and free from dirt, dust and debris.*

4. Exterior and interior signage are properly illuminated and all lighting fixtures are in good working order.*

5. All trash receptacles are adequate in number, not overflowing.*

6. Display cases shall be kept completely stocked with merchandise and attractive.

7. No merchandise shall be displayed outside of the Premises or on the floor at any time.*

8. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

D. ADDITIONAL PERFORMANCE STANDARDS FOR FOOD & BEVERAGE CONCESSIONS ONLY:

1. Menu Boards are well maintained and easy to read.

2. Operating Staff and employee uniforms are clean and complete. At least one (1) designated full time employee must be certified and be issued a food handler certificate from the New York State Health Department *

3. All apparatus, utensils, devices, cooking equipment, machines and piping used by Tenant shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and serving of all food & beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof.*

4. The Premises and surrounding areas shall be kept free from offensive odors at all times.*

5. Tables, chairs and counters are to be cleared and cleaned frequently during each day, as necessary.*

6. Floors swept and mopped, baseboards and corners wiped and cleaned daily.*

7. Range hoods, exhaust systems and cooking equipment cleaned daily or more often as necessary to keep them free from grease, grime and dirt.*

8. Condiments in an area readily accessible to patrons within the Premises which is well stocked, clean and organized at all times.*

9. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $150.00/day until corrected.
Second Violation: $250.00/day until corrected.
Third Violation: $500.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $250.00 increments. For example, on the fourth violation the daily fine assessed will be $750.00 and on the fifth violation, the daily fine assessed will be $1,000.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

EXHIBIT L

CATEGORY "A" PRODUCTS

Magazines and Newspapers

An assortment of domestic and international magazine titles. A wide assortment of local, regional, national and international newspaper titles.

Snacks

Prepackaged candy, mints, gum, chips, cookies, crackers, peanuts, ice cream, health food products, refrigerated bottled waters, bottled sodas, bottled energy drinks and bottled juices.

Sundries

Health and beauty aids; cosmetics, nutritional supplements, film, batteries, one-time use cameras, camera kits, watches, reading glasses and sunglasses, ties, socks, hosiery, dress shirts, greeting cards, post cards, pens/pencils, prepaid phone/internet cards (through Authority approved vendors only), phone/computer supplies and accessories and stationery, Lottery tickets (factored on commission).

Travel Accessories

Travel convenience items including, but not limited to, bags, luggage, umbrellas, maps, luggage tags, locks, luggage carts, neck braces, money holders, clocks, watches, Walk/CD man, converters and other electronic traveler convenience items.

Tobacco Products

Tobacco products including an assortment of domestic and international cigarettes, cigars, chewing tobacco, pipes, lighters and tobacco related products.

CATEBORY "B" PRODUCTS

Souvenirs

Regional and locally indigenous (featuring name dropped icons) souvenirs, including, but not limited to, key chains, magnets, water globes, mugs, glasses, shot glasses, plates, bells, spoons, pins, ash trays, stickers, pens, pencils, pewter, jewelry, candles and post cards.

Gifts

Regional and locally indigenous (featuring name dropped icons) products including, but not limited to, boxed chocolates, gourmet foods and other regionally indigenous gift products.

Apparel

Regionally and locally indigenous (featuring name dropped icons) products including T-shirts, hats, polo shirts, ties, sweatshirts, fleece products.

Toys/Children's

Regionally and locally indigenous (featuring name dropped icons) products including the above-listed items in children's sizes, plush, games and toys.

Other

Cosmetic jewelry.

FOOD & BEVERAGE ITEMS

Coffee

A wide assortment of gourmet coffees, lattes, cappuccinos, espressos, roasted coffees, iced beverages and blended cool beverages in various sizes.

Café Items

A wide range of smoothies, pastries, sandwiches, salads, wraps, soups, bakery items, doughnuts, danishes, cakes, cereal, fresh fruit, yogurt, ice cream novelties, gelato, refrigerated bottled waters, bottled sodas, bottled energy drinks and bottled juices, carbonated and non-carbonated beverages.

FOR THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 31st day of July in the year ~~2007~~ 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared Lysa Scully, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Marie M. Edwards
(notarial seal and stamp)

Marie M. Edwards
Notary Public, State of New York
No. 01ED4959693
Qualified in Kings County
Commission Expires 2/09/2010

FOR WESTFIELD CONCESSION MANAGEMENT, LLC

STATE OF Missouri)
) ss.
COUNTY OF St. Charles) Richmond

On the 16 day of July in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Arnold L. Mayersohn, Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

E. Diane Lindsey
(notarial seal and stamp)

E. DIANE LINDSEY
Notary Public-Notary Seal
State of Missouri, St Charles County
Commission # 07997728
My Commission Expires Jan 21, 2011

FOR NEWSLINK OF JFK, LLC

STATE OF FLORIDA)
) ss.
COUNTY OF MIAMI-DADE)

On the 6 day of JULY in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Raymond T. Kayal, Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

Ziad El-Assad
Commission #DD33381
Expires: Jun 29, 20(
Bonded Thru
Atlantic Bonding Co., In

FOR AMERICAN AIRLINES, INC.

STATE OF Texas)
) ss.
COUNTY OF Tarrant)

On the 7th day of August in the year 2007, before me, the undersigned, a Notary Public in and for said state, personally appeared Laura Ginspan Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

(notarial seal and stamp)

ROWENA THOM
Notary Public, State of Texas
My Commission Expires 10-29-08

THIS AGREEMENT SHALL NOT BE BINDING UPON THE PORT AUTHORITY UNTIL DULY EXECUTED BY AN EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. AYD-743
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of November 15, 2007 ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), and **ISATA, LLC, d/b/a International Shoppes Boutique** ("Sublessee"), a limited liability company organized and existing under the laws of the State of Delaware with an office and place of business at 540 Rockaway Avenue, Valley Stream, NY 11581 whose representative is Mr. Stephen R. Greenbaum, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of

the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, dated as of November 15, 2007, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; or (e) such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that

either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. (a) The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days' notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

(b) In the event the Port Authority exercises it right to revoke this Consent if the Sublessee shall fail to keep, perform and observe each and every promise, agreement, condition, term and provision contained in this Consent, the Sublessee shall be obligated to reimburse the Port Authority for any and all personnel and legal costs (including but not limited to the cost to the Port Authority of in-house legal services) and disbursements incurred by it arising out of, relating to, or in connection with the enforcement or revocation of

this Consent including, without limitation, legal proceedings initiated by the Port Authority to exercise its revocation rights and to collect all amounts due and owing to the Port Authority under this Consent.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. (a) If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

(b) In the event that upon conducting an examination and audit as described in this paragraph the Port Authority determines that unpaid amounts are due to the Port Authority by the Sublessee (the "Audit Findings"), the Sublessee 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 Sublessee under this Consent 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 paragraph 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. Nothing in this paragraph 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 Consent, including, without limitation, the Port Authority's rights to revoke this Consent or (ii) any obligations of the Sublessee under this Consent.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from

which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph

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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or

activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. Basic Lease Provisions:

(a) Certain Definitions.

(i) "Basic Lease" shall mean the Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and the Port Authority, as Tenant, dated as of November 24, 2004 and recorded in the office of the City Register of the City on December 3, 2004 under City Register File No. 2004000748687, as the same from time to time may have been or may be supplemented, amended and/or restated.

(ii) "City" shall mean The City of New York, a municipal corporation of the State of New York.

(b) The Sublessee acknowledges that it has received a copy of, and is familiar with the contents of, the Basic Lease. The Sublessee acknowledges that no greater rights or privileges are hereby granted to the Sublessee than the Port Authority has the power to grant under the Basic Lease.

(c) In accordance with the provisions of the Basic Lease, the Port Authority and the Sublessee hereby agree as follows:

(i) This Consent is subject and subordinate to the Basic Lease and to any interest superior to that of the Port Authority;

(ii) The Sublessee shall not pay the fees or other sums under this Permit for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(iii) With respect to this Consent, the Sublessee on the termination of the Basic Lease will, at the option of the City, enter into a direct consent on identical terms with the City;

(iv) The Sublessee shall indemnify the City, as third party beneficiary hereunder, with respect to all matters described in Section 31 of the Basic Lease;

(v) The Sublessee shall not use any portion of the Airport for any use other than as permitted under the Basic Lease;

(vi) The Sublessee shall use the Airport in a manner consistent with the Port Authority's obligations under Section 28 of the Basic Lease;

(vii) The failure of the Sublessee to comply with the foregoing provisions shall be an event of default under this Consent, which shall provide the Port

Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have as the grantor of the permission hereunder; and

(viii) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to this Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline or the Permittee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

24. The other parties hereto hereby waive their respective right to trial by jury in any action or summary proceeding that may hereafter be instituted by the Port Authority against any of them in respect of this Consent or Sublessee's use or occupancy of the Space or in any action that may be brought by the Port Authority to recover fees, damages, or other sums payable under this Consent or to enforce any remedy under law or in equity in any way connected therewith. No other party hereto shall interpose any claims as counterclaims in any action or summary proceeding for non-payment of fees/rent which may be brought by the Port Authority unless such claims would be deemed waived if not so interposed.

25. The Sublessee specifically agrees, as part of its obligation to comply with all applicable laws, governmental rules, regulations and orders during the term of this Consent, that it shall comply with 49 CFR Part 23 (Participation by Disadvantged Business Enterprises in the Department of Transportation Financial Assistance Programs) and 49 CFR Part 23 (Participation by Disadvantaged Business Enterprises in Airport Concessions), as the same may be amended from time to time. In addition, the Port Authority may from time to time, by notice to the Sublessee, provide to the Sublessee specific provisions which it determines may be required by the afore-stated Part 23 and/or Part 26, to be attached to and form a part of this Consent. Such specific provisions, from the effective date of such notice, shall be deemed to constitute an integral part of this Consent.

IN WITNESS WHEREOF, the Port Authority, the Permittee and the Sublessee have executed these presents.

ATTEST:

Secretary

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

(Print Name) Doug Stearns

(Title) Asst. Director, CCAS

(Seal)

~~ATTEST~~: WITNESS:

Secretary

WESTFIELD CONCESSION MANAGEMENT, LLC

By _____

(Print Name) Arnold L. Mayersohn, Jr.

(Title) Assistant Vice President

(Corporate Seal)

ATTEST:

Secretary

ISATA, LLC

By _____

(Print Name) Michael Halpern

(Title) ~~Member~~ Member/Manager

(Corporate Seal)

ACCEPTED AND CONSENTED TO AS OF THE EFFECTIVE DATE OF THIS CONSENT AGREEMENT

AMERICAN AIRLINES, INC.

By _____

(Print Name) LAURA A. EINSPANIER

(Title) ~~Vice President~~ Corporate Real Estate President

(Corporate Seal)

APPROVED FOR TRANSMITTAL

FORM	TERMS
MG	SB

ISATA, LLC

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

On the 8th day of May in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared MICHAEL HALPERN, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Patricia Gordon
(notarial seal and stamp)

PATRICIA GORDON
NOTARY PUBLIC, State of New York
No. 6600178
Qualified in Nassau County
Commission Expires July 31, 20 10

FOR AMERICAN AIRLINES, INC.

STATE OF Texas)
) ss.
COUNTY OF Tarrant)

On the 27th day of January in the year 2008 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Laura Engelhardt, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Rowena Thom
(notarial seal and stamp)

ROWENA THOM
Notary Public,
State of Texas
Comm. Exp. 10-29-12

FOR THE PORT AUTHORITY OF NEW YORK & NEW JERSEY

STATE OF NEW YORK)
) ss.
COUNTY OF NEW YORK)

On the 10TH day of MARCH in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared DOUG STEARNS, 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Gail E. Mitchell
(notarial seal and stamp)

GAIL E. MITCHELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MI6026210
Qualified in Queens County
My Commission Expires June 14, 20 11

FOR WESTFIELD CONCESSION MANAGEMENT, LLC

STATE OF Missouri)
) ss.
COUNTY OF St. Louis)

On the 12th day of May in the year 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared Arnold L. Mayersohn, Jr., 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), or the person upon behalf of which the individual(s) acted, executed the instrument.

Rebecca S. Verble
(notarial seal and stamp)

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

REBECCA S. VERBLE
My Commission Expires
March 5, 2012
St. Louis City
Commission #08456620

SUBLEASE

BETWEEN

WESTFIELD CONCESSION MANAGEMENT, LLC

LANDLORD

AND

ISATA, LLC
TENANT

INTERNATIONAL SHOPPES BOUTIQUE
TRADE NAME

SPACE NUMBER B9

CONCOURSE B

TERMINAL 8
JOHN F. KENNEDY INTERNATIONAL AIRPORT
JAMAICA, NEW YORK

DATA SHEET

The following references furnish data which is hereby incorporated into the specified sections hereof:

(1) **Section 1.02: Term:** (a) **Latest Rental Commencement Date:** March 25, 2008. Notwithstanding the foregoing, if possession of the Premises is not delivered to Tenant on or before January 10, 2008, then the Latest Rental Commencement Date shall be extended on a day-for-day basis equal to the exact number of days past January 10, 2008, that delivery of possession of the Premises to Tenant was so delayed, and such delay was not caused by Tenant. **(b) Expiration Date:** March 31, 2013, or the 5th anniversary of the Latest Rental Commencement Date, whichever is the later to occur, as confirmed in a letter from Landlord to Tenant.

(2) **Section 2.01: Minimum Annual Guaranteed Rent:**
per Lease Year, payable in equal consecutive monthly installments of Ex. 2.a. , subject to annual adjustments based upon the **"Percentage Change in Enplaned Passengers"**.

(3) **Section 2.02: Percentage Rent:** Ex. 2.a. of all Gross Receipts in excess of ("**Monthly Breakpoint**"). The initial annual total of the Monthly Breakpoint is Ex. 2.a. ("**Annual Breakpoint**"). The Monthly Breakpoint and Annual Breakpoint are subject to adjustments in connection with the annual adjustments to the Minimum Annual Guaranteed Rent based upon the **"Percentage Change in Enplaned Passengers"**.

(4) **Section 2.06: Additional Rent:** Additional Rent shall include but not be limited to the following items: **(a) Section 2.03: Storage Premises Rent:** If, applicable, Tenant shall pay Storage Premises Rent as referenced in Section 2.03 without any administrative markup or profit to Landlord; **(b) Section 2.04: Taxes:** Tenant shall pay its proportionate share of Taxes as provided in Section 2.04; **(c) Section 2.05: Miscellaneous Charges:** Tenant shall pay miscellaneous charges for employee parking, security checks and identification badges and screening of goods, products, equipment and supplies as charged by Landlord, American, the Authority or applicable regulatory agencies from time to time, subject to adjustment, without any administrative markup or profit to Landlord; **(d) Section 8.04: Logistical Support and Public Area Maintenance Fee:** Tenant shall pay its proportionate share of the Logistical Support and Public Area Maintenance Fee, without any administrative markup or profit to Landlord; **(e) Section 12.01: Utilities:** Not applicable and **(f) Section 16.03: Joint Marketing Fund:** Tenant shall contribute to the Joint Marketing Fund, calculated on the basis of Ex. 2.a. of Gross Receipts per month, payable monthly, subject to adjustment as provided in Section 16.03. The initial joint marketing fund assessment of Ex. 2.a. shall be paid by Tenant to Landlord in lump sum within sixty (60) days prior to the Rental Commencement Date.

(5) **Section 7.01: Permitted Use:** For the operation of a boutique type retail concession providing for the primary sale at retail of men's and women's national branded apparel and accessories including but not limited to: Fossil accessories, watches, bags and apparel; Calvin Klein underwear, t-shirts and tank tops; Le Sport Sac-Bags and luggage; Guess accessories, watches, bags and apparel; Tommy Hilfiger accessories, watches, bags and apparel; Cole Haan accessories, bags and apparel; Swarovski jewelry and accessories; Longchamps accessories and bags; Swatch watches, and for no other use or purpose. Brands will be displayed in individual boutique like settings within the Premises. Other fashion brands and products shall be rotated into non-customized displays as dictated by the latest fashion trends. Tenant may add new products by submitting to Landlord a written request with product samples to Landlord's on-site management office at the Airport. Landlord shall review such request with American and the Authority to the extent required and shall approve or disapprove the request, as determined in Landlord's sole and

TERMINAL 8 SUBLEASE
JOHN F. KENNEDY INTERNATIONAL AIRPORT
CONCOURSE B

THIS SUBLEASE ("**Sublease**") is made as of this 15th day of November, 2007, by and between **WESTFIELD CONCESSION MANAGEMENT, LLC**, a Delaware limited liability company, whose address is 11601 Wilshire Boulevard, 11th Floor, Los Angeles, California 90025 ("**Landlord**"), and **ISATA, LLC**, a New York limited liability company, whose principal place of business is located at 540 Rockaway Avenue, Valley Stream, New York 11581 ("**Tenant**").

Subject to the terms and conditions contained herein, Landlord hereby leases to Tenant, and Tenant hereby accepts from Landlord, the premises identified on **Exhibit A-2** ("**Premises**"), which is in and part of Terminal 8 ("**Terminal**") at John F. Kennedy International Airport, Jamaica, New York ("**Airport**"). **Exhibit A-1** is a general site plan of the Airport including the location of the Terminal. **Exhibit A-3** is a site plan of the portion of the Terminal leased to Landlord as shown hatched on such **Exhibit A-3** ("**Concession Area**"). The Terminal consists of approximately 1,414,500 square feet leased by The Port Authority of New York and New Jersey ("**Authority**") to American Air Lines, Inc. ("**American**") and is anticipated to contain approximately 36 gates. The Premises is known as Space No. B9 containing approximately 1,350 square feet of Floor Area as shown on **Exhibit A-2**. Not included in the Premises is the roof, concrete slab floor, and all perimeter walls (except the inner surfaces thereof) and the perimeter doors and windows. The actual number of square feet of Floor Area may, at Landlord's option, be subject to adjustment based on field measurements as reasonably determined by Landlord; and all charges hereunder based on a per square foot amount shall be adjusted accordingly. The type of concession is:

☒Specialty Retail	☐Food & Beverage (☐ Food Court Location)	☐Service
☒In-Line	☐Wall-Shop	☐Kiosk

Landlord has the right to enter into this Sublease pursuant to the Master Retail Development, Management and Leasing Agreement between American and Landlord dated as of September 2, 2004 ("**Concession Area Lease**"). The Concession Area Lease is subject and subordinate to the Amended and Restated Lease No. AYB-085R between the Authority and American dated December 22, 2000 ("**Authority Lease**"). Tenant hereby acknowledges that a redacted copy of the Concession Area Lease (excluding only certain provisions considered to be confidential by Landlord and American) has been provided to Tenant. This Sublease is subject and subordinate to the Concession Area Lease and the Authority Lease, including all amendments and supplements thereto, whether entered into prior to or after the date hereof; and Tenant shall strictly comply with all applicable provisions of the Concession Area Lease, the Authority Lease, the Consent Agreement, the Authority's TAA Process and any and all other permits, documents and requirements required by the Authority (collectively, "**Authority Requirements**"). In the event of any inconsistency between the terms of this Sublease and the Concession Area Lease or the Authority Lease, then in each and every such instance, the Authority Lease or the Concession Area Lease, as the case may be, shall supersede and control. The terms, conditions and effectiveness of this Sublease are expressly conditioned upon the due execution and delivery by the Authority, American, Landlord and Tenant of an agreement in the form of **Exhibit B** hereto ("**Consent Agreement**") or as such Consent Agreement is otherwise required by the Authority. For definitional purposes, "**Tenant**" shall include Tenant, its agents, contractors, subcontractors, employees, franchisees, invitees, licensees, assignees, subtenants, concessionaires and others performing work and/or who are conducting operations in the Premises. Any capitalized terms not otherwise defined herein shall have the same meanings as set forth in the Concession Area Lease. American and the Authority are express and intended third party beneficiaries of this Sublease.

absolute discretion, within 10 days of receipt. If Landlord fails to respond to Tenant within such 10 day period, then the request shall be deemed to have been disapproved by Landlord and denied.

(6) **Section 7.02: Hours of Operation:** Tenant shall be open for business 7 days a week, 365 days a year, including all holidays. Tenant's minimum daily hours of operation shall be as follows: 7:00 A.M. to 10:00 P.M., local time, subject to other hours and adjustments as provided in Section 7.02.

(7) **Section 16.01: Trade Name:** "International Shoppes Boutiques".

(8) **Section 26.01: Performance Guaranty-Letter of Credit:** At Landlord's option: (i) twenty-five percent (25%) of the initial annual Guaranteed Rent in immediately available funds, payable to Landlord upon execution of this Sublease and in no event later than delivery of the Premises to Tenant; or (ii) an unconditional, irrevocable standby letter of credit in an amount not less than one hundred percent (100%) of the initial annual Guaranteed Rent in funds available immediately or same day funds in the City of New York, as security for the faithful observance, payment and performance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed, paid and performed ("**Performance Guaranty**"). Such letter of credit must be in form and content as set forth in **Exhibit H** for a term of not less than one (1) year with automatic extensions and issued by a commercial banking institution reasonably acceptable to Landlord and authorized to conduct business in the State of New York ("**Bank**"). The Performance Guaranty shall be delivered by Tenant and held by Landlord in accordance with the provisions of Article XXVI of this Sublease. No surety bonds shall be permitted.

(9) **Section 27.05: Notice Addresses:**

Landlord:
Westfield Concession Management, LLC
11601 Wilshire Blvd., 11th Floor
Los Angeles, California 90025
Attention: Office of Legal Counsel

With copies to:
Westfield Concession Management, LLC
Airport Division Management Office
2730 University Boulevard, Suite LL6
Wheaton, Maryland 20902

Westfield Concession Management, LLC
John F. Kennedy International Airport – Terminal 8
Jamaica, New York 11430
Attention: General Manager

Tenant:
ISATA, LLC
540 Rockaway Avenue
Valley Stream, New York 11581
Attention: Mr. Michael Halpern

With a copy to:
Herten, Burstein, Sheridan, Cevasco,
Bottinelli, Litt, & Harz, LLC
21 Main Street, Ct. Plaza South
Hackensack, New Jersey 07601
Attn: Steven B. Harz, Esq.

Tenant's Billing Address:
ISATA, LLC
540 Rockaway Avenue
Valley Stream, New York 11581
Attention: Mr. Michael Halpern

Address for Rental Payments to Landlord: All Rentals payable to Landlord hereunder shall be made payable to "**Westfield Concession Management, LLC, Trustee for American Airlines, Inc. and the Port Authority of New York and New Jersey**" and remitted to: Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Los Angeles, California 90074-0429 (Via U.S. Mail) or Westfield Concession Management, LLC, John F. Kennedy International Airport, Bank of America, File #50429, Remittance Banking, Unit 5195, 1000 West Temple Street, Ground Floor, Los Angeles, CA 90012 (Via Overnight Delivery Service).

ARTICLE I. GRANT AND TERM

Section 1.01 **CONDITIONS OF GRANT OF PREMISES.** American and the Authority each have the right to make any alterations, replacements or modifications to the Terminal (including, but not limited to, the Concession Area) and/or the Airport, including actions which may change the shape, size, location, number and extent of the improvements generally shown on **Exhibits A-1, A-2 and A-3** and eliminate or add any improvements to any portion of the Terminal and/or the Airport at any time without Landlord's or Tenant's consent. Such rights shall include the right to place, install, maintain, use, repair and replace, in any manner, pipes, lines, conduits, ducts, flues, drains, sprinkler mains and valves, wires and wiring (and like improvements) and structural elements leading through the Premises or serving the Premises or any other parts of the Terminal. Tenant acknowledges that pursuant to the Concession Area Lease, American has agreed to use reasonable efforts to place any such items (other than existing items and/or necessary or desirable structural elements) in locations that do not materially interfere with Tenant's use of the Premises unless required to comply with American's obligations under the Authority Lease. Tenant may, upon approval by Landlord and subject to the Authority's TAA Process (as defined in Section 5.01), have the right to install utility lines and facilities which exclusively serve the Premises in the area between Tenant's finished ceiling and the roof above, but such installation shall be at Tenant's sole cost and expense. Wherever the term Airport or Terminal is used, it shall be deemed to include the areas shown as such on **Exhibit A-1**. If American or the Authority elects to enlarge or alter the Airport, the Terminal or the Concession Area, Landlord, at its sole and absolute discretion, may include any additional area in the respective definitions of Airport, Terminal and/or Concession Area for purposes of this Sublease.

Section 1.02 **COMMENCEMENT AND ENDING DATE OF TERM.** The term of this Sublease ("**Term**") shall commence as of the date reflected on the first page hereof ("**Commencement Date**"). Tenant's obligation to pay Guaranteed Rent, Percentage Rent and Additional Rent (collectively, "**Rentals**") shall commence upon the date ("**Rental Commencement Date**") which is the earlier to occur of (a) the date on which Tenant initially opens for business to the public, or (b) the Latest Rental Commencement Date specified in the Data Sheet. Any occupancy of the Premises by Tenant following the Commencement Date and prior to the Rental Commencement Date shall be subject to all terms and conditions hereof other than the payment of Rentals. The Term hereof shall end on the Expiration Date set forth in the Data Sheet, unless sooner terminated in accordance with this Sublease or if the Consent Agreement is terminated or otherwise revoked as provided therein. Tenant 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 lawful cause, or in the event either Landlord or American obtains possession of the Premises in any lawful manner. Such termination of the Sublease, as provided herein, and the removal, restoration and surrender obligations of Tenant, shall in no event give rise to any claims for incidental, consequential or severance damages on account of Tenant's occupancy and/or abandonment of the Premises. The first "**Lease Year**" shall be the period commencing on the Rental Commencement Date and ending on the next December 31, and thereafter each "**Lease Year**" shall mean a fiscal year of twelve (12) consecutive calendar months ending on December 31.

Section 1.03 **LATE OPENING.** Landlord and Tenant agree that Tenant's failure to open the Premises on the Latest Rental Commencement Date will result in damages which are difficult to ascertain in light of operational, scheduling and public service factors. Therefore, if Tenant fails to open for business in the Premises by the Latest Rental Commencement Date and such failure shall be due to any fault of Tenant and not due to delays as specified in Section 5.01(c) or due to reasons of Force Majeure, Landlord may assess and Tenant shall pay as liquidated damages and not as a penalty, One Hundred Dollars ($100.00) per day for each day Tenant is not open for business after and including the Latest Rental Commencement Date. If such failure shall continue for in excess of sixty (60) days, the amount of such liquidated damages may be increased up to a maximum of Two Hundred Fifty Dollars ($250.00) per day. This remedy shall be in

addition to any and all other remedies provided in this Sublease or by law to Landlord in the event of default by Tenant. Such liquidated damages shall be deemed to be in lieu of Percentage Rent only that might have been earned during the period of Tenant's failure to open.

Section 1.04 CONSENT. Tenant acknowledges that under the Concession Area Lease and the Authority Lease, American and the Authority may have the right to consent to or approve matters which are described herein as being subject to the consent or approval of Landlord. Tenant agrees that Landlord, its agents and employees, shall be deemed to have acted reasonably if they act, fail to act, withhold or delay any consent or approval hereunder and such consent or approval is being withheld or delayed by or at the direction of either American or the Authority, whether or not American or the Authority is acting reasonably in making or refusing to make such determination. Landlord, its agents and employees, shall not have any liability to Tenant for any reason whatsoever in failing to obtain any such consent or approval.

Section 1.05 DISCLAIMER. **TENANT ACKNOWLEDGES THAT NEITHER LANDLORD, AMERICAN, THE AUTHORITY NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, REPRESENTATIVES OR BROKERS HAVE MADE ANY REPRESENTATION OR WARRANTY OF SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION OR WARRANTY OF ANY KIND RESPECTING USE, OCCUPANCY OR OPERATION WITHIN THE TERMINAL AND/OR THE AIRPORT BY ANY AIRLINES, PERSONS OR ENTITIES INCLUDING, WITHOUT LIMITATION, ANY FORECASTED, ANTICIPATED OR ESTIMATED PASSENGER VOLUME (WHETHER ENPLANEMENTS OR DEPLANEMENTS) IN THE TERMINAL AND/OR THE AIRPORT OR SALES EXPECTED TO BE GENERATED AT OR FROM THE PREMISES. TENANT IRREVOCABLY WAIVES ANY CLAIM BASED UPON OR RELATED TO ANY SUCH CLAIMED REPRESENTATION BY LANDLORD, AMERICAN OR THE AUTHORITY. NO REPRESENTATIONS OR WARRANTIES AS TO THE ECONOMIC VIABILITY OF THE PREMISES OR THE AMOUNT OF PASSENGERS TO BE ENPLANED IN THE TERMINAL HAVE BEEN MADE. NO PROMISES TO ALTER, REMODEL OR IMPROVE, THE PREMISES, CONCESSION AREA OR THE TERMINAL HAVE BEEN MADE BY LANDLORD OR AMERICAN EXCEPT AS EXPRESSLY SET FORTH HEREIN OR IN THE CONCESSION AREA LEASE. PASSENGER COUNTS, PASSENGER FLOWS AND OTHER CUSTOMER TRAFFIC ARE IN THE MOST PART PRODUCTS OF AIRLINE SCHEDULES AND GATE UTILIZATION AND GOVERNMENTAL RULES AND REGULATIONS GOVERNING SECURITY AND EMERGENCY SITUATIONS AND MAY RESTRICT ACCESS TO THE TERMINAL. TENANT MAY NOT RELY ON ANY IMPLIED REPRESENTATIONS OR WARRANTIES (THE EXISTENCE OF WHICH ARE HEREBY DISCLAIMED), OR THE ACCURACY OF PROJECTIONS OR PROSPECTIVE INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE. TENANT REPRESENTS THAT TENANT HAS CONDUCTED AN INDEPENDENT AND EXPERT INVESTIGATION AND EVALUATION OF THE TERMINAL, THE PREMISES AND ALL INFORMATION PROVIDED IN CONNECTION WITH THE EXECUTION OF THIS SUBLEASE.**

ARTICLE II. RENTALS

Section 2.01 MINIMUM ANNUAL GUARANTEED RENT. Tenant shall pay to Landlord the Minimum Annual Guaranteed Rent ("**Guaranteed Rent**") set forth in the Data Sheet in equal consecutive monthly installments in advance on or before the first day of each month, without prior demand or notice. Guaranteed Rent, Percentage Rent and Additional Rent shall be paid to Landlord in U.S. currency at the address set forth in the Data Sheet, or such other place as Landlord may designate in writing, without any deductions or offsets whatsoever. Should the Rental Commencement Date occur on a day other than the first day of a calendar month or this Sublease expire or terminate on a day other than the last day of a

calendar month, then Guaranteed Rent shall be prorated on the basis of a thirty (30) day month. Should any Lease Year contain less than twelve (12) calendar months, said Guaranteed Rent shall be prorated on the basis of a three hundred sixty-five (365) day year. Effective each January 1 (commencing January 1, 2008) following the Rental Commencement Date, Guaranteed Rent shall adjust (but in no event shall the Guaranteed Rent decrease below the amount set forth in the Data Sheet) by an amount equal to the then current Lease Year's Guaranteed Rent times the "**Percentage Change in Enplaned Passengers**". The "**Percentage Change in Enplaned Passengers**" shall mean an amount equal to the percentage change, whether an increase or a decrease, between the Terminal's reported "**Enplaned Passengers**" between two (2) consecutive calendar years for each Lease Year of the Term. For example, the initial calendar year for such measurement shall be the "**Enplaned Passengers**" in the Terminal during the 2006 calendar year and shall be compared to the "**Enplaned Passengers**" in the Terminal during the 2007 calendar year. Thereafter, calendar year periods used for the measurement comparison shall each roll forward by one (1) calendar year for subsequent determinations of the Percentage Change in Enplaned Passengers (e.g., the second comparison shall be the 2007 calendar year compared to the 2008 calendar year). For all purposes of this Sublease, the term "**Enplaned Passengers**" means any passenger determined by American to have boarded an aircraft at the Terminal, including passengers who may disembark and re-board the same aircraft as part of the same flight itinerary, but excluding passengers, such as international in-transit passengers, from international flights who are restricted from access to the Concession Area.

Section 2.02 **PERCENTAGE RENT.** (a) Tenant shall also pay for each month of the Term ("**Lease Month**"), Percentage Rent equal to the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts during such Lease Month exceeds the Monthly Breakpoint. Tenant shall pay Percentage Rent to Landlord monthly without prior notice or demand within fifteen (15) days after the expiration of each Lease Month. All Percentage Rent payments shall be computed based on all Gross Receipts made during the previous Lease Month which exceed the Monthly Breakpoint. Should the Rental Commencement Date occur on a day other than the first day of a Lease Month or this Sublease expire or terminate on a day other than the last day of a Lease Month, then Percentage Rent due for such partial Lease Month shall equal the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts exceed the product obtained by multiplying the Monthly Breakpoint by a fraction, the numerator of which is the number of days in any partial Lease Month and the denominator of which is thirty (30). Should any Lease Year be less than twelve (12) full calendar months then the annual Percentage Rent due for such partial Lease Year shall equal the product of the Percentage Rent Rate times the amount by which Tenant's Gross Receipts exceed the product obtained by multiplying the Annual Breakpoint by a fraction, the numerator of which is the number of days in any partial Lease Year in which Tenant was open and operating and the denominator of which is three hundred sixty-five (365). Further, the Monthly Breakpoint and the Annual Breakpoint shall be adjusted accordingly effective each January 1 by an appropriate amount to maintain the same "natural" or "un-natural" breakpoint in comparison with Guaranteed Rent, such adjustment to be made proportionately in connection with the annual adjustments to Guaranteed Rent pursuant to Section 2.01.

(b) If, at the end of any Lease Year, the monthly installments of Percentage Rent are less than the annual Percentage Rent required to be paid, Tenant shall pay the amount of such deficiency on or before the time Tenant provides its Annual Statement together with "**Late Interest**" (as defined in Section 27.13) from the date any such amounts were originally due. If, at the end of any Lease Year, the monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid, Tenant shall receive a credit equivalent to such excess, which shall be credited by Landlord to the next monthly payment(s) of Rentals due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total monthly installments of Percentage Rent paid exceeds the annual Percentage Rent required to be paid for such final Lease Year, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises at the conclusion of this Sublease, so long as the Premises are in the condition required by this Sublease, all of

Tenant's obligations and liabilities have been performed to the satisfaction of Landlord and any other sums due Landlord from Tenant under this Sublease have been paid in full or Landlord shall be entitled to deduct such remaining sums due from any such excess. Percentage Rent is agreed to be a portion of the consideration for Landlord to enter into this Sublease and Landlord expects to supplement Guaranteed Rent and Additional Rent to provide a fair rental return. Except as otherwise specifically permitted by this Sublease, if Tenant fails to continuously operate its business or keep the required hours of operation or vacates the Premises prior to the expiration of the Term hereof, Landlord, American and the Authority will suffer damages not readily ascertainable. Landlord shall have the right to treat any of such events as a non-curable, material default and breach by Tenant and Landlord shall be entitled to all remedies provided hereunder or at law.

(c) The term "**Gross Receipts**" means and includes all monies paid or payable to Tenant, whether for cash, credit or otherwise, for sales made or services rendered at or from the Terminal or the Airport regardless of when or where the order therefor is received and outside the Terminal or Airport if the order is received at the Terminal or the Airport, retail display allowances and other promotional incentives (the gross amounts thereof, not net of expenses) received from vendors, suppliers or manufacturers and other revenues of any type arising out of or in connection with Tenant's operations at the Terminal or the Airport, including, without limitation, proceeds from: the sale of gift and merchandise certificates (but only when such certificates are treated as a sale from the Premises pursuant to Tenant's record keeping system); mail, catalogue (as further explained below), closed circuit television, computer, other electronic or telephone orders received or filled; deposits not refunded to purchasers; orders taken at the Premises (although such orders may be filled elsewhere); sales through vending machines or other devices; the spread earned on any exchange or foreign currency transactions whether as a currency exchange service or in connection with the sale of merchandise or services; and all insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage. Catalogue sales generated from catalogues distributed from the Premises will be included in the calculation of Gross Receipts. For this purpose, catalogues displayed in the Premises must include a tracking number unique to the Premises that allows for an auditable method for tracking such sales. A "sale" shall be treated as consummated for the purposes of this definition, and the entire amount of the sales price shall be included in Gross Receipts, and deemed received at the time of determination of the amount due for each transaction, whether for cash, credit or otherwise, and not at the time of billing or payment. No deduction shall be allowed for uncollected or uncollectible credit accounts or "bad" checks. Gross Receipts shall not include: (1) any sums collected for any federal, state, county and municipal sales taxes, so-called luxury taxes, use taxes, consumer excise taxes, gross receipts taxes and other similar taxes now or hereafter imposed by law upon the sale of merchandise or services but only if separately stated from the sales price and only to the extent actually paid by Tenant to any duly constituted governmental/taxing authority; (2) the exchange of merchandise between the stores or warehouses owned by or affiliated with Tenant, if any, where such exchanges of goods or merchandise are made solely for the convenient operation of the business of Tenant and not for the purpose of consummating a sale which has theretofore been made at, in, from or upon the Premises or for the purpose of depriving Landlord, American or the Authority of the benefit of the sale which otherwise would be made at, in, from or upon the Premises; (3) the amount of any cash or credit refund made upon any sale where the merchandise sold, or some part thereof, is thereafter returned by a purchaser and accepted by Tenant; (4) the proceeds of sale of fixtures, equipment or other items of property which are not stock in trade and not in the ordinary course of Tenant's business; (5) any receipts of Tenant which arise from its operations at the Airport under any other agreement with Landlord, American or the Authority and are subject to a percentage fee or percentage rent under that agreement; (6) shipping, delivery and gift wrapping charges provided at Tenant's actual cost by Tenant and documented separately by Tenant and such charges are merely an accommodation to customers; (7) receipts in the form of refunds from, or the value of merchandise, services, supplies or equipment returned to, vendors, shippers, suppliers or manufacturers, including volume discounts

received from Tenant's vendors, suppliers or manufacturers; (8) income actually received by Tenant from manufacturers of goods (e.g., cosmetics, perfume) displayed for sale at the Premises if the conditions set forth below are fully and strictly satisfied with respect to such income; (9) customary discounts given by Tenant on sales of merchandise or services to its own employees, if separately stated, and limited in amount to not more than of Gross Receipts per Lease Month; (10) mandatory discounts of not less than Ex. 2.a. of Gross Receipts, if separately stated, which must be given by Tenant on sales of merchandise or services to all individuals employed at the Airport, all American employees and to all Terminal airline employees; (11) gratuities for services performed by employees of Tenant which are paid by Tenant or its customers to such employees, except to the extent Tenant may be entitled to receive a portion of such gratuities; (12) the sale or transfer in bulk of the inventory of Tenant to a purchaser of all or substantially all of the assets of Tenant in a transaction not in the ordinary course of Tenant's business; and/or (13) except with respect to insurance proceeds received due to loss of gross earnings under Tenant's business interruption insurance coverage as provided above and/or insurance proceeds that may be payable to Landlord, American or the Authority under such coverage, receipts from all other insurance proceeds received as a result of a loss or casualty. The conditions with respect to Section 2.02(c)(8) above are as follows: (i) the manufacturer specifically identifies the time period to which the income relates, (ii) reimbursement from the manufacturer to Tenant occurs in connection with employees (1) who are on Tenant's payroll for the operations permitted under the Consent Agreement and (2) who are on such payroll during the time period to which the reimbursement relates, (iii) the manufacturer and Tenant have previously entered into a written agreement that sets forth the material terms of their arrangement with regard to the reimbursement that is the subject of 2.02(c)(8), and (iv) Tenant provides to Landlord written documents and records substantiating the matters listed in sub-clauses (i) through (iii). Without limiting the generality of the foregoing, any and all income that would otherwise qualify as being excludable from Gross Receipts for purposes of this Sublease shall be includable in Gross Receipts if and to the extent that the income from the manufacturer which is associated with an identified employee during a calendar year exceeds such identified employee's base salary for the same calendar year. Such determination shall be made separately with respect to each employee of Tenant and with respect to each calendar year.

Section 2.03 **STORAGE PREMISES AND RENT.** If and to the extent that Storage Premises exist and/or are available, commencing on the date of actual delivery of Storage Premises to Tenant, all of the terms, provisions and conditions of Tenant's use and occupancy of the Premises set forth herein shall apply fully to Tenant's use and occupancy of the Storage Premises and for all purposes of this Sublease, the Premises shall be deemed to include the Storage Premises. Tenant shall build out such Storage Premises at its sole cost and expense, or, if Landlord may build out such Storage Premises to Landlord's specifications in which case, Tenant shall reimburse Landlord for the reasonable and actual costs incurred to build-out the Storage Premises. Landlord has the right at any time, in its reasonable discretion, to designate comparable alternative Storage Premises. In the event of the relocation of Storage Premises, Tenant shall be solely responsible for all moving and other related costs thereto. Tenant shall pay to Landlord as rent for the Storage Premises ("**Storage Premises Rent**") in accordance with the terms of the separate Storage Premises Sublease. Storage Premises Rent shall be payable in equal consecutive monthly installments in advance on or before the first (1st) day each month, without prior demand or notice. If delivery of the Storage Premises occurs on a date other than the first (1st) day of a month, the Storage Premises Rent shall be prorated on a daily basis for any such partial month.

Section 2.04 **TAXES.** (a) From and after the Rental Commencement Date, Tenant shall pay to Landlord, as Additional Rent, its proportionate share of the Taxes payable by Landlord under the Concession Area Lease. "**Taxes**" means, collectively, any tax, fee, excise, levy, lien, duty, impost or similar charge assessed or imposed, including, without limitation, payments under any taxing agreement between the Authority and/or American, and the City of New York, providing for taxes to be paid to the

City of New York, and any interest, penalties and additions to a tax, by a governmental authority on, against or in connection with the lease, use, possession, equipping, operation or maintenance of the Concession Area, and any amounts paid or deemed paid in connection with the purchase, lease or use of goods and/or services at or for the Concession Area, including amounts paid or attributable to utilities generated, provided or consumed by or through Tenant, other tenants of the Concession Area, Landlord, American or the Authority for the benefit of the Concession Area. Taxes exclude payments in lieu of taxes and federal or state taxes based on or determined by net income, net worth or Landlord's or American's ongoing qualification to do business in general as a corporation (e.g., state franchise taxes). Should the State of New York or City of New York or any political subdivision thereof or any governmental, taxing or assessing authority, impose a tax of any kind or nature, regular or special, direct or indirect, upon, against or with respect to the Rentals or other amounts payable to Landlord by Tenant, or a franchise tax assessment, levy or charge measured by or based, in whole or in part, upon such Rentals or any other amounts payable hereunder, then all such taxes, assessments, levies or charges, or the part thereof so measured or based, shall be paid by Tenant and shall be deemed to be included within the term Taxes. The Taxes in respect of the year in which the Rental Commencement Date occurs and for the year in which the Term hereof ends shall be prorated on a daily basis.

(b) Tenant's proportionate share of Taxes shall be determined as follows: (1) if the Premises is the subject of a separate tax lot or lots created by the City of New York, Tenant shall pay Taxes that may become due and payable with respect to the Premises as so reflected on the tax statement during the Term directly to the City of New York, or Landlord, as directed by Landlord, and shall deliver to Landlord, not later than ten (10) days before the date any such Taxes become delinquent, official receipts of the appropriate taxing authority or other evidence satisfactory to Landlord evidencing payment thereof; or (2) if the Premises is not a separate tax lot or lots, the amount of Tenant's proportionate share thereof shall be reasonably calculated by Landlord based upon the type of Tax charged and how it is allocated to all or a portion of the Concession Area; provided, however, any vacant Floor Area which is excluded from the foregoing calculation shall not exceed twenty percent (20%) of the gross leaseable Floor Area of all concession facilities in the Concession Area, but such restriction shall not be applicable until Landlord has completed the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Tenant's proportionate share thereof shall be determined by a formula, the numerator of which is the Floor Area of the Premises and the denominator of which is the total Floor Area of all leased and occupied concession facilities located in the Concession Area. Such proportionate share shall be paid to Landlord in advance, in monthly installments on or before the first (1st) day of each calendar month, either: (i) in an amount estimated by Landlord and billed to Tenant, but Landlord shall have the right to initially determine monthly estimates and to revise estimates from time to time, or (ii) within twenty (20) days of Tenant's receipt of a bill from Landlord for the payment of such Taxes, if any of such Taxes are not so estimated in advance. Tenant agrees to make payment within twenty (20) days after receipt of a bill from Landlord even if a statement showing the Taxes payable by Landlord is not provided by Landlord at the time of billing. Upon receipt of the abovementioned statement pertaining to Taxes payable by Landlord under the Concession Area Lease, Landlord shall furnish Tenant with a written statement of the actual amount of Tenant's proportionate share of Taxes for such tax fiscal year together with a copy of such statement. If the total amount paid by Tenant for any such period following the Rental Commencement Date shall be less than the actual amount due from Tenant for such period, as shown on the statement, Tenant shall pay to Landlord the difference between the amount previously paid by Tenant and the actual amount due together with Late Interest from when originally due within ten (10) days after Tenant's receipt of such statement. If the total amount paid by Tenant hereunder for any such period shall exceed the actual amount due from Tenant for such period, such excess shall be credited against the next payment for Taxes due from Tenant to Landlord hereunder. If at the end of the final Lease Year the total amount paid by Tenant for such final Lease Year shall exceed the actual amount due from Tenant for such period, such excess shall be refunded to Tenant within forty-five (45) days after Tenant has vacated the Premises in good

condition at the conclusion of this Sublease and all Rentals due Landlord from Tenant under this Sublease have been paid in full or Landlord may deduct such excess, if any, from any outstanding and unpaid Rentals remaining to be paid by Tenant to Landlord.

(c) Landlord reserves the right to contest Taxes; and Tenant shall pay to Landlord that portion of all reasonable external costs and expenses incurred by Landlord in connection with such contests (including attorneys' fees, accountants, consultants and appraiser expenses, and reasonable administrative expenses) based on a formula, the numerator of which is the square footage of Floor Area in the Premises, and the denominator of which is the total square footage of Floor Area in the Concession Area. Notwithstanding any such contest, related negotiation or appeal, Tenant shall timely pay its proportionate share of Taxes. If Taxes shall be increased, Tenant's proportionate share of Taxes shall be computed on the amount of Taxes finally determined to be payable by Landlord including any of the reasonable external costs incurred therein. If Landlord's obligation to pay Taxes shall be decreased, Landlord's statement following such decrease shall include an appropriate adjustment for any prior fiscal tax years affected by such decrease reflecting the amount of such decrease; and Tenant's proportionate share of any such adjustment, less Tenant's proportionate share of the reasonable external costs incurred shall be treated as a credit against future Taxes payable by Tenant following the decrease or, if during the final Lease Year of the Term, refunded to Tenant as provided in Section 2.04 (b) above. If Taxes are separately-assessed against Tenant, Tenant may contest, in good faith for its own account and at Tenant's sole cost and expense, the validity or amount of any such separately assessed Tax, provided **Tenant shall indemnify Landlord against any resulting loss, cost or expense, and shall provide security reasonably satisfactory to Landlord with respect to Tenant's performance of such indemnification.** Under no circumstances shall Tenant permit any type of lien or encumbrance on the Premises or on the Terminal by reason of the failure to pay any Taxes or Tenant Taxes (as defined in Section 22.01).

(d) If Tenant should fail to pay any Taxes required to be paid by Tenant hereunder, in addition to any other remedies provided herein, Landlord may, if it so elects, pay such Taxes either with its own funds or by a draw-down of such amounts upon the Performance Guaranty. Any sums so paid by Landlord shall be due and payable by Tenant on demand, together with Late Interest thereon from the date paid by Landlord to the date of repayment by Tenant. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Taxes and proceedings described in this Section 2.04.** Tenant shall be liable for all Taxes levied or assessed directly against Tenant, including Taxes assessed on or in respect of "**Fixed Improvements**" and any "**Refurbishments**" (as both terms are defined in Section 5.01), or other fixtures, inventory or personal property of Tenant in the Concession Area. If any such Taxes are levied or assessed against Landlord, American or their property and Landlord pays the same or the assessed value of Landlord's or American's property is increased by inclusion of such personal property and fixtures, then, at Landlord's discretion, Tenant shall advance the corresponding Taxes to Landlord, or reimburse them upon demand if paid by Landlord.

Section 2.05 **MISCELLANEOUS CHARGES.** (a) Employee Parking. The Authority retains the right to institute a charge to Tenant for the privilege of using such employee designated parking facilities for Tenant's employees. Such charges shall be paid directly to the Authority and shall be promptly paid at such intervals as shall be demanded in accordance with parking rates established by the Authority as adjusted from time to time. (b) Identification Security Badges. All persons employed at the Terminal are required to obtain background checks, security clearances and identification security badges from American or the Authority; and American or the Authority has the right to institute a reasonable charge for processing, issuance, reviews and renewals. Such charges shall be paid directly to the issuing party and shall be promptly paid at such intervals as shall be demanded. All security badges must be properly accounted for

by Tenant and promptly returned in accordance with American's, the Authority's and all other applicable rules, policies and regulations. (c) Screening. As may be required by local, state or federal law, including, but not limited to, the Federal Aviation Administration's ("**FAA**"), the Transportation Security Administration's ("**TSA**"), American's, the Authority's or any other applicable rules and regulations now in effect or hereinafter enacted, costs incurred for the screening of Tenant's goods, products, equipment and supplies shall be paid by Tenant directly to Landlord or, if not billed directly, included within the Logistical Support and Public Area Maintenance Fee. (d) Subsequent Regulations. If in the future, American, the Authority or any agency with jurisdiction over the Airport requires Landlord to implement additional procedures related to airport facilities and/or the screening or badging of Tenant's employees, contractors, goods, products, equipment or supplies, Tenant agrees to pay the actual costs incurred by Landlord in the manner provided above. Each of the foregoing shall be collectively referred to as "**Miscellaneous Charges**".

Section 2.06 **ADDITIONAL RENT.** In addition to Guaranteed Rent and Percentage Rent hereunder, Tenant shall pay, as "**Additional Rent**", in a manner and at the place provided herein, all sums of money required to be paid by Tenant hereunder, including but not limited to: Miscellaneous Charges, Storage Premises Rent, if any, Taxes, Utilities for concessions which offer food and beverages, the Logistical Support and Public Area Maintenance Fees, and contributions to the Joint Marketing Fund. If such amounts or charges are not paid at the time and in the manner as provided herein, they shall nevertheless be collectible as Additional Rent with the next installment of Guaranteed Rent thereafter falling due, but nothing herein shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due and payable hereunder or to limit any other remedy of Landlord. All Rentals payable in a given month shall be deemed to comprise a single rental obligation of Tenant.

Section 2.07 **LATE PAYMENT CHARGE.** If any Rentals required to be paid to Landlord hereunder are not made when such Rentals are due, including as a result of any audit findings, Tenant shall pay interest on any such overdue amounts, compounded monthly at the rate specified in Section 27.13 commencing on the due date; provided, however, any such late charges shall be waived in the event any such late payments are in fact received by Landlord within five (5) days following the due date. If Landlord accepts such late payment charge or Tenant pays the late payment charge but fails to pay contemporaneously therewith all unpaid amounts of Rentals due, Landlord's acceptance of this late payment charge shall not constitute a waiver of Tenant's default nor prevent Landlord from exercising all other rights and remedies available to Landlord hereunder or at law. If Tenant is late more than twice during any consecutive twelve (12) month period, Landlord will not waive any such applicable late charges for the next consecutive twelve (12) month period.

Section 2.08 **APPLICATION OF PAYMENTS; ACCORD AND SATISFACTION.** Landlord may, at its sole discretion, apply any payments received from Tenant to any Rentals that are then due and payable. If Landlord shall not make any specific application of a payment received from Tenant, then any such payment received shall be applied first to the Rentals which have been overdue for the longest period of time. No designation of any payment by Tenant for application to a specific portion of Tenant's financial obligations hereunder shall be binding unless otherwise required under the laws of the State of New York nor shall it be deemed an accord and satisfaction of any debt or obligation of Tenant hereunder. Tenant covenants to pay all Rentals independent of any obligation of Landlord. No breach of this Sublease by Landlord shall relieve Tenant of its obligation and duty to pay all Rentals when due under the terms hereof. All Rentals shall be paid by Tenant to Landlord without set-off, deduction, demand or abatement. Tenant's obligations to pay Rentals shall be absolute and unconditional and shall not be subject to any right of recoupment or set-off and Tenant shall make all payments in full without deduction, setoff or counter-claims of any form or nature. Landlord reserves the right to accept any check or payment without prejudicing in any way Landlord's right to recover the balance of any and all Rentals due from Tenant after

receipt of any such check or payment or to pursue any other remedy provided herein or by law. At any time that Tenant shall have delivered checks to Landlord for payments pursuant hereto which shall have on at least two (2) occasions during any Lease Year been returned by Landlord's bank for any reason, Landlord shall not be obligated to accept any payment from Tenant unless such payment is made by cashier's check or in bank certified funds.

ARTICLE III. RECORDS AND REPORTS

Section 3.01 **TENANT'S RECORDS.** Tenant shall maintain in English and in accordance with accepted accounting practices consistently applied ("**AAP**"), full and complete records and books of account recording all transactions at, through or in any way connected with Tenant's operations at the Premises or elsewhere at the Terminal or the Airport and outside of the Airport if the order therefor is received at the Premises, and shall require and cause all of Tenant's Affiliates (as defined below) performing similar services within the Port of New York District (as defined in the Authority Lease) and its subtenants, concessionaires, licensees and/or assignees to prepare and keep books, source documents, records and accounts sufficient to substantiate those kept by Tenant (collectively, "**Records**"). For all purposes of this Sublease, "**Affiliate**" or "**Affiliates**" means, with respect to any Person, any other Person, directly or indirectly, through one (1) or more intermediaries, who or which Controls, is Controlled By or is Under Common Control With such Person; "**Person**" means and includes an individual, corporation, partnership, limited liability company, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department, authority or agency thereof; and "**Control**" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise (including any entity in which a Person (including any general or limited partner, managing and non-managing member or shareholder of such Person) has an ownership interest); and the terms "**Controls**", "**Controlled By**" and "**Under Common Control With**" shall have the meanings correlative to the foregoing. The Records shall include, without limitation, true copies of all federal, state and local sales and use tax returns and reports, daily bank deposits and daily receipts from all sales (including those from catalogue, mail or telephone orders), duplicate bank deposit slips, invoices, journals, ledgers and other pertinent original sales records, and records of any other transactions conducted in or from the Premises by Tenant. The Records shall also include, without limitation, all corporate records and books of account which the Landlord, in its sole discretion, believes may be relevant for identification, determination or calculation of all fees, rentals and other amounts paid or payable to American and the Authority, all agreements, and all source documents. The Records shall be preserved and retained by Tenant within the Port of New York District and if not kept by Tenant within the Port of New York District, the Records shall be preserved and retained at Tenant's principal business office located in the United States during the Term and for one (1) year after the expiration or earlier termination hereof, and for any further period extending until receipt of written permission from the Authority to do otherwise; provided, however, those Records pertaining to Gross Receipts shall be maintained for a period of five (5) years from the date of each sale, or, in the event of a claim by Landlord, American or the Authority, until such claim for payments hereunder shall have been resolved, fixed and paid. If such records are not kept by Tenant within the Port of New York District, Tenant shall make all of such records available within the Port of New York District within fifteen (15) days of a request therefor. All Records shall at all reasonable times, during Tenant's normal business hours after fifteen (15) days prior written notice, be open to the inspection of, and may be copied or extracted from, in whole or in part, by Landlord, American, the Authority or their respective representatives for the period hereinabove required. If the Records are not audited within such retention period, the Records shall be deemed adequate and closed; provided, however, in the case of fraud and/or willful errors, such retention period limitation shall not apply; and, provided, further, records relating to any litigation or settlement of claims arising under or relating to this Sublease shall be made available for during retention period after such litigation or claims have been completed and all time limits for appeals have expired.

Section 3.02 **POINT OF SALE TERMINALS.** Tenant shall install in the Premises, at its sole cost and expense, non-resettable cash register(s) and other point of sale terminals (each, a "**Point-of-Sale Terminal**") for recording orders taken, or services rendered, as may be appropriate to Tenant's business and necessary or desirable to keep accurate records of Gross Receipts and to register therein every transaction made in, on, about or from the Premises, including every type of Gross Receipts. Each such Point-of-Sale Terminal shall provide an historical record of all transactions which occur at the Premises for accounting, terminal-wide merchandising and auditing purposes. Landlord, American and the Authority shall have the right to inspect any Point-of-Sale Terminal or audit Tenant at any time. In order to provide an accurate record and to provide a high level of service to customers, all Point-of-Sale Terminals or cash registers used shall have, as a minimum, the following features: (a) not less than sixty (60) segregated category addresses (if applicable for the types of products or services that maybe offered by Tenant); (b) the input devices may either be a key, scanner or both; (c) the patron fee display shall be of sufficient size and legibility to be readily observed by the patron during the processing of a transaction; and (d) the register of each Point-of-Sale Terminal shall: (1) record transactions by sequential control number to the audit tape or computer files; (2) be capable of printing a transaction history to tape or file by hour (time of day), day, month and year; (3) print a customer receipt showing the amount due, amount tendered, and the amount due to the customer together with the time and date of the transaction; and (4) the register or data collection device shall have a secure transaction audit tape or an ASCII transaction file on an IBM compatible data disk. The tape of each Point-of-Sale Terminal shall be accessible to, and subject to inspection by, Landlord, American and the Authority. Each Point-of-Sale Terminal shall accept at least two (2) major credit cards and, wherever commercially reasonable, provide a so-called "swipe and go" credit card service to its customers. Upon request, Tenant shall make available to Landlord weekly sales data ("**Point of Sale Data**"), reflecting the amount of each sales transaction, the number of transactions, items sold per transaction, time and date of each transaction, and specifying the sales category applicable to each item sold.

Section 3.03 **REPORTS BY TENANT.** Tenant shall furnish to Landlord as soon as practicable after the end of each Lease Month, but in no event later than fifteen (15) days after the expiration of each Lease Month, a complete statement (substantially in the form of **Exhibit C**), certified by a authorized officer or equivalent representative of Tenant, of the amount of Gross Receipts during such period and the amount of Percentage Rent paid ("**Monthly Statement**"). Tenant shall furnish to Landlord, within sixty (60) days after the expiration of each Lease Year, a complete statement (substantially in the form of **Exhibit C**), prepared and certified by an authorized officer of Tenant and certified by an independent certified public accountant (who shall be subject to Landlord's reasonable approval), showing in reasonable detail for the preceding Lease Year the amount of Gross Receipts and the payments of Guaranteed Rent, Percentage Rent and Additional Rent ("**Annual Statement**"). Tenant shall certify in its Monthly Statements and Annual Statements that (1) such statements have been prepared in accordance with the terms of this Sublease, (2) that all revenues which are required to be included in Gross Receipts under the terms of this Sublease and in accordance with AAP have been so included, (3) that all payments of Guaranteed Rent, Percentage Rent and Additional Rent have been made in accordance with the terms of this Sublease, and (4) all of the foregoing statements are true, accurate and complete in all material aspects. The certification and opinion of the independent certified public accountant shall state that total Gross Receipts, Guaranteed Rent, Percentage Rent and Additional Rent were calculated and reflected by Tenant in its Annual Statement in accordance with the terms of this Sublease and that the Annual Statement was prepared in accordance with AAP. Landlord may make reasonable changes to the form of the Monthly Statement or Annual Statement from time to time upon thirty (30) days prior notice to Tenant. Monthly Statements and Annual Statements shall be accompanied with supporting documentation as may be required by Landlord. If Tenant fails to furnish to Landlord any Monthly Statement or Annual Statement within the time required by this Section 3.03, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of Fifty Dollars ($50.00) per statement per day until

such statement is properly delivered to Landlord for the first (1st) such failure to furnish a statement, One Hundred Twenty-Five Dollars ($125.00) per statement per day until such statement is delivered to Landlord for the second (2nd) such failure to furnish a statement, and Two Hundred Fifty Dollars ($250.00) per statement per day until such statement is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a statement. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

Section 3.04 **BUSINESS STATISTICS REPORTS.** Tenant shall furnish to Landlord, within ten (10) days after the close of each calendar quarter during the Term, the following report ("**Business Statistics Report**") containing trends for the operation of the Premises, as follows: (a) average weekly sales by category, if applicable; (b) rolling twelve (12) month sales by category, if applicable; (c) sales per Enplaned Passenger, by category, if applicable, on a monthly, quarterly and rolling twelve (12) month basis; (d) average sales per transaction on an annual basis; (e) sales per square foot of Floor Area in the Premises and by category, if applicable, on a rolling twelve (12) month basis; (f) occupancy report, listing Rentals as a percentage of Gross Receipts; and (g) where applicable, comparisons to historical data for the same time frames. If Tenant fails to furnish to Landlord any Business Statistics Report within the time required by this Section 3.04, then Tenant shall pay within ten (10) days of written demand therefor by Landlord as Additional Rent and as liquidated damages and not as a penalty, the amount of Fifty Dollars ($50.00) per report per day until such report is properly delivered to Landlord for the first (1st) such failure to furnish a report, One Hundred Twenty-Five Dollars ($125.00) per report per day until such report is delivered to Landlord for the second (2nd) such failure to furnish a report, and Two Hundred Fifty Dollars ($250.00) per report per day until such report is delivered to Landlord for the third (3rd) and subsequent such failures to furnish a report. This remedy shall be in addition to other remedies provided herein, at law and/or at equity to Landlord.

ARTICLE IV. EXAMINATION AND AUDIT

Section 4.01 **RIGHT TO EXAMINE BOOKS.** Landlord, American and the Authority each shall have the right to examine all Records. Tenant shall make available to the requesting party within fifteen (15) days following such written request for the same at a designated location within the Port of New York District for the purpose of examination, extracting and/or copying all books, source documents, accounts, records and sales tax reports filed with applicable government agencies of Tenant and any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, in order to verify the amount of Gross Receipts and the amount of all Rentals. Should such records not be made available at the designated location within the Port of New York District within such fifteen (15) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

Section 4.02 **AUDIT.** During the Term hereof and for one (1) year thereafter, Landlord, American and the Authority may, each at any time upon ten (10) days prior written notice to Tenant, cause a complete audit to be made by an auditor or accountant of their selection (who may be a certified public accountant), of the records and operations of Tenant and/or any Affiliates, subtenants, concessionaires, licensees and/or assignees, if any, relating to the Premises, for the period covered by any statement issued or required to be issued by Tenant, its Affiliates subtenants, licensees, concessionaires, and/or assignees. Tenant shall make available to the auditor or accountant, at a location within the Port of New York District within ten (10) days following written notice requiring such audit, all of the Records that such auditor or accountant deems necessary or desirable for the purpose of making such audit. If such audit discloses that Gross Receipts as previously reported for the period audited were understated, Tenant shall immediately pay to Landlord the additional Percentage Rent due for the period audited together with Late Interest from the date such amounts were originally due. Further, if such understatement was in excess of

two percent (2%) of actual Gross Receipts as disclosed by such audit, Tenant shall immediately pay to Landlord the reasonable and actual cost of such audit upon Tenant's receipt of an invoice therefor, plus Late Interest; and, if such understatement was in excess of ten percent (10%) of Gross Receipts as disclosed by such audit due to Tenant's intentional, willful or fraudulent act or omission, Landlord may declare this Sublease terminated and the Term ended, in which event this Sublease shall cease and terminate on the date specified in such notice with the same force and effect as though the date set forth in such notice were the date set forth in this Sublease for expiration of the Term, and Tenant shall vacate and surrender the Premises on or before such date in the condition required by this Sublease for surrender upon the expiration of the Term. If upon examination or audit the auditor or accountant reasonably determines that sufficient documentation is not maintained, retained, recorded, or available in accordance with AAP to verify Gross Receipts, Tenant shall pay for the reasonable and actual cost of such audit; and, in addition, should the party who requested the audit deem it necessary, Tenant shall reconstruct, at its sole cost and expense, all records for the determination of Gross Receipts for any period being audited. Should such records not be made available at the designated location within the Port of New York District within such ten (10) day period, Tenant shall reimburse Landlord, American and/or the Authority for reasonable travel, lodging and meal expenses to examine the same at Tenant's office.

ARTICLE V. CONSTRUCTION OF PREMISES

Section 5.01 CONSTRUCTION OF PREMISES. (a) All improvements to the Premises shall be made as set forth in **Exhibit D**, the Tenant Construction Review Manual (as defined herein), the Design Guidelines (as defined herein) and otherwise in compliance with the Tenant Construction and Alteration Application Authority Form 531, as the same may be amended or modified, from time to time ("**Alteration Application**"), the Authority Requirements and any other reasonable requirements of Landlord and American. Tenant shall install the Fixed Improvements (as herein defined) and Operating Equipment (as herein defined) on or before the Latest Rental Commencement Date so that the Premises will provide attractive, well-designed facilities that promote the display and sale of merchandise, products and/or services and present a positive image to the public. Each of the parties hereto shall perform the obligations imposed upon such party in **Exhibit D** at the times and in the manner provided. It is understood and agreed by Tenant that any non-material changes from any plans and specifications covering American's Work (if any), as described in **Exhibit D**, shall not affect or invalidate this Sublease. The term "**Fixed Improvements**" shall mean the permanent improvements, structures and fixtures (other than the work ("**Base Building Work**") American is obligated to perform under the Authority Lease and the Concession Area Lease to deliver the Premises in "shell" condition as set forth in **Exhibit D**) initially installed by Tenant in the Premises to prepare the Premises for issuance of an occupancy permit and otherwise to complete it for the operations of Tenant and any Refurbishments which may be made subsequently to the Premises in accordance with this Sublease. "**Refurbishments**" shall mean the repair, replacement or upgrade of Fixed Improvements as required and approved under Section 5.03(b). Fixed Improvements may include, but are not limited to, finish-out work on floors, ceilings, demising walls and store facades, storefront signage, the panel box for and hook-ups to utility wires and conduits infrastructure, decorations, shelves, counters, lighting and interior design and construction work necessary in general to accommodate the operation of a Tenant. The Fixed Improvements shall be satisfactory to Landlord and American in all respects and shall be installed in a timely manner in accordance with this Article V. The term "**Operating Equipment**" means any trade furniture, trade furnishings, trade equipment, signs, trade appliances and trade fixtures that are fabricated, furnished, installed and used by Tenant in the Premises. The term "**Tenant Construction Review Manual**" means the Tenant Construction Review Manual, Port Authority Design Guidelines and other construction manuals promulgated by the Authority, as may be amended or modified from time to time. The term "**Design Guidelines**" means Landlord's Tenant Design Handbook and American's Design Guidelines as may be amended or modified from time to time.

(b) Tenant shall furnish conceptual drawings and plans ("**Conceptual Plans**") and final drawings and specifications ("**Final Drawings**") for the Premises as follows: Tenant shall submit Conceptual Plans to Landlord and American for approval no later than twenty (20) days after execution of this Sublease. Landlord shall promptly review the Conceptual Plans, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Conceptual Plans. Following Tenant's receipt thereof, Tenant shall submit Final Drawings strictly conformed to the approvals or comments received within twenty (20) days (or such shorter period of time in order for Tenant to complete installation of the Fixed Improvements and Operating Equipment, stock the Premises and open for business to the public by the Latest Rental Commencement Date) to Landlord and American for prior written approval. Landlord shall promptly review such Final Drawings, and Landlord shall provide consolidated comments or approvals to Tenant within fifteen (15) days following receipt of the Final Drawings. In the event of disapproval, Tenant shall immediately revise the Final Drawings and promptly resubmit them for approval until such approval is obtained. Following approval of the Final Drawings, Tenant shall immediately prepare so that American can immediately file the Tenant Alteration Application as soon as possible thereafter (and in no event more than five (5) days thereafter) with the Authority pursuant to the Authority's Tenant Alteration Application Process ("**TAA Process**"). It is anticipated that the Authority will provide its comments, approval and/or disapproval no later than thirty (30) days after submission of the Alteration Application and to issue all required construction permits within such time period. Obtaining all approvals required by the Authority's Requirements is the sole responsibility of Tenant. The failure of Landlord to provide comments and/or approvals within the time periods set forth herein for Conceptual Plans and Final Drawings shall extend the Latest Rental Commencement Date on a day-for-day basis for each day so delayed; provided, however, no such extension shall be granted to Tenant unless the Conceptual Plans and Final Drawings are submitted strictly in accordance with all of the requirements of the Tenant Construction Review Manual, the Design Guidelines, **Exhibit D** and the Alteration Application. Tenant's failure to furnish or revise the Conceptual Plans and Final Drawings within the time frames and in the form required herein, or failure to perform any other obligation under this Section, shall constitute a material default by Tenant hereunder, which shall entitle Landlord to all remedies set forth in Article XIX. If Landlord reasonably determines that the parties are unable to agree upon the Conceptual Plans and/or the Final Drawings or if Tenant fails to timely provide the Preliminary Plans and Final Drawings, including any revisions required thereto within five (5) days from the dates required, Landlord may terminate this Sublease upon twenty-four (24) hours written notice to Tenant, in which event this Sublease shall terminate on the date specified in such notice and thereafter neither party shall have any further obligations to the other party. No deviation from the Final Drawings, once approved pursuant to the TAA Process (and once so approved they are incorporated by reference herein), shall be made by Tenant without Landlord's, American's and the Authority's prior written consent. Approval of Conceptual Plans and Final Drawings by Landlord, American or the Authority shall not constitute any representation or warranty or the assumption of any responsibility or any liability by Landlord, American or the Authority for their accuracy, efficacy or sufficiency and Tenant shall be solely responsible for such items. Storefront barricades, reasonably acceptable to Landlord, attractively screening the Premises from view during construction shall be erected and maintained by Tenant at all times prior to Tenant's opening for business and shall be removed and properly disposed of by Tenant prior to such opening, all at Tenant's sole cost and expense. If Landlord originally erects such storefront barricades or if Tenant fails to construct, erect, maintain, remove and dispose any such storefront barricades, Tenant shall reimburse Landlord for all reasonable and actual costs incurred by Landlord in performing any of the same.

(c) Tenant expressly acknowledges that it is familiar with the TAA Process and its design and construction guidelines. Delays in obtaining Authority approvals in regard to these processes shall not be considered an excusable delay or Force Majeure (as defined in Section 27.04) except, and only to the extent, that the Authority fails to respond at all to a conforming Alteration Application for more than thirty (30) days after delivery of such application. In the latter case, the Latest Rental Commencement

Date will be extended one (1) day for each day beyond the 30th day that the Authority has failed to respond to an Alteration Application. No work may commence until an Alteration Application has been approved by the Authority, pre-construction meetings, as scheduled and directed by the Authority, are concluded and the Authority has issued a construction permit, permitting the work to be performed, if applicable. Within one hundred twenty (120) days of the completion of construction, Tenant shall submit "as-built" drawings and specifications of the construction work and installation of equipment and trade fixtures; and Tenant shall keep such drawings current showing therein any changes or modifications made during the Term. **Tenant shall also factor in any length of time required to obtain all security clearances, identification badges, pre-construction coordination meetings, permitted times in which construction activities shall be allowed in the Terminal and all other Authority Requirements in order to ensure that Tenant shall be open for business no later than the Latest Rental Commencement Date.**

(d) Tenant shall spend and invest, in a manner previously approved by Landlord and American, an amount not less than Ex. 2.a. per square foot of the Floor Area in the Premises (as the minimum capital expenditure and investment) for the construction and installation of Fixed Improvements ("**Construction Cost**"), which sum shall be comprised of the types of any investments that qualify as Eligible Costs (as defined below).

(e) Within ninety (90) days of completion of the Fixed Improvements or any Refurbishments, Tenant's construction manager and/or architect shall duly execute and deliver to Landlord, as evidence of the completion of such work, a certificate to the effect that: (1) the design, construction, and equipping of the Fixed Improvements have been substantially completed in strict accordance with the Final Drawings and the time schedule to complete if not fully complete (which in no event shall exceed thirty (30) days); (2) all costs and expenses for labor, services, materials, and supplies used in designing, constructing, and equipping the Fixed Improvements for which payment is due have been paid in full (specifying, in reasonable detail, the Construction Cost expended in the completion of the Fixed Improvements which are to be applied toward the minimum investment requirement established in Section 5.01(d)) together with executed copies of all mechanics' lien waivers and/or releases or other lien waivers and/or releases on account of Tenant's Work, notarized and unconditional, in such reasonable form as Landlord shall have reasonably approved; (3) a certificate of occupancy, a consent to occupy or a permit to use or occupy, as applicable, and all other necessary licenses, permits and other required documents for operation of Premises affected by the Fixed Improvements have been issued by the appropriate governmental agency; and (4) final and complete set of "as-built" Final Drawings on the most recent version of AutoCad (which version shall not predate Version 12.0), duly certified by a registered architect or registered engineer licensed in the State of New York. Tenant shall not begin sales to the public until all the requirements regarding inspection and certification by Landlord, American and/or the Authority have been fulfilled pursuant to the TAA Process. If Tenant shall fail to provide any of the foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Two Hundred Fifty Dollars ($250.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

(f) Within ninety (90) days of completion of the Fixed Improvements or any Refurbishments, Tenant shall duly execute and deliver to Landlord and American, as evidence of the cost of such work, a certificate issued by the chief executive officer, chief financial officer or equivalent representative of Tenant, detailing the Eligible Costs actually incurred in connection with the installation of the Fixed Improvements together with a Depreciation Schedule (as hereinafter defined) for each Fixed

Improvement. Tenant shall provide to Landlord copies of invoices and canceled checks or other reasonable evidence of expenditures for labor and materials covering all Eligible Costs; and Landlord and American shall have the right to audit such records. If there is a discrepancy of five percent (5%) or more, Tenant shall pay, as Additional Rent, the cost of the audit. If Tenant shall fail to provide any of the foregoing within such ninety (90) days, Tenant shall pay to Landlord as liquidated damages and not as a penalty, the sum of Five Hundred Dollars ($500.00) per day for each day following five (5) days from the date due that any of the foregoing have not been delivered to Landlord within such period of time. If such failure shall continue for a period exceeding one hundred eighty (180) days after the completion of the Fixed Improvements or any Refurbishments, such shall be a material default by Tenant hereunder entitling Landlord to all remedies available to it hereunder or at law.

"**Eligible Costs**" means, with respect to any investment in Fixed Improvements or Refurbishments, the following: (1) directly contracted construction costs, (2) architectural and engineering fees, construction management fees and the cost to obtain the applicable permits, which amounts under this clause (2) shall not exceed fifteen percent (15%) of the contracted construction costs, unless otherwise approved by Landlord in writing, and (3) permanent fixtures, including any furniture and equipment and custom-built "trade fixtures" which constitute fixtures under applicable law, installed for direct use in the Premises. Notwithstanding the foregoing, Eligible Costs shall not include: (1) costs for Base Building Work incurred by Landlord or American, (2) costs in excess of one hundred thirty-five percent (135%) of the estimated costs for Fixed Improvements provided by Tenant in the letter of intent or proposal term sheet for this Sublease unless otherwise specifically approved by Landlord in writing, (3) any overhead, financing costs (e.g., loan origination fees or interest, legal fees or any non-construction-related costs), or (4) amounts paid to any Affiliate of Tenant. In addition, to qualify as Eligible Costs, disbursements must be supported by the certificate referenced in Section 5.01(e) and the documentary evidence of payment as described in this Section 5.01(f).

"**Depreciation Schedule**" means a schedule reflecting the monthly amortization of the Eligible Costs for Fixed Improvements, which schedule must be approved by Landlord and American and shall reflect amortization on a straight-line basis during the lesser period of either: (1) the useful life of such Fixed Improvement, calculated in accordance with "GAAP"; or (2) the length of time remaining in this Sublease from the date such Fixed Improvement is completed and begins to be depreciated. "**GAAP**" means generally accepted accounting principles in the United States of America, as set forth in the opinions and pronouncements of the American Institute of Certified Public Accountants' Accounting Principles Board and Financial Accounting Standards Board or in such other statements by such other entity as may be in general use by significant segments of the accounting profession, to the extent such principles are applicable to the facts and circumstances on the date of determination. Any schedule submitted by Tenant for this purpose shall not be deemed a Depreciation Schedule until such schedule is approved by Landlord and American in writing, which approval shall not be unreasonably withheld, delayed or conditioned. If Landlord does not respond at all within ninety (90) days of the submission of a Depreciation Schedule, the schedule shall be deemed accepted and approved by Landlord.

Tenants who fail to properly and timely submit the certificates and documentary evidence of Eligible Costs and the Depreciation Schedule to Landlord and American for approval within one hundred eighty (180) days after the completion of the Fixed Improvements or Refurbishments shall forever waive and release Landlord and American for reimbursement of any portion of Tenant's Eligible Costs in the event of a relocation and/or early termination of this Sublease.

(g) Subject in all events to the Authority Lease and the Authority's lease with the City of New York, all alterations, additions, improvements and fixtures (including, without limitation, all floor, wall and/or ceiling coverings and any Tenant-installed heating and air conditioning equipment, but excluding

Tenant's readily movable decorations, trade fixtures, furniture and office equipment) that are installed by any party in the Premises shall remain upon and be surrendered with the Premises and become the property of American, if permitted under the Authority Lease, or the City of New York, as the same or any part thereof is erected, constructed or installed.

(h) All contracts for the construction or installation of Fixed Improvements shall require: (1) that all contractors and subcontractors provide labor that can work in cooperation with other elements of labor employed or to be employed at the Airport; (2) insurance coverage and suretyship reasonably satisfactory to Landlord, the Authority and American for the protection of their employees, laborers, suppliers, contractors, subcontractors, agents, invitees and the public; (3) that all contractors and subcontractors comply with all provisions of this Sublease applicable to them; and (4) performance bonds and payment bonds from Tenant or Tenant's general contractor, in form and substance satisfactory to Landlord, each of which shall name Landlord, the Authority and American, as additional obligees and/or loss payees and which shall be in a sum equal to the amount of the applicable construction contracts. Tenant shall designate a full-time qualified construction project manager with experience in projects of similar size and scope (**"Tenant's Project Manager"**) reasonably acceptable to Landlord to coordinate construction of the Fixed Improvements with Landlord pursuant to the Authority's TAA Process. Landlord reserves the right to require Tenant to provide its list of selected architects, interior designers and construction managers for prior written approval, which approval shall not be unreasonably withheld by Landlord.

(i) During the performance of Tenant's Work, the Premises shall, at Tenant's sole cost and expense, be kept free and clear of all trash and debris and shall be broom swept daily. No work which Tenant is permitted to do or which Tenant is obligated to perform pursuant to this Sublease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord, American or the Authority. Tenant has no authority, express or implied, to, and shall not, create, place or permit the placement of any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord, American or the Authority in the Concession Area, the Terminal or the Airport, or to assign or encumber either the Rentals or any other payment obligations for any claim in favor of any Person including, without limitation, those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will promptly pay or promptly cause to be paid all sums legally due and payable by Tenant on account of any labor performed or materials furnished in connection with any work performed in, under, on and upon the Premises, by or on behalf of Tenant. **Tenant will indemnify and hold Landlord, American, the Authority, the City of New York and the commissioners, employees, officers, agents and representatives of Landlord, American, the Authority and the City of New York harmless from any and all losses, costs and expenses of any asserted claims or liens against the respective rights, title and interests of Landlord, American, the Authority and the City of New York in the Airport, and any part thereof, or under the terms of this Sublease based on or arising out a breach of the covenants of this Section 5.01.** Tenant agrees to give Landlord immediate written notice of the placing of any lien or encumbrance against the Concession Area or the Terminal.

(j) Tenant's failure to complete the Fixed Improvements and install its Operating Equipment in a timely manner will result in damages that are difficult to ascertain in light of operations, scheduling and public service factors at the Terminal. **Therefore, if the Fixed Improvements are not completed and the Operating Equipment not installed by the Latest Rental Commencement Date, Tenant shall pay to Landlord as liquidated damages the sum of One Hundred Dollars ($100.00) for each day that the Fixed Improvements are not completed and the Operating Equipment not installed beyond such Latest Rental Commencement Date.**

Section 5.02 **CONDITION OF PREMISES.** Except as otherwise specifically provided herein, Tenant

hereby agrees that upon delivery of possession of the Premises to Tenant, Tenant shall accept such delivery of possession of the Premises in its then existing **"AS IS" "shell condition"** (as described in **Exhibit D**)and Tenant acknowledges: (a) that Tenant shall have inspected the Premises and shall be fully aware of the condition of the Premises as of delivery of possession and the suitability thereof for Tenant's permitted use or the conduct of Tenant's business; (b) that Landlord shall have no obligation to improve or alter the Premises for the benefit of Tenant; (c) that, Tenant shall assume all risks in connection therewith without representation or warranty by Landlord, American or the Authority, express or implied, in fact or by law, on the part of Landlord, American and the Authority and without recourse to Landlord, American and the Authority. Tenant irrevocably waives any claim based upon or related to any such claimed representation by Landlord or any claimed representation by Landlord as to public traffic to be expected at the Premises or sales to be expected at the Premises. Tenant's taking possession of the Premises shall constitute Tenant's formal acceptance of the same and acknowledgment that the Premises are in the condition required hereunder. Tenant waives any right to rescind or terminate this Sublease, whether under Section 223-a of the New York Real Property Law or any successor statute of similar import then in force or otherwise, and further waives the right to recover any damages or obtain any other compensation from Landlord which may result from Landlord's failure to deliver possession of the Premises on the date set forth in the Data Sheet and/or in the condition provided herein.

Section 5.03 **ALTERATIONS AND REFURBISHMENTS TO THE PREMISES.** (a) In the event Tenant desires to make any future modifications to the Premises or the Fixed Improvements during the Term, Tenant shall not make such modifications without first obtaining the prior written consent of Landlord, American and the Authority, and otherwise complying with the terms and conditions outlined in this Article V for the initial Fixed Improvements.

(b) If the Term of this Sublease will exceed seven (7) years, whether under the original term or any extension thereof, Tenant agrees that by no later than seven (7) years after the date of beneficial occupancy of its Premises, Tenant will spend and invest as a mid-term reinvestment (in each case with the manner and source of such expenditure and investment being subject to the same procedures applicable to initial Fixed Improvements, including the prior approval of Landlord and American) a minimum of One Hundred Fifty Dollars ($150.00) per square foot for each food and beverage concession and Seventy-Five Dollars ($75.00) per square foot of each other type of concession (e.g., retail or service) for such Refurbishments or other upgrades to the Fixed Improvements. Tenant shall provide to Landlord and American such back-up data as Landlord and American may reasonably request to confirm that such Refurbishment and upgrade to the Fixed Improvements has been made.

ARTICLE VI. RESERVATION OF RIGHTS TO RELOCATE, CONTRACT, TERMINATE, SURRENDER AND WAIVER OF CLAIMS

Section 6.01 **RESERVATION OF RIGHTS.** (a) Tenant acknowledges that American has the right, at any time and from time to time during the Term, in the interest of the efficient operation of the Terminal, to close, move or alter any common corridor, passageway, walkway or common area, including, without limitation, entrances, exits, passages, halls, corridors, aisles, stairways, elevators and escalators, or to restrict or change the traffic on or through any such common corridor, passageway, walkway or common area, with due regard to not unreasonably restricting the use and occupancy of the Premises by Tenant. Tenant shall not have any claim against Landlord, American or the Authority for such action, nor shall such action by American release Tenant from any of its obligations under this Sublease, the Consent Agreement or any other agreement in connection herewith.

(b) Landlord, American and the Authority, and their respective directors, officers, employees, agents, representatives, contractors, and furnishers of utilities and other services, have the right from time to time,

at their own cost and expense, for their own benefit or for the benefit of others at the Terminal and/or Airport: (1) to construct and maintain existing and future utility and other systems throughout the Premises; (2) to enter the Premises at all reasonable times and upon reasonable notice (provided no notice shall be required during any real or threatened emergency) to inspect any part of the Premises, Fixed Improvements and Operating Equipment and to make such repairs, replacements or alterations thereto as may, in the opinion of Landlord, American or the Authority, be necessary or advisable (and, if Tenant is otherwise obligated under this Sublease to perform such work and/or take such action, the cost thereof shall be due and payable by Tenant on demand, as Additional Rent, along with an additional charge in an amount equal to fifteen percent (15%) of the cost thereof); (3) to construct or install facilities over, in or under parts of the Premises otherwise not conveniently accessible; and (4) to install, operate, maintain, recover and repair the property used in connection with their respective rights to the Premises provided, in each case in the exercise of such rights of access, maintenance, repair, replacement, alteration or new construction, Landlord shall use reasonable efforts not to unreasonably interfere with the use and occupancy of the Premises by Tenant.

(c) In the event that any movable property of Tenant shall obstruct the access of Landlord, American and/or the Authority, their employees, agents and/or contractors to any of the existing or future utility, mechanical, electrical and/or other systems and thus shall interfere with the inspection, maintenance or repair of any such system, Tenant shall move such property, as directed by Landlord, American or the Authority, in order that access may be had to the system or part thereof for its inspection, maintenance and/or repair; and, if Tenant shall fail to so move such property after direction from Landlord, American or the Authority to do so, Landlord, American or the Authority may move it; and Tenant shall pay the cost of such moving upon demand. In the case of Fixed Improvements installed by or on behalf of Tenant that were approved by Landlord, American and/or the Authority, and thereafter are required to be moved for the reasons provided above, Landlord or American, at their cost, may move the same and, upon completion of the inspection, maintenance and/or repair; and, to the extent American is obligated pursuant to the Concession Area Lease, Landlord or American shall restore such permanent Fixed Improvements and repair any damage caused by such removal and restoration to the same condition as existed immediately prior to such removal.

Section 6.02 **RELOCATION, CONTRACTION OR TERMINATION.** (a) Tenant acknowledges that, pursuant to the Concession Area Lease, American may require Landlord to relocate or reduce the size of the Concession Area and American may exercise its rights by giving not less than one hundred twenty (120) days prior written notice to Landlord or at least as much notice as reasonably possible for reasons and timing which are not within American's control. If American shall exercise such right, Landlord shall have the right to relocate or reduce the size of the Premises, and, if relocated or reduced, the portion of the Premises eliminated shall cease to be leased to Tenant and shall no longer be subject to the terms of this Sublease, and, if relocated, the relocated space, shall automatically be subject to the terms of this Sublease. Pursuant to the Concession Area Lease, if American desires to relocate all or a portion of the Premises to other space within the Terminal, such relocated space shall be reasonably comparable to the Premises in terms of passenger traffic, size and potential for generation of Gross Receipts and any Base Building Work required to make the new space suitable for concession operations is the responsibility of American. If Tenant is unable to operate its business in the Premises as a result of the exercise of any of such rights, Tenant's payment of Rentals shall be abated during the period which Tenant is unable to operate. Further, if the net contraction of the Premises exceeds fifteen percent (15%), and Tenant demonstrates that such contraction is having a materially adverse impact on its Gross Receipts that is distinct from other conditions that may be adversely affecting Tenant's business operations, then, at Tenant's request, Landlord will engage in good faith negotiations with Tenant for up to ninety (90) days regarding a possible equitable reduction of the Guaranteed Rent and corresponding adjustments to the Percentage Rent Breakpoints. Any such equitable reductions/adjustments are subject to American's and the Authority's approval, determined in their respective sole and absolute discretion.

(b) If Landlord desires to relocate Tenant to a substitute area as provided in Section 6.02(a), Tenant shall have the right, in its sole discretion, to terminate this Sublease within thirty (30) days after receipt of Landlord's relocation notice, provided, however, Landlord can negate Tenant's election to terminate within twenty (20) days after receipt of Tenant's termination notice by revoking Landlord's election to relocate the Premises and thereafter this Sublease shall continue to remain in full force and effect in accordance with its terms. If Tenant elects to so terminate this Sublease due to the proposed relocation of the Premises, this Sublease shall terminate on the effective date thereof as reasonably specified by Landlord and Tenant shall remain liable for the payment of all Rentals and the performance of all other accrued obligations of Tenant under this Sublease up to and including the effective date of such termination. **Under no circumstances shall Landlord or any other third party including American or the Authority have any obligation to Tenant, nor shall Tenant be entitled to any payment from either Landlord or any other third party including American and the Authority for Tenant's Eligible Costs (as defined below) or any other sums if Tenant so elects to terminate this Sublease.**

(c) If American exercises its right to cause a contraction or relocation of the Premises (not including carts, kiosks, and other portable or temporary facilities) from one (1) location to another after the Premises have been constructed and opened for business: (1) the Concession Area Lease provides that American shall in the case of a relocation, reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days for reasonable and actual moving costs, and for reasonable and actual costs incurred to construct Fixed Improvements in the new space according to Final Drawings approved by Landlord and American; and (2) if Tenant does not relocate to other space or if this Sublease is terminated by American or the Authority without cause under Section 6.03 and Tenant, in either case, does not have any outstanding uncured material defaults under this Sublease beyond applicable notice and cure periods, the Concession Area Lease provides that American shall reimburse Landlord or Tenant (and therefore, if Landlord is reimbursed by American, Landlord shall reimburse Tenant to the extent Landlord is so reimbursed) within sixty (60) days after the effective date thereof, an amount equal to the then unamortized portion of Tenant's Eligible Costs (based upon the Depreciation Schedule previously submitted by Tenant and approved by Landlord and American) detailing such investment in Tenant's Fixed Improvements or Refurbishments, if applicable. Within ten (10) days after request by Landlord, and in any event not later than the effective date of such contraction or termination, Tenant shall provide Landlord with its calculations in reasonable detail, together with appropriate back-up or confirmatory data, of the amount which Tenant claims to be due pursuant to this Section 6.02 based upon the approved Depreciation Schedule. **If Tenant fails to provide such information within the time frame provided herein, Tenant shall have forever waived its right to any such reimbursement from Landlord and American and forever release Landlord and American from any obligations under this Section 6.02.**

Section 6.03 **TERMINATION BY AMERICAN OR THE AUTHORITY.** (a) Tenant acknowledges that this Sublease may be terminated, without cause for any reason and at any time, by the Authority upon thirty (30) days notice by means of revocation of the Consent Agreement, or by American upon one hundred eighty (180) days notice; and in neither event shall the Authority be responsible, directly or indirectly, for any portion of Tenant's investment (amortized or un-amortized) in, at or to the Premises. It is hereby acknowledged by Tenant that the Authority shall have no obligation or liability to Tenant with respect to such termination, including without limitation any reimbursements, credits, offsets or otherwise for investments in the Fixed Improvements. In such event, Tenant shall be reimbursed for the unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

(b) If Landlord's leasehold interest under the Concession Area Lease is terminated by either American or the Authority in accordance with their respective rights under the Concession Area Lease and Landlord's

Operator Permit with the Authority, then, in such event, at the option of American determined in accordance with the applicable provisions of the Concession Area Lease: (1) this Sublease shall be assigned by Landlord to and assumed by American (or its designee) and this Sublease shall remain in full force and effect and Tenant shall not have any approval or rejection rights with respect to any such assignment/assumption and, in the event of such an assignment/assumption, Tenant shall attorn to American or its designee and recognize American or its designee as landlord for all purposes hereunder; or (2) this Sublease shall immediately terminate upon termination of the Concession Area Lease without direct recourse of any kind against Landlord, American or the Authority and thereafter neither party shall have any further obligations or liabilities to the other party except for any accrued obligations or liabilities of Tenant, whether monetary or non-monetary, which have arisen prior to the effective date of such termination and have not yet been fully performed and/or paid by Tenant or which are expressly stated to survive the expiration or earlier termination of this Sublease. Within sixty (60) days following the date that Tenant shall have vacated and surrendered the Premises in the condition required under this Sublease, paid all Rentals and performed all of its other accrued obligations under this Sublease through the effective date of such termination, Tenant may be reimbursed by Landlord for any unamortized portion of Tenant's Eligible Costs but only to the extent as provided in Section 6.02(c).

Section 6.04 **SURRENDER OF PREMISES.** Tenant shall quit and deliver peaceably to Landlord possession of the Premises, and Tenant shall release and not attempt to retain any interest in the Fixed Improvements and Refurbishments, on the date that the Term expires, whether by early termination, expiration, or otherwise. Prior to the expiration of the Term or earlier termination of this Sublease, Tenant shall, at its sole expense, remove signs and trade fixtures (other than trade fixtures and other property which it is otherwise prohibited from removing under the Authority Lease) from the Premises and shall surrender the Premises and appurtenances thereto in broom-clean and sightly condition and in good repair, except for reasonable wear and tear arising from use of the Premises to the extent permitted elsewhere in this Sublease. Notwithstanding the foregoing, the parties hereby agree that Tenant shall not be required to remove any Fixed Improvements prior to or upon Tenant's surrender of the Premises to Landlord. Tenant shall deliver to Landlord all keys to the Premises. Any personal property of the Tenant placed on or kept at the Premises as to which the letting pursuant to this Sublease has ceased shall be removed as soon as practical but in no event later than the expiration or earlier termination of this Sublease. If Tenant shall fail to so remove its personal property at the end of the Term or any earlier termination, Landlord may at its option, and at the risk and expense of the Tenant, remove such property to a public warehouse, or may retain the same in its own possession, and, in either event, after the expiration of thirty (30) days, may sell the same at public auction or, at Landlord's or American's discretion, the personal property will be deemed abandoned and ownership thereof will be vested in American; the proceeds of any such sale shall be applied first to the expenses of removal, sale and storage, second to any sums owed by Tenant to Landlord, American or the Authority; and any balance remaining shall be paid to the Tenant.

Section 6.05 **WAIVER OF CLAIMS BY TENANT. Tenant specifically acknowledges that the relocation, contraction and termination provisions are a material inducement to Landlord in entering into this Sublease with Tenant. Except as specifically provided in this Article VI, such termination and the removal and surrender obligations of Tenant, shall in no event give rise to any claims, causes of actions, suits, or damages that Tenant may have or rights to payment to Tenant by either Landlord, American or the Authority including, without limitation: (a) any and all awards in the nature of land damages under all applicable laws; and (b) any and all rights under the terms of this Sublease; and (c) incidental, consequential, special or severance damages as a result of Tenant's use and occupancy of the Premises. Tenant hereby waives any such claims, including, without limitation, claims for lost business opportunity, claims for lost profits and claims for relocation and termination benefits under any Federal, state or local law, ordinance or regulation or**

otherwise.

ARTICLE VII. CONDUCT OF BUSINESS BY TENANT

Section 7.01 **PERMITTED USE.** Tenant shall use the Premises only for the purpose of conducting the business specifically set forth in the Data Sheet ("**Permitted Use**") and for no other use or purpose. Notwithstanding anything to the contrary contained herein, including Tenant's Permitted Use, if Landlord, American or the Authority reasonably determine that any item displayed, offered for sale or sold by Tenant is objectionable or inappropriate for display or sale at the Terminal, Tenant shall, upon delivery of Landlord's written notice to the Premises, immediately remove such item from display and its inventory (if the objectionable item and/or service displayed, offered for sale or sold shall be deemed to be potentially dangerous to the public or violate any security regulations, as determined by Landlord, American or the Authority from time to time, Tenant shall remove such potentially dangerous item and/or service or violation immediately upon verbal notice from Landlord) and Tenant shall not thereafter display, offer for sale or sell any such item or service. If Tenant shall fail to remove any such item from display or cease providing such service as may be required from time to time as provided herein, then Tenant shall pay as liquidated damages and not as a penalty the amount of One Hundred Dollars ($100.00) per day for the first (1st) violation in any twelve (12) month period and the amount of Two Hundred Fifty Dollars ($250.00) per day for the second (2nd) and any subsequent violations in any twelve (12) month period until such time as Tenant has complied. Further, Landlord shall be entitled to remove such item without any liability. This remedy shall be in addition to any and all other remedies provided in this Sublease or by law to Landlord, including, but not limited to the graduated fines listed in **Exhibit K**. Tenant represents and warrants to Landlord that it holds all certificates, meets all Authority Requirements, licenses and other entitlements required by federal, state and local, laws, rules and regulations in order to enable Tenant to conduct its operations and to engage in its Permitted Use and that such certificates, Authority Requirements, licenses or other entitlements are and shall be kept current, valid and complete at all times during the Term. Tenant shall submit any/or all of the foregoing for inspection by Landlord from time to time. Tenant, at Tenant's expense, shall at all times comply with the requirements of each such certificate, permit, license and other entitlement. Tenant shall not conduct or permit operations in the Premises that in the reasonable judgment of Landlord or American or the judgment of the Authority that (a) interfere or might interfere with the reasonable use by others of common facilities at the Terminal or the Airport, (b) hinder or might hinder police, firefighters or other emergency personnel in the discharge of their duties, (c) would or would be likely to constitute a hazardous condition at the Airport, (d) would increase the premium for insurance policies maintained by Landlord, American or the Authority, unless such operations are not otherwise prohibited hereunder and Tenant pays the increase in insurance premiums occasioned by such operations, (e) would involve any illegal purposes, or (f) are not in accordance with the commitment of Tenant to operate first-class concessions in the Concession Area. Prohibited uses which are expressly agreed to include all "**American Reserved Uses**" and "**Port Authority Reserved Uses**" as such terms are defined in the Concession Area Lease.

Section 7.02 **OPERATION OF BUSINESS.** (a) General. Tenant and its Operating Staff (as defined below) agree to actively and diligently conduct business at all times in a first-class, professional and business-like reputable manner, using best efforts so as to maximize revenues in accordance with best industry practices and standards observed generally by first-class business enterprises of local, regional and national scope which operate at other major US airports, provide superior customer satisfaction and maintain at all times a complete stock of high-quality merchandise and products. Tenant agrees not to divert or allow or cause to be diverted any business from the Terminal and/or Airport. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements and Operating Equipment shall be maintained in good condition and repair. Tenant shall accept at least two (2) nationally recognized credit cards for payment, shall offer all of its

customers shipping, delivery and gift wrap services (if appropriate for the type and size of merchandise or product being requested) at cost and shall provide, without charge, change making service at each cashier's location in the Premises, regardless of whether a purchase is made. At all times from and after the Rental Commencement Date, Tenant covenants that it shall continuously and uninterruptedly occupy and use the Premises for the Permitted Use and shall keep the Premises open for business during all required Terminal concession hours unless otherwise agreed to by Landlord and American or prevented by Force Majeure (as defined in Section 27.04). Tenant shall install and maintain at all times a display of non-perishable merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises. Tenant shall not permit the installation or operation of any coin or credit/debit-card operated vending machines or pay telephones in the Premises, including, but not limited to, the rental of cellular phones, facsimile machine services, other public communication devices, sales of entertainment event tickets, lottery tickets and reservations for ground transportation, hotels or other lodging and the sale of pre-paid telephone calling cards without the prior written consent of the Authority. Tenant shall not sell or display any items except within the areas outlined in the Design Guidelines unless such sale or display shall be expressly approved on the Final Drawings or otherwise approved by Landlord, in writing and in accordance with the TAA Process except that Tenant shall be permitted to display merchandise in the display windows, if any. Tenant shall not use the areas adjacent to or outside the Premises for business purposes or any other purposes, including the display or sale of merchandise, products or services in any areas outside the Premises without Landlord's advance written approval, which approval may be withheld in Landlord's sole discretion. Tenant shall not store anything in service or exit corridors. All receiving and delivery of items for the Premises, and all removal of supplies, equipment, trash and debris and all storage of trash and debris from the Premises shall be made only by way of, or in, the areas provided therefor. No trash, trash containers, hand trucks, carts, racks or movable fixtures designed for the movement of products and/or trash within the Premises or to or from the Premises may be left unattended in the storefront, corridors or other public areas; nor may such items or devices in non-public areas be visible from public areas of either the Premises or the Terminal. Tenant shall be solely responsible for prompt disposal within the Premises, or in such areas as may be provided by Landlord, of all trash and debris from the Premises. Tenant shall not install any radio, television, communication dish or other similar device or related equipment exterior to the Premises, shall not cause or make any penetration of the roof of the Premises or the building in which the Premises is located and shall not erect any aerial or antenna on the roof or exterior walls of any building within the Terminal without the prior written approval of Landlord, American and the Authority, determined in their discretion. Tenant shall not abandon or permanently vacate the Premises without the prior, advance written approval of Landlord. For the purposes of this Sublease "abandonment" shall mean closing the Premises to customers for two (2) or more consecutive days, unless such closing is permitted by other provisions of this Sublease. Notwithstanding the requirements set forth herein, Landlord shall have the right to make reasonable objections to the number or quality of staff used by Tenant, the prices for merchandise or products sold or services rendered, the number or quality of items sold, the character of the service offered to the public, responses to customer complaints and the appearance and condition of the Premises. Tenant agrees to take reasonable steps to promptly comply with Landlord's reasonable objections.

(b) Continuous Operations and Service Hours. Tenant agrees to be open for business during the hours of operation specified in the Data Sheet and such other hours as may be required hereunder and to continuously and uninterruptedly operate in all of the Premises during the entire Term. The Airport is open for business every day, three hundred sixty-five (365) days per year and is busy during non-traditional working and shopping hours. Accordingly, service hours shall include the hours the Terminal's concession program shall be open as directed by Landlord from time to time, including without limitation, the hours necessary to provide service for the earliest daily incoming and outgoing flights (including the provision of service

to passengers who arrive in advance of same) and the latest daily incoming and outgoing flights, including non-scheduled activity by charter airlines as Landlord may notify Tenant verbally from time to time. To that end, Tenant shall open and operate its business in the Premises during hours directed by Landlord; provided that, if passenger traffic conditions, flight scheduling, flight delays or other considerations make it necessary, in the opinion of Landlord or as Landlord is directed by American, the Terminal's concession program, including the Premises, shall be open at times not then scheduled. The following are the minimum operating hours: (1) for newsstand concessions, a minimum of sixteen (16) hours per day, each day of the year, with the opening for business each day at least one (1) hour prior to the first scheduled flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (2) for all food and beverage concessions, at a minimum, opening at 5:30 a.m. and closing at 10:00 p.m., each day of the year, or at least one (1) hour prior to the first flight and closing thirty (30) minutes after the last scheduled departure from the Terminal on the respective day; (3) for duty-free and foreign currency exchange concessions, at a minimum, opening at 7:00 a.m. and closing at 10:00 p.m., each day of the year, or other hours necessary to service the earliest scheduled international flight departure and the latest scheduled international flight departure from the Terminal on the respective day, whichever constitutes the earlier opening and later closing; and (4) for all other concessions, 7:00 a.m. to 10:00 p.m., each day of the year. Landlord reserves the right to direct Tenant to change or adjust the service hours at any time, and Tenant agrees and covenants to adequately staff the Premises and be open for business during the hours directed by Landlord. In addition, in an emergency, as determined by Landlord or American, Tenant shall open or keep open the Premises upon two (2) hours prior verbal notice. Tenant expressly acknowledges the need for flexibility in the service hours from time to time. Any modifications to the required operating hours that may be requested from time to time by Tenant shall be subject to Landlord's prior written approval determined in its discretion. Tenant agrees to otherwise abide by all service hours of operation as set by Landlord. Tenant acknowledges that the concession program and its business operations are essential services at the Terminal and Tenant's failure to cause continuous operation of its business in the Premises will result in damages to Landlord, American and the Authority that are difficult to quantify in light of airport operational and customer service factors. Therefore, in addition to any other remedies set forth herein, including, but not limited to the graduated fines listed in **Exhibit K,** Tenant shall pay to Landlord as liquidated damages and not as a penalty, the amount One Hundred Dollars ($100.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the first (1st) violation in any twelve (12) month period, and the amount of Two Hundred Dollars ($200.00) per hour for each hour Tenant fails to operate its business during any required operating hours for the second (2nd) and any subsequent violations in any twelve (12) month period. Failure by Tenant to be open for business and to operate shall entitle Landlord, in addition to other remedies provided in this Sublease or by law, including, but limited to, a mandatory injunctive relief if awarded by a court of competent jurisdiction.

(c) Staffing/Personnel. Tenant shall employ a full-time professional staff ("**Operating Staff**") at all times during the Term of sufficient size, expertise, ability, suitability, and experience in sales and customer service to carry out all of its obligations under this Sublease. Tenant shall maintain a sufficient number of Operating Staff on site at the Premises (including, without limitation, on-site sales, cashiers, management and supervisory personnel) to provide good, friendly, prompt and efficient service adequate to fully meet the demands of all customers at all times and shall furnish said service on a fair, equal and nondiscriminatory basis to all users thereof and shall increase such number of Operating Staff, upon the reasonable request of Landlord, to provide outstanding customer service and satisfaction. All such personnel shall be knowledgeable, helpful to the public, courteous, efficient, neat in appearance and appropriately attired and shall not act in a loud, offensive or otherwise objectionable manner. Tenant's employees shall wear appropriate uniforms and name tags and security identification badges at all times. Tenant shall not employ at or about the Premises any person who shall use offensive language, makes persistent announcements of its merchandise and products and/or services over loud speakers or whose conduct is loud or offensive or

otherwise detrimental to the best interests of the Terminal and/or Airport. Tenant's Operating Staff shall be available by telephone and such other communication device as Landlord may require during the operating hours. Tenant's Operating Staff and employees shall have sufficient knowledge of the Terminal and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

(d) Store Manager/Emergency Contact. In order to assure compliance with the terms, covenants and conditions of this Sublease, Tenant shall retain a qualified, competent manager suitably experienced to provide on-site management of Tenant's business on a full-time basis to manage all of Tenant's obligations and responsibilities under this Sublease ("**Store Manager**"). Tenant shall notify Landlord of the identity of its Store Manager and of any changes in such identity. Tenant shall assure that the Store Manager or his or her designee, is available on-site during all required operating hours and by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies. Tenant shall notify Landlord of the name and telephone number or such representatives and shall update such information as necessary. The Store Manager or his or her designee must be able to arrive by car at the Airport within two (2) hours of being called in an emergency situation.

(e) Customer Complaints. Tenant agrees that it will reasonably and promptly respond to all customer complaints regarding unsatisfactory service and/or unsatisfactory quality of merchandise, products and/or service, including all refunds as appropriately requested from time to time by any customer. In the event that Tenant receives any written complaint concerning its operations, Tenant shall within twenty-four (24) hours of receipt of such complaint by Tenant forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint. Tenant shall submit a copy of the response to complaint to Landlord upon issuance of said response. If Landlord receives a written complaint regarding Tenant, it shall forward a copy of the same and Tenant shall respond as set forth herein. Tenant shall provide copies of the complaints and answers to American and the Authority not less than one (1) time during any calendar month.

(f) Compliance with Laws. Tenant, at its expense, shall promptly comply with all present and future laws, ordinances, orders, rules, regulations ("**Legal Requirements**"), applicable business licenses and requirements of Landlord, American, the Authority and all governmental authorities having jurisdiction over the Premises or the cleanliness, safety, occupancy and use of the same, whether or not any such law, ordinance, order, rule, regulation or requirement is foreseen or unforeseen, ordinary or extraordinary, necessitates changes or improvements (other than structural changes or structural improvements) and/or interferes with the use and/or enjoyment of the Premises. Tenant shall promptly correct any deficiencies reported by Landlord, American, or any other governmental authorities having the aforesaid jurisdiction. Tenant shall not do or permit anything to be done in or about the Premises, nor bring anything therein, which will in any way conflict with any such Legal Requirements or requirement affecting the occupancy or use of the Premises or the Terminal which has been or may hereafter be enacted or promulgated by Landlord, American, the Authority or any governmental authorities, or in any way obstruct or interfere with the rights of others; nor shall Tenant use or allow the Premises to be used for any improper, immoral or objectionable purposes or do any act tending to injure the reputation of the Terminal and/or Airport. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, offensive and unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord, American, and the Authority and in accordance with any and all Legal Requirements that may be

promulgated from time to time by governmental agencies or authorities. All apparatus, utensils, devices, cooking equipment, machines and piping used by Tenant shall be constructed so as to facilitate the cleaning and inspection thereof and shall be properly cleaned and sterilized on a daily or more frequent basis after each period of use (at no time to exceed eight (8) hours). All trays, dishes, cookery, glassware, cutlery and other such equipment used in the preparation of and/or serving of all food and/or beverage products shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. Bottles, vessels, cooking equipment and other reusable containers shall be properly cleaned and sterilized on a daily or more frequent basis immediately before each use thereof. If Landlord or American does not contract for pest control service for all concessions in the Terminal, then Tenant, at its sole cost and expense, shall contract directly with a pest control service reasonably acceptable to Landlord at such reasonable intervals as Landlord may require.

(g) Street Pricing. Tenant shall not charge prices to its customers in excess of Street Prices (as hereinafter defined) and shall conspicuously display notices, in form and substance satisfactory Landlord in the Premises, to the effect that the Tenant adheres to the Authority's Street Prices policy. The term "**Street Prices**" means: (1) if Tenant conducts a similar business in off-airport location(s) in the Greater New York City – Northern New Jersey Metropolitan Area ("**Metro Area**"), the price regularly charged by Tenant for the same or similar item or service in those off-airport locations; (2) if Tenant does not conduct a similar business in off-airport location(s) in the Metro Area, the average price regularly charged in the Metro Area by similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar items or service; (3) if neither Tenant nor any other similar retailers sell a particular item or provide a similar service in the Metro Area, the price regularly charged by Tenant or similar retailers (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar item or service in any other geographic area with a reasonable adjustment for any cost-of-living variance between such area and the Metro Area; and (4) if Tenant is in the business of selling duty-free goods, the price regularly charged by Tenant or other similar retailer (excluding any locations which do not have multiple independent competitive sources and operators) selected or approved by Landlord for the same or similar duty-free item or service at other major airports serving large urban areas in the northeast region of the United States, including, without limitation, the Airport. Tenant agrees to adjust its prices to ensure that they meet the Street Prices without any further notice or immediately upon written notice from Landlord if Tenant is not in compliance therewith. Prior to opening for business, Tenant agrees to supply to Landlord a detailed list of all merchandise, products and services to be offered at the Premises and the prices to be charged therefor. Tenant agrees to continue to provide this data on a quarterly basis throughout the Term hereof. Tenant shall, at all times, observe and comply with the pricing policy as set forth in **Exhibit E**. Further, for the benefit of the users of the Terminal, Landlord has the obligation to promote a "free market" competitive environment within the Terminal and, to the extent possible, Landlord may cluster concession operators with similar products and services in groups to help stimulate competition, provide superior service and competitive pricing.

(h) Coordination of Operational Matters with Landlord and Performance Standards. Tenant shall: (1) cooperate in the testing of pressure, water-flow, and other appropriate tests of the fire-extinguishing system and apparatus located within the Premises (and elsewhere in the Concession Area to the extent Tenant's cooperation is required for such testing) from time to time and as often as reasonably required by Landlord, American or the Authority, and if requested by Landlord, furnish Landlord with copies of written reports of such tests; (2) keep in proper functioning-order all fire-fighting equipment in the Premises and at all times maintain in the Premises adequate stocks of fresh, suitable chemicals for use in such system and apparatus; and (3) notify Landlord prior to conducting such tests. Tenant agrees that, after it has taken delivery of the Premises, it will contact Landlord on all operational matters pertaining to its

occupancy including but not limited to the following areas (1) hours of operation, (2) employee parking and security requirements, (3) customer inquiries and complaints, (4) facility maintenance issues, (5) utility services, and (6) staffing issues. To ensure that Tenant is in compliance with the quality of products, pricing and service standards set forth in this Section 7.02 and in the Service and Operating Performance Standards ("**Performance Standards**") attached hereto as **Exhibit K**, and that Landlord's, American's and the Authority's objectives are met, Landlord or an agent shall perform service audits, such as surprise shopper programs and inspections, of the conduct of Tenant's operation of its business in the Premises at any time during the Term of this Sublease. The results of such service audits performed on behalf of Landlord may be employed by Landlord to enforce Tenant's obligations under this Sublease. The Performance Standards address three (3) main categories of performance: product and service quality/price, customer service/personnel, and Premises cleanliness and maintenance (collectively, the "**Performance Categories**"), among other matters and includes a set of minimum performance standards ("**Minimum Performance Standards**") for each of the Performance Categories. Tenant acknowledges the desires of Landlord and American, as part of their obligation to ensure the highest level of public service, to provide the public and passengers with the level and quality of service as described herein. Pursuant to the Concession Area Lease, American may monitor, test or inspect the requirements imposed on tenants for applicable business operations standards at any time and to consult with Landlord to correct any deficiencies in standards required hereunder.

(j) Liquidated Damages and Fines. If Tenant fails to comply with any of the provisions of this Section 7.02 or any of the provisions of the Performance Standards, Tenant shall pay as liquidated damages and not as a penalty, or as a series of graduated fines on a daily basis for such failure in the correction of deficiencies of the Performance Standards, the amounts set forth in **Exhibit K** until such time as Tenant is in compliance with any such requirements. The liquidated damages and fines set forth in **Exhibit K**, are in addition to the liquidated damages for failure to provide continuous operations during all Terminal concession service hours as set forth in Section 7.02(b) above. This remedy shall be in addition to any and all other remedies provided herein or by law to Landlord. The provisions of this Section 7.02 shall survive the expiration or earlier termination of this Sublease.

(k) Tenant acknowledges that although it is subleasing the Premises directly from Landlord (1) American and the Authority control the Terminal, (2) the Authority controls the overall operations at the Airport, and (3) pursuant to the Authority Lease and the Concession Area Lease, as well as the Consent Agreement and state and federal laws and regulations, including the Authority's rules and regulations, American and the Authority have the right to regulate and control certain aspects of the operations at the Premises including but not limited to the matters listed in this Section 7.02. In the event any question or dispute arises as to the sale of any specific item or category of items in the Concession Area and whether such sale violates the Street Prices policy or does not comply with the Performance Standards, Tenant may submit a request in writing to Landlord and American asking that the matter be reviewed. American is obligated under the Concession Area Lease to render a decision in writing, after consultation with the Port Authority, within fifteen (15) days after such submission and such determination shall be considered final. Tenant shall, as of the date of the decision, immediately abide by and conform to the decision of American.

Section 7.03 **HAZARDOUS MATERIALS.** (a) As used herein, the term "**Toxic or Hazardous Materials**" means hazardous or toxic chemicals or any supplies, materials and wastes containing hazardous or toxic chemicals or substances at levels or content which cause such materials to be classified as hazardous or toxic as then prescribed by the highest industry standards or as set from time to time by the United States Environmental Protection Agency ("**EPA**") or the United States Occupational Safety and Health Administration ("**OSHA**") or as defined under 29 CFR 1910 or 29 CFR 1925 or other applicable governmental laws, rules or regulations in any way applicable to Toxic or Hazardous Materials (collectively, "**Environmental Laws**"). Tenant shall never incorporate into, or dispose of, at, on or under

the Terminal or elsewhere at the Premises or at the Airport, or any portion thereof, any Toxic or Hazardous Materials. Tenant agrees not to use at, place on, or store at the Premises or at the Airport any Toxic or Hazardous Materials, except for those Toxic or Hazardous Materials that are either (1) office supplies, or (2) cleaning materials that are generally considered to be a household cleaner and are purchased in a container not larger than one (1) gallon, and then only if: (i) all such Toxic or Hazardous Materials arising therefrom, are properly labeled and contained; (ii) all such Toxic or Hazardous Materials arising therefrom, are stored, handled, transported and disposed of in accordance with highest accepted industry standards and all Environmental Laws; and (iii) if a material safety data sheet or other reporting or registration document is required under applicable Environmental Laws to accompany the Toxic or Hazardous Materials, supplies or materials or wastes or to be filed with any federal, state or local authority, a copy of such current material safety data sheet or other reporting or registration document shall be provided to Landlord. If there is a spill or other discharge of a Toxic or Hazardous Materials in the Premises which spill or discharge is required to be reported to any federal, state or local authority by applicable Environmental Laws, Tenant shall immediately notify Landlord and American of the method, time and procedure for any clean-up and removal of such Toxic or Hazardous Materials; and Landlord and American shall have the right to require reasonable changes in such method, time or procedure (provided that such changes may not contradict applicable law). Tenant shall further notify Landlord and American if any such spill or other discharge, whether reportable or otherwise, would in any way endanger or pose a threat to any employees, Terminal maintenance or custodial personnel or the general public. In the event there is a spill or other discharge of any Toxic or Hazardous Materials outside the Premises, which spill or discharge is required to be reported to any federal, state or local authority by applicable laws, rules or regulations, and upon being so notified American is required under the Concession Area Lease to undertake to clean-up, remove and abate the condition at its cost initially, reserving the right to seek indemnification of its costs for failure of Tenant to abide by the requirements of this section. In the event Tenant fails to comply with this Section 7.03 in respect of any contamination within the Premises, or in the event of a contamination of any other part of the Terminal and/or Airport caused by Tenant, in addition to any other consequences thereof, Tenant shall pay or reimburse to Landlord and/or American, as the case may be, all of such party's costs for the removal, abatement and clean-up of the involved Toxic or Hazardous Materials. Similarly, if a contamination was caused by Landlord or American in the Premises, Landlord (or American as required under the Concession Area Lease), as the case may be, shall reimburse all costs incurred by Tenant for the removal, abatement and/or clean-up of the involved Toxic or Hazardous Materials.

(b) If a lien is filed against Tenant's leasehold interest, the Premises, the Terminal or the Airport relating to Tenant's violation of any Environmental Laws, then Tenant shall, within ten (10) days or such shorter period as may be required under any Environmental Laws, or such even shorter period as is prior to a governmental authority commencing steps to cause any of the foregoing to be sold pursuant to such lien, either: (1) immediately pay the claim and remove the lien; or (2) immediately furnish a cash deposit, bond or such other security as is satisfactory in all respects to Landlord and legally sufficient to effect a complete discharge of such lien.

(c) Landlord at its cost, reserves the right to conduct annually an environmental audit of the Premises and Tenant's operations, equipment, facilities and fixtures thereon. It shall be a material default and breach hereunder if the resulting audit report reveals non-compliance or violations by Tenant of any Environmental Laws. American shall have the same rights as Landlord under this sub-section (c).

(d) Except with respect to Landlord's, American's or the Authority's direct violation of Environmental Laws (and, in such case, such exception only applies to the party that is in direct violation) Tenant hereby agrees to indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York (including the New York City Economic Development Corporation,

a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York), their respective Affiliates, parent corporations, subsidiaries, partners, management companies, and the agents, employees, officers, commissioners, directors and contractors of any and all of them from and against any and all losses, claims, demands, penalties, causes of action, fines, settlements, damages, costs and expenses of whatever kind or nature (including reasonable attorneys' and consultants' fees and expenses, investigation and laboratory fees and expenses, court costs and litigation expenses) arising directly or indirectly out of or in any way related to: (1) any default by Tenant of this Section 7.03; (2) any violation or failure to comply by Tenant with any of the Environmental Laws; (3) any personal injury (including death) or property damage as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (4) any litigation brought or threatened by any governmental authority as a result of Tenant's willful misconduct, negligence, or other actions or omissions including, but not limited to, Tenant's use and occupancy of and the conduct of its business in the Premises; (5) the presence of Toxic or Hazardous Materials at, above, in and/or the Premises; and (6) the use of Toxic or Hazardous Materials by Tenant. As used herein "costs and expenses" shall also include, in addition to those set forth above, costs associated with administrative and judicial proceedings, costs arising from any lien, costs of any remedial actions and business interruption resulting from any remediation, or any executive, administrative or judicial order. This indemnification shall constitute the personal recourse undertaking, obligation and liability of Tenant. The obligations set forth in this Section 7.03 shall survive the expiration or earlier termination of this Sublease.

ARTICLE VIII. USE OF TERMINAL, PUBLIC AREAS, LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE

Section 8.01 OPERATION AND MAINTENANCE OF TERMINAL. Tenant acknowledges that American is required to cause to be operated and maintained during the Term all public areas to the extent required in the Concession Area Lease and the Authority Lease. The manner in which such public areas and facilities are operated and maintained, and the expenditures therefor, are at American's sole discretion. Accordingly, the use of such public areas and facilities is subject to reasonable rules and regulations, including security directives as American, the Authority or authorized regulatory agencies may make from time to time.

Section 8.02 USE OF PUBLIC AREAS IN TERMINAL. The term "**public areas**" as used herein shall mean all improved areas within the Terminal which are not devoted to the exclusive use by any airline, tenant or other occupant occupying space in the Terminal including, without limitation, public transportation, loading and unloading facilities, pedestrian walkways and horizontal pedestrian movers, delivery areas, landscaped areas, community rooms, elevators, escalators, stairs and ramps, public restrooms and comfort stations, service areas, service and fire exit corridors, passageways and those areas adjacent to the Terminal containing parking facilities, if any. Tenant shall have as appurtenant to the Premises the right to the non-exclusive use in common with others of all public areas and facilities in the Terminal as designated as such by Landlord from time to time, and such reasonable access, during Tenant's normal operating hours, to the Premises. Landlord, the Authority and American each shall have the right, but not the obligation, from time to time, to modify the public areas, remove portions of the public areas from common use, permit entertainment events, advertising displays, educational displays and other displays in the public areas and lease retail merchandising units or temporary pushcarts or carts ("**RMUs**"). If Landlord determines in its discretion to place RMUs in the public areas near the Premises, such placement shall not be within fifteen (15) feet of Tenant's storefront entrance and shall not materially interfere with ingress or egress to the Premises by the public. Tenant shall not be entitled to any credit for income earned by

Landlord with respect to the public areas. Tenant and its employees shall not park their cars or any other vehicles in the parking facilities except in the areas specifically designated by Landlord for employee parking. There is no free parking at the Airport for Tenant or any of Tenant's employees, contractors or customers. Tenant and its agents, employees, contractors and subcontractors shall comply with the rules and regulations with respect to parking as the same may be amended or modified from time to time and will be subject to any enforcement action (including towing) pursued by the Authority's airport police without any notice thereof. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York and their employees, agents, and representatives from and against any and all claims of the employee and/or owner of any vehicle so towed.** Landlord, American or the Authority may at any time close any public areas to make repairs or changes, to prevent the acquisition of public rights in such area, to use areas for attendant or valet parking, and to do such other acts in and to the public areas as in its judgment may be desirable.

Section 8.03 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE.** (a) All deliveries of equipment, supplies, materials, inventory, merchandise or products required to support the operations of Tenant shall be made to the designated loading dock areas of the Terminal. American has developed food courts and public seating areas in various locations in the Terminal which are intended to benefit all Tenants, their patrons and the public. For purposes of this Sublease "**public seating areas**" means a non-exclusive, common public seating area for patrons of both retail and food service concession facilities and for the traveling public. All sanitation, cleaning, maintenance and trash removal services for such food courts and public seating areas shall be controlled by Landlord. Such responsibilities shall include, but not be limited to, cleaning including floors, trash removal, trash receptacles, food court trays (operating food court tray washing equipment and well as retrieval and distribution of food court trays to food court concession facilities), public seating area tables and chairs, related public seating area furniture and fixtures, if any, and repair, maintenance and/or replacement thereof. No deliveries of any items shall be made by any Person directly to the Premises without the prior written authorization of Landlord; and, if given by Landlord, Landlord shall have the right to revoke any such authorization at any time and for any reason. Tenant shall be advised by Landlord of all shipments for all items received at the loading dock area and Tenant shall be responsible, at its sole cost and expense, for promptly transporting all such items from the loading dock area to the Premises or to any related Storage Premises leased by Tenant. All equipment to be utilized, methods of operation and employment of personnel shall be at the sole determination of Landlord for such items which may include, but not limited to, the transporting of equipment, supplies, materials, inventory, merchandise or products in the Terminal, pest control extermination services, trash removal, refuse, recycling and compactor services, grease trap maintenance and cleaning (including waste grease removal) to the extent not required to be performed by Tenant, repair and maintenance of food courts and public seating areas furniture, fixtures and equipment maintenance and cleaning (including exhaust hood, duct and roof top maintenance and cleaning and exhaust hood fire suppression equipment inspection and maintenance to the extent not required to be performed by Tenant), all of which shall be conducted in compliance with all applicable federal, state and local laws, regulations and ordinances including, but not limited to, FAA and TSA rules and regulations as well as all Airport rules and regulations promulgated from time to time by Landlord, American or the Authority. Tenant shall comply with all rules, regulations and directives of Landlord, American the Authority, the FAA, the TSA or any other federal or state agency of competent jurisdiction with respect to deliveries which may include, but not be limited to: (1) restrictions on delivery times (days and hours) and the time in which any vehicle may remain in the loading dock areas; (2) methods of delivering equipment, supplies, materials, inventory, merchandise or products from the loading dock areas to the Premises such as rolling carts, wheels, pallet or plastic wrap requirements; (3) delivery escort guidelines, badging, background checks, rules, instructions and training if so required which must be complied with by Tenant and all transportation companies and vendors delivering any such items to the loading dock areas; and (4) security screening of equipment, supplies, materials, inventory, merchandise or products. Landlord, American and the Authority may deny access or require any vehicle to be removed

for failure to follow any such rules, regulations, directives and guidelines that may be established by Landlord, the Authority or applicable governmental agencies from time to time. The foregoing is in addition to the requirements of Section 27.24.

(b) Tenant shall have the non-exclusive use, in common with other tenants and users of the Terminal, to the loading dock areas as provided in this Section 8.03 and to the food courts, public seating areas and other designated common areas of the Concession Area subject to the control and management thereof at all times by Landlord, provided that Landlord and American, at their sole cost, each reserves the right to make any changes which they deem appropriate to the loading dock areas and the food courts, public seating areas and other designated common areas of the Concession Area, including relocating and/or eliminating all or any part thereof to assure public safety and convenience or to assure efficient operation of the Concession Area or the Terminal.

(c) Pursuant to the Concession Area Lease, (1) American is generally responsible for all structural maintenance, repair and/or replacement of the Base Building Work in the Concession Area and the Terminal, and (2) Landlord is otherwise generally responsible for the maintenance, upkeep and repair of the Concession Area to the extent not the obligation of the tenants of the Concession Area.

Section 8.04 **LOGISTICAL SUPPORT AND PUBLIC AREA MAINTENANCE FEE.** (a) Tenant and all of Landlord's other subtenants, shall use and share the prorated cost of common logistical support and common operation maintenance service providers provided by various independent contractors selected and contracted with in the sole discretion of Landlord. Tenant shall pay to Landlord, as Additional Rent, a fee (the "**Logistical Support and Maintenance Fee**") equal to Tenant's proportionate share (as described in Section 8.04(b) below) of Landlord's actual and commercially reasonable out-of-pocket costs and expenses incurred in order to manage the loading dock areas and maintain and service the food courts, public seating areas and other designated common areas of the Concession Area ("**Operating Costs and Expenses**"). These expenses will be assessed without any administrative mark-up or profit to Landlord and shall include, without limitation: all costs and expenses of every kind and nature, foreseeable or unforeseeable, paid or incurred by Landlord for any service providers with respect to the food courts, public seating areas, purchase of tray wash equipment; floor cleaning (sweeping and mopping) and storefront cleaning services and cleaning of food court amenities, furnishings and equipment; food tray retrieval, washing and distribution; management of the loading dock areas for Tenant deliveries and distribution and delivery vehicle escort services; trash removal; repair and replacement of tray wash equipment and food court chairs, tables, and food trays. By way of example, Operating Costs and Expenses shall include, but not be limited to, the full cost of all labor costs (including both on-site and independent third party off-site supervisory personnel) as well as the cost of uniforms and identification badges for all such personnel employed to: (1) provide centralized trash, refuse and recycling material removal services in the Terminal for all concession facilities, and in loading dock areas and storefront façade cleaning services for all concession facilities; (2) manage, operate, maintain, repair, clean and replace the loading dock areas and equipment and the areas surrounding the trash dumpsters; (3) operate the vehicle escort delivery service across the airfield and to maintain, repair and/or replace the escort delivery service equipment; (4) assist in the delivery of equipment, supplies, goods, inventory, merchandise and products (which may need to include a central commissary system); (5) to the extent not otherwise charged directly to subtenants, provide security screening services for equipment, supplies, goods, inventory, merchandise and products; (6) operate, maintain and clean the food courts and public seating areas, cleaning and maintenance of the grease trap system, waste grease removal, cleaning and maintenance of exhaust hood, duct and roof top systems and inspection and maintenance of exhaust hood fire suppression equipment; (7) provide pest extermination services for all concession facilities; (8) the cost of all supplies and equipment utilized to clean the food courts and public seating areas; (9) cost of all trash removal receptacles and equipment for the food courts and public seating areas; (10) the cost to purchase, maintain, repair and/or replace all public seating areas

tables, chairs, trash removal receptacles and equipment, furniture and fixtures; (11) the cost to purchase, clean, maintain, repair and/or replace the food trays used by patrons and to operate, maintain, repair and/or replace the food tray washing facilities and equipment; (12) any and all other direct costs and expenses which Landlord deems reasonably necessary or desirable in order to properly maintain and provide such services described herein in an efficient and acceptable manner. The preceding is for definitional purposes only and shall not impose any obligation upon Landlord to incur such expenses or provide such services. Tenant shall comply in all respects with such procedures and the policies established by Landlord with respect to common logistical support and common operation maintenance services.

(b) The proportionate share to be paid by Tenant shall be that portion of Operating Costs and Expenses which the Floor Area in the Premises bears to the total Floor Area in the Concession Area which has been leased to subtenants who are in occupancy and contributing to the Logistical Support and Maintenance Fee; provided, however, any Floor Area in the Concession Area which is excluded from the foregoing calculation shall not exceed twenty percent (20%) of the gross leaseable Floor Area of all concession facilities in the Concession Area but such restriction shall not be applicable until Landlord has completed the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal. Annual increases in Tenant's proportionate share shall not exceed fifteen percent (15%) other than extraordinary costs imposed by local, state or federal regulations or as may otherwise be requested by Tenant from time to time as compared to the immediately preceding Lease Year following completion of the entire phase-in schedule with respect to the implementation of the new concession program in the Terminal.

(c) The Logistical Support and Maintenance Fee following the Rental Commencement Date shall be paid to Landlord as Additional Rent in equal, consecutive monthly installments on or before the first (1st) day of each calendar month, in advance, in an amount estimated by Landlord from time to time. All sums not received within five (5) days after written notice from Landlord shall be delinquent and shall be a default as defined in Article XIX. Subsequent to the end of each Lease Year, Landlord shall furnish Tenant with a detailed statement of Tenant's proportionate share of such Operating Costs and Expenses for such period showing the general method of computing such proportionate share. Tenant shall not have any inspection or audit rights of any of Landlord's books and records pertaining to Operating Costs and Expenses and the Logistical Support and Maintenance Fee. Tenant hereby expressly waives any rights, whether by statute or otherwise, to conduct any such inspection or audit. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall be less than the actual amount due for any such Lease Year as shown on Landlord's statement, Tenant shall pay the difference between the amount paid and the actual amount due within thirty (30) days after the furnishing of each such statement. If the total amount paid by Tenant under this Section 8.04 for any such Lease Year shall exceed the actual amount due for such Lease Year, such excess shall be credited against the next payment(s) due from Tenant to Landlord for Operating Costs and Expenses under this Sublease. If at the end of the Term of this Sublease, the total amount paid by Tenant under this Section 8.04 for such final Lease Year shall exceed the actual amount due for such final Lease Year, such excess shall be refunded to Tenant within sixty (60) days after Tenant has vacated the Premises in the condition required at the conclusion of this Sublease and after all Rentals and other sums due Landlord from Tenant under this Sublease have been paid in full; or Landlord shall be entitled to deduct any such remaining sums due from any such excess. Landlord may estimate the annual budget and charge the same to Tenant on a monthly basis, subject to revision of the budget from time to time and final annual adjustment based upon actual Operating Costs and Expenses for the Logistical Support and Maintenance Fee.

(d) If Tenant suffers damages to equipment, materials, supplies, inventory, merchandise and products or any injuries to persons as a result of the activities of the various independent contractor service providers, Tenant shall only look to the independent contractor service provider who caused such damage or injuries for any recovery. Landlord, American and the Authority (including their members, shareholders,

directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits arising out of or relating to the activities of the various service providers, except to the extent that any such damage is due solely to the gross negligence or willful misconduct of Landlord or American.

ARTICLE IX. SIGNS

Section 9.01 TENANT'S SIGNS. The design, construction, location, use and maintenance of Tenant's signs (whether blade or band signs) are subject to the provisions of the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall affix a sign to the exterior surface of the storefront of the Premises subject to the advance approval of Landlord, American and the Authority in compliance with the Authority's TAA Process, the Tenant Construction Review Manual and the Design Guidelines. Tenant shall pay all costs of fabricating, constructing, operating and maintaining such exterior storefront sign(s). Tenant shall keep said sign(s) well lit during such hours as Landlord shall designate and shall maintain said sign(s) in good condition and repair during the entire Term hereof. Said sign(s) shall conform to the criteria for signs contained in the Tenant Construction Review Manual, the Design Guidelines; and the size, content, design and location thereof shall be subject to the prior written approval of Landlord, American and the Authority pursuant to the TAA Process. Except as hereinabove mentioned, Tenant shall not place or cause to be placed, erected or maintained on any exterior door, wall, window or the roof of the Premises, or on the interior or exterior surface of the glass of any window or door of the Premises, or on any sidewalk or other location outside the Premises, or within any display window space in the Premises, or within one (1) foot of the front of the storefront leaseline, whether or not there is display window space in the Premises, or within any entrance to the Premises, any sign (flashing, moving, hanging, handwritten, or otherwise), decal, placard, decoration, flashing, moving or hanging lights, lettering, or any other advertising matter of any kind or description; provided, that subject to the prior written approval of Landlord with respect to design and placement, Tenant may place decals relating to charge cards accepted and alarm system used for safety purposes on glass storefronts where warranted. No symbol, design, name, mark or insignia adopted by either Landlord, American or the Authority for the Terminal or the Airport shall be used without their prior written consent. Notwithstanding the foregoing, if Landlord or American, in their reasonable business judgment, determines that any such materials are unacceptable, improper or inappropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter without any liability. Tenant, upon obtaining Landlord's prior consent not to be unreasonably withheld, may utilize its customary interior signs, placards and decorations provided they are professionally prepared and in good taste and are utilized in a manner substantially similar to the manner which Tenant employs in its first-class stores located in large, urban airports and regional shopping centers in the United States, and, further, so long as the same comply with American's and the Authority's requirements and the Authority's TAA Process. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.01 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of Fifty Dollars ($50.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

Section 9.02 TENANT'S INTERIOR ADVERTISING AND DISPLAY WINDOWS. Tenant acknowledges and agrees that the condition and appearance of its interior advertising and display windows facing into or in any manner visible from the Terminal property including exterior glass windows (if any) is important to Landlord, American and the Authority. If Tenant installs such interior advertising displays or window displays or any signs in the window display facing into or in any manner visible from the public areas of the Terminal which any of Landlord, American or the Authority reasonably determines to be objectionable to the general character and appearance of the Terminal, Tenant agrees to remove the

stanchions, window display and/or signs within forty-eight (48) hours after notice. If Tenant fails or refuses to remove such advertising, window displays or signs, Tenant hereby grants Landlord the right to remove the objectionable advertising, displays or signs at Tenant's expense. Tenant agrees that its interior advertising displays and window displays will be designed and printed in a professional manner and will contain only first class products. Tenant shall not display any advertising, promotional or informational pamphlets, circulars, brochures or similar materials outside the Premises without the prior written consent of Landlord and American. No temporary signs or displays will be used by Tenant including any employment opportunity signs, except for temporary holiday decorations, which shall also be designed and printed in a professional manner. Notwithstanding the foregoing, if Landlord or American determine that any such materials are not appropriate for the Terminal, Tenant shall remove the same immediately upon verbal notice from Landlord and Landlord may remove the same if Tenant shall fail to do the same within twenty-four (24) hours thereafter, at Tenant's expense. At a minimum, Tenant shall refresh and change the interior advertising items and signs in the display windows on a quarterly basis during each Lease Year. If Tenant, in Landlord's reasonable and sole discretion, shall be in default of this Section 9.02 which is not cured within forty-eight (48) hours after notice, Tenant shall pay as liquidated damages and not as a penalty, the sum of Fifty Dollars ($50.00) for each day of default in order to reimburse Landlord for the additional administrative expenses resulting therefrom.

ARTICLE X. MAINTENANCE AND REPAIRS

Section 10.01 **TENANT'S OBLIGATIONS FOR MAINTENANCE.** (a) Except for American's obligations pursuant to the Authority Lease and the Concession Area Lease for structural maintenance, repair and/or replacement of the Base Building Work in the Premises, Tenant, at Tenant's sole cost and expense, shall keep and maintain in a first-class appearance, in a "like new" condition equal to or better than that which existed when Tenant initially opened the Premises for business, reasonable wear and tear excepted, and in a safe, clean, neat, sanitary and lawful order, good condition and repair (including replacement of parts and equipment, if necessary), the Premises and every part thereof and any and all appurtenances thereto wherever located, including, without limitation, surfaces of all walls, windows and window casings and sills (both interior and exterior), the interior and exterior portion of all doors, door frames and door checks, other entrances, plate glass (except outside surfaces of windows, window casings and sills located on the exterior of the Terminal building, if any), storefronts, wall coverings, floor coverings, ceilings, relamping and/or replacement of light fixtures, trade fixtures, Fixed Improvements, Operating Equipment, HVAC (as defined in Section 12.01(d)) and electrical and other utility systems and utility branch lines exclusively serving the Premises (whether or not located within the Premises), sprinkler systems and sprinkler heads exclusively serving the Premises (whether or not located within the Premises), and all other repairs, replacements, renewals, restorations, interior and exterior, ordinary and extraordinary, foreseen and unforeseen that relate to all work by or on behalf of Tenant pursuant to Article V, **Exhibit D** and the Design Guidelines. For the purposes of this Article, the installation, maintenance, repair and replacement of a sprinkler system, fire alarm system, communication system or any repairs or work involving asbestos or other hazardous materials or involving compliance with Local Laws #5 of 1973, #16 of 1984, #58 of 1987 and the Americans With Disabilities Act and any successor laws of like import shall be deemed to (a) be non-structural maintenance, repairs and/or replacements, and (b) not involve the Base Building Work.

(b) Tenant's maintenance and repair of the Premises is an obligation which runs directly to Landlord, American and the Authority and includes all of the following duties:

(1) Tenant, at its own expense, shall install and maintain fire extinguishers, fire hoses and other fire protection devices as may be required by Landlord, American, the Authority, the applicable fire marshall official, any agency having jurisdiction over the Premises or by the insurance underwriter insuring the

Terminal.

(2) Tenant shall obtain Landlord's prior written approval of the materials used in any plate glass or window glass installation, repair or replacement and of the contractor performing any such repair or replacement (the foregoing is subject to Landlord's sole discretion).

(3) Tenant, at all times and at its sole cost and expense, shall use the Premises with care. Maintenance, repairs and replacements shall be accomplished as necessary to maintain the Fixed Improvements and Operating Equipment and trade fixtures in a first-class "like-new" condition. Tenant shall repaint, retile, recarpet or replace wall coverings, floor coverings and ceiling coverings as reasonably necessary; and high traffic areas shall be repainted, retiled, recarpeted on a regular basis or as otherwise reasonably directed by Landlord to maintain a high quality, first-class appearance; and all furniture and furnishings that become worn or torn shall be promptly replaced.

(4) Tenant, at its own expense, shall provide complete and adequate arrangements for the sanitary handling and disposal of all trash, garbage, recycling materials and other refuse generated in the Premises, including suitable receptacles situated in locations determined by Landlord. Such shall be removed at times and in a manner which will cause minimum interference with the use of the Terminal by the public and other authorized persons. Tenant shall be required to participate in American's recycling program, if any, as appropriate. Tenant shall also furnish, at its own expense, custodial services for the Premises. The piling of boxes, cartons, containers or other similar items in the public areas or in the Premises is not permitted.

(5) With respect to utility systems and lines servicing the Premises, (a) in areas where such utility systems and lines serve other areas in the Terminal in addition to the Premises, Tenant, at its own expense, shall only be responsible for the maintenance of the utility branch systems and utility branch lines located within or exclusively serving the Premises, (b) where utility systems and lines are installed by Tenant and solely for its use, Tenant shall have the sole responsibility, at its own expense, for the maintenance, repair and replacement thereof from the Premises up to the American-maintained main utility systems or lines or to the shut-off valves located in the Terminal, as appropriate, (c) Tenant shall have sole responsibility, at its own expense, for the maintenance, repair and replacement, as necessary, of all electrical, telephone, data transmission and other communication cables, conduits, wiring, fire alarm systems and protection devices, wiring panels and associated equipment located within or exclusively serving the Premises. American reserves the right to maintain, repair or replace any such utility systems and lines.

(6) Tenant shall prepare a comprehensive preventive maintenance program for all equipment and lines for which it is responsible to maintain and submit the same to Landlord and shall maintain such program on a current basis. Tenant shall report all malfunctions to all systems, lines, devices and equipment installed or located within the Premises to Landlord as promptly as possible after discovery and shall provide timely notice to Landlord as required by this Sublease with respect to maintenance issues.

(7) All repairs, replacements and maintenance by Tenant hereunder shall comply with all of the applicable provisions of the TAA Process, as the same may be amended from time to time by the Authority in their sole discretion, shall be performed in accordance therewith and with the applicable provisions of the Design Guidelines and shall be subject to the Landlord's prior written approval, such approval to be determined in Landlord's sole discretion. All such maintenance, repairs and replacements shall be of a quality equal to the original in materials and workmanship; Landlord shall have the right to disapprove any improvements, replacements or alterations which, in its judgment, are of a design, quality, condition or in any color or in any other way deemed to be inconsistent with the Design Guidelines, the TAA Process or the general character and design of the Terminal.

(8) Landlord, American and the Authority each reserves the right to interrupt temporarily the heating, air conditioning, plumbing, fire sprinkler, electrical services and any and all other utility services when necessary to make repairs, alterations, replacements or improvements thereto; and no such party shall have any responsibility or liability to Tenant (including consequential damages and lost profits) for failure to supply heat, air conditioning, any other utilities or plumbing or, when prevented from doing so by laws, orders or regulations of any federal, state or local agency or as a result of strikes, accidents, force majeure or by any other cause whatsoever beyond their control. Landlord shall provide Tenant with as much advance notice as reasonably possible and under the circumstances shall use reasonable efforts to avoid interrupting Tenant's business operations except as deemed necessary by Landlord, American or the Authority.

(c) In no event shall Landlord be liable for consequential damages or Tenant's lost profits claimed to be caused by any failure of maintenance or repair. If Tenant does not, upon reasonable notice and opportunity to Tenant to cure, considering the nature of the maintenance or repair, commence such maintenance and repairs as set forth herein or fails to diligently continue to complete such maintenance or repairs, then Landlord, American or the Authority, in addition to any other remedy which may be available to them, may enter the Premises and perform such maintenance or repair, as they determine, in their sole and absolute discretion, is required. **Tenant shall indemnify and save harmless Landlord, American, the Authority and the City of New York from all injury, loss or damage to any Person or property occasioned by Landlord's, American's or the Authority's completion of such maintenance or repair, except to the extent such loss or damage is solely the result of the gross negligence or willful misconduct of Landlord, American, or their respective employees, agents or contractors.** Tenant shall reimburse Landlord for any and all reasonable costs incurred in completing such maintenance or repair (including without limitation an administrative fee equal to fifteen percent (15%) of such costs), together with Late Interest from the date Landlord, American or the Authority incurred such costs. Landlord, without prior notice to Tenant, may enter the Premises and make inspections as often as it considers necessary, to determine the proper maintenance of the Premises by Tenant. The provisions of this Section 10.01 shall survive the expiration or earlier termination of this Sublease.

ARTICLE XI. INSURANCE AND INDEMNITY

Section 11.01 TENANT'S INSURANCE. (a) Tenant, at its sole cost and expense, shall, during the entire Term hereof, procure and maintain the following insurance in not less than the following amounts: (1) commercial general liability insurance with respect to the Premises and the operations in, on or about the Premises, in which the combined limits shall be not less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, insuring for bodily injury, death and property damage and including, without limitation, premises operations, products-completed operations, explosion, collapse, underground property damage and independent contractors coverage, with such commercial general liability insurance containing a contractual liability endorsement covering the obligations assumed by Tenant under Sections 7.03, 11.03 and all other of Tenant's indemnification obligations under this Sublease, such insurance not to contain any care, custody or control exclusions which would conflict with or in any way impair coverage under the contractual liability endorsement and business automobile liability insurance covering all owned, hired and non-owned vehicles, in which the limits for landside vehicle/mobile equipment operation shall be not less than Two Million Dollars ($2,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage and in which the limits for airside vehicle/mobile equipment operation, if applicable, shall be not less than Twenty-Five Million Dollars ($25,000,000.00) per occurrence combined single limit, insuring for bodily injury, death and property damage (provided Tenant's insurance pursuant hereto may consist of primary and excess liability coverage); (2) all risk property insurance, including plate glass coverage, against fire, extended coverage, vandalism, malicious mischief, water damage, which does not exclude backup from sewers or drains or sprinkler leakage, and such other additional perils including flood as now are or hereafter may

be included in a standard extended coverage "ISO Special Form" policy or its equivalent from time to time in general use in the county in which the Terminal is located, insuring Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property of Tenant located on or in the Premises or the Terminal in an amount equal to the full replacement cost thereof; (3) statutory workers' compensation coverage as required by the State of New York from time to time and including Employer's Liability Insurance in the amount of One Million Dollars ($1,000,000.00) for each accident, One Million Dollars ($1,000,000.00) for each employee, by disease, One Million Dollars ($1,000,000.00) policy aggregate by disease; (4) builder's risk (ALL RISK) insurance covering construction and installation of the Fixed Improvements and Refurbishments and Operating Equipment during the performance thereof, including, without limitation material delivered to the site but not attached to the realty as more particularly described in **Exhibit D**, naming Landlord, American, the Authority, the City of New York, Tenant and their respective contractors and subcontractors as additional insureds or as loss payees (as applicable to the type of insurance provided) and provide that the loss shall be adjusted with and payable to Tenant and used for the repair, restoration or rebuilding of the Fixed Improvements and Refurbishments and Operating Equipment, as necessary; (5) business interruption insurance in amounts at least sufficient to cover, and applicable to, all Rentals, fees, charges and other payments that are payable by Tenant to Landlord under this Sublease for a period of not less than twelve (12) months for any business interruption losses in business revenue that occur when the Premises or any portion thereof is unusable or is out of operations due to fire or any other risks or hazards that are normally covered under a standard form of "ISO Special Form" policy or its equivalent or for any other reason; (6) the insurance required under the Authority's TAA Process; (7) such other insurance as may be required by Landlord, American or the Authority from time to time after suitable notice thereof based upon circumstances in the Terminal and imposed upon other concession operators in the Terminal; and (8) if the Permitted Use permits the sale of alcoholic beverages for on-Premises consumption, Tenant shall also procure and keep in force liquor law liability insurance (on an occurrence basis), in which the limits shall not be less than Five Million Dollars ($5,000,000.00) per occurrence, broad form/extended coverage, which shall insure against all claims, demands and actions for injury to, and/or death to, one (1) or more persons in one (1) or more accidents, and for property damage, as well as for damages due to time loss and means of support; so that at all times Landlord, American and the Authority will be fully and completely protected against any claims that may arise by the dispensing of beer, wine and/or other spirited or alcoholic beverages in the Premises; provided, however, that Landlord and Tenant acknowledge and agree that commercially available liquor law liability insurance coverage contains specific exclusions. **Tenant agrees to indemnify and hold harmless Landlord, American, the Authority and the City of New York, their respective Affiliates, parent corporations, subsidiaries, directors, officers, partners, shareholders, representatives, members, management companies, agents and employees, from and against any loss or claim arising under such exclusions.** Notwithstanding the foregoing, Tenant specifically understands and agrees that Landlord and American have the right, on their own initiative or as requested by the Authority, to require Tenant to make reasonable additions, deletions, amendments or modifications to the above minimum insurance requirements or may require such other and additional insurance, in such reasonable amounts, against such other insurable hazards, as American may deem reasonably necessary or as the Authority may deem necessary. Landlord will not increase the above-required coverage amounts or limits in excess of five percent (5%) in any Lease Year during the Term, unless such increase is required for reasons beyond Landlord's control, and Tenant shall so adjust the amounts or limits of the insurance carried by Tenant hereunder and shall provide Landlord with Certificates indicating the adjusted amounts or limits as provided in this Section 11.01. All policies of insurance required to be carried by Tenant pursuant to this Sublease shall be written by insurance companies of adequate financial capacity (having a A.M. Best's rating and Financial Size Category of not less than A-VII or better) and qualified to do business in the State of New York. Any such insurance required of Tenant hereunder may be furnished by Tenant under any blanket policy carried by it, with any amendments or endorsements that may be necessary to conform to the requirements of this Article XI or under a new or

separate policy therefor. An insurance certificate or certificates (and endorsements where same become necessary) from Tenant's insurer, certifying that such policy has been issued, provides the coverage required by this Section 11.01 and contains all of the provisions specified in this Section 11.01 (including, without limitation, naming of additional insured and/or loss payee entities as required by Section 11.01(b) below), shall be delivered to Landlord prior to the commencement of the Term hereof, and certificates in connection with all renewals (if any), not less than thirty (30) days prior to the expiration of the term of each such policy. In addition, if requested by American, Tenant shall promptly deliver to Landlord a certified copy of each policy bearing the endorsement of or accompanied by evidence of payment of the premium thereof. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant and certificates delivered to Landlord prior to any such expiration or termination.

(b) Each policy evidencing insurance required to be carried by Tenant pursuant to this Section 11.01 shall contain the following clauses and provisions: (1) a provision that such policy and the coverage evidenced thereby shall be primary and noncontributing with respect to any policies carried by Landlord, American or the Authority and that any coverage carried by Landlord, American or the Authority be excess insurance; (2) except for workers' compensation and employers' liability coverage, a provision including the parties set forth on **Exhibit F** and any other parties designated in writing by Landlord from time to time as additional insured and/or loss payee entities, as applicable; (3) a waiver by the insurer of any right to subrogation against Landlord, American and the Authority and other additional insured and/or loss payee entities, their respective agents, commissioners, directors, employees, insurance carriers, officers and representatives which arises or might arise by reason of any payment under such policy or by reason of any act or omission of Landlord, American or the Authority, their respective agents, commissioners, directors, employees, insurance carriers, officers or representatives; (4) a severability of interest clause or endorsement; (5) a provision or endorsement that the policy may not be cancelled, terminated, changed or modified without giving Landlord, American and the Authority at least thirty (30) days prior written notice; (6) a provision that such policy is an occurrence-form policy; and (7) a provision or endorsement that the insurer shall not, without obtaining the express advance written permission from the Authority's General Counsel, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Authority, the immunity of the Authority, its commissioners, officers, agents and employees, the governmental nature of the Authority or the provisions of any statutes respecting suits against the Authority. Such liability policies shall also provide or contain an endorsement providing that the protections afforded Tenant thereunder with respect to any claims or actions against Landlord by a third Person shall pertain and apply with like effect with respect to any claim or action against Tenant by Landlord, American or the Authority, and that such protections shall also pertain and apply with respect to any claim or action against Landlord, American or the Authority, including by Tenant, but such endorsement shall not limit, vary or affect the protections afforded Landlord, American and the Authority thereunder or other named insureds as an additional insured. The "All Risk" property insurance coverage shall name Landlord, American and the Authority as additional loss payees to the extent of their respective interests and shall provide that any loss shall be adjusted with and payable to Tenant, Landlord and American (to the extent of Landlord's or American's loss) and to the extent Landlord or American receives insurance proceeds from such policies or otherwise participates in the adjustment of claims thereunder, Landlord shall (and American is obligated under the Concession Area Lease to) cooperate with Tenant and shall make all of such proceeds available to Tenant to cover the cost of restoration of such Tenant's merchandise, products, Fixed Improvements, Refurbishments, trade fixtures, furnishings, Operating Equipment and all other items of personal property.

(c) In the event that Tenant fails to procure and to maintain, at the times and for the duration specified in this Section 11.01, any insurance required by this Section 11.01, or fails to carry insurance required by law or governmental regulation, Landlord may (but shall not be required to) at any time and from time to time, and upon five (5) days notice to Tenant, procure such insurance and pay the premiums therefor; and the cost

of same shall be deemed Additional Rent and shall be payable by Tenant within ten (10) days after receipt of Landlord's written demand. Tenant will not do or suffer to be done, or keep or suffer to be kept, anything in, upon or about the Premises which will violate Landlord's, American's, the Authority's or the Airport's policies of hazard or liability insurance or which will prevent Landlord, American or the Authority from procuring such policies in companies acceptable to Landlord, American and the Authority.

(d) If at any time any of Tenant's insurance policies shall be or become unsatisfactory to Landlord, American or the Authority, in their reasonable judgment, as to form or substance, of if any of the Tenant's insurers issuing such policies shall not maintain the minimum rating required above, Tenant shall promptly obtain a new and satisfactory policy in replacement.

Section 11.02 **LANDLORD'S AND AMERICAN'S INSURANCE.** Landlord has the obligation to carry the insurance set forth in the Concession Area Lease but only to protect the interests of Landlord, American and the Authority. Landlord, by virtue of this Sublease or otherwise, has no obligation to protect the interests of Tenant or to name Tenant as an additional insured under any of its insurance covering the Terminal. American is obligated to maintain the types of insurance required under the Authority Lease.

Section 11.03 **INDEMNIFICATION.** **(a) Tenant shall defend, indemnify and hold harmless Landlord, American, the Authority and the City of New York (including the New York City Economic Development Corporation, a local development corporation formed pursuant to Section 1411 of Not-For-Profit Corporation Law of the State of New York, or such successor entity as may be designated by the City of New York) and their respective directors, officers, employees, agents, commissioners, representatives and Affiliates (collectively, the "Indemnitees") from and against any and all claims, demands, actions, causes of action, suits, fines or judgments asserted, imposed or obtained by third parties, and the costs (including reimbursement of Indemnitees' reasonable costs and expenses of any related legal proceedings or attorneys' fees), expenses, losses, liabilities (including, without limitation, claims and demands for death or personal injuries, or for property damages) and damages of all kinds related to such third party claims, arising out of the construction of Fixed Improvements or Refurbishments or the improper use or occupancy of the Premises by Tenant or out of any other acts or omissions of, or any breaches or defaults under the terms or conditions of this Sublease by Tenant, its directors, officers, employees, representatives, contractors, guests and/or invitees in the Premises or other areas in the Terminal and/or elsewhere at the Airport including, without limitation, claims and demands of any of the occupants in the Concession Area or of the City of New York, from which the Authority derives its rights in the Airport (collectively, the "Claims"). The foregoing indemnification shall not apply to a particular Indemnitee, other than the Authority, to the extent that a Claim is caused or contributed to by the negligence or willful misconduct of such Indemnitee other than the Authority. As a condition to the foregoing indemnification with respect to Claims and demands for indemnification made by Landlord: (1) Landlord or the Indemnitee shall give Tenant prompt written notice specifying with reasonable particularity any Claim that Landlord or the Indemnitee reasonably believes may become the basis for indemnification pursuant to this Section 11.03; (2) Landlord, the Indemnitee and their directors, officers, employees and representatives shall cooperate fully in the defense of such Claim; (3) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the right to contest, defend or litigate, and to retain counsel of its choice in connection with any proceeding or litigation which would give rise to a claim for indemnification under this Section 11.03; and (4) to the extent permitted under the Concession Area Lease and/or the Authority Lease, Tenant shall have the sole and exclusive right to settle any proceeding or litigation which could give rise to a claim for indemnification under this Section 11.03 (provided such settlement would not result in any loss, cost, harm, expense, damage or liability to any of the Indemnitees). A failure by Landlord or an Indemnitee to timely notify Tenant of any Claim shall**

excuse Tenant's obligations hereunder only to the extent the defense of such Claim is prejudiced thereby.

(b) Tenant represents that it is the owner of or fully authorized to use or sell any and all intellectual property used or sold by it in its activities under or in any way connected with this Sublease. **Without in any way limiting its obligations hereunder, Tenant agrees to indemnify, defend and hold harmless the Indemnitees of and from any loss, liability, expense, suit or judgment in connection with any actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or arising from any alleged or actual unfair competition or other similar claim arising out of the activities of Tenant under or in any way connected with this Sublease.** With respect to claims or demands against Indemnitees for actual or alleged infringement of any patent, service mark, trademark, trade name or copyright, or for actual or alleged unfair competition or other similar theories arising out of the operations of Tenant, Tenant shall pay or reimburse Indemnitees all actual and reasonable attorneys' fees and costs of defense that Indemnitees may incur in defending any such intellectual property or unfair competition claims or demands.

(c) Tenant agrees to include in all franchise or license agreements and construction contracts and other agreements involving Tenant, a provision by which such franchisee, licensee or contractor agrees to defend, indemnify and hold harmless the Indemnitees, on at least the same basis and to the same extent as required of Tenant under this Section 11.03. The obligations set forth in this Section 11.03 shall survive the expiration or earlier termination of this Sublease.

Section 11.04 **INJURY CAUSED BY THIRD PARTIES.** Tenant covenants and agrees that Landlord, American and the Authority (including their respective agents, employees, officers, directors, commissioners, members and shareholders) shall not be responsible or liable to Tenant, or any entity or person claiming by, through or under Tenant, for any injury, death or damage to persons or property resulting from any latent defect in the Premises, the Terminal, the Airport or appurtenant areas; or from any acts or omissions of entities, persons, tenants or other occupants occupying adjoining premises in the Terminal or any other part of the Airport or the agents, servants, employees, contractors or invitees of such entities, persons, tenants or occupants; or from fire, electricity, water, snow or leaks from any part of the Terminal or Terminal systems or Airport, including sprinkler systems; or from any other cause of whatever nature, unless caused by or due to the direct gross negligence or direct willful misconduct of Landlord (or as American, as obligated under the Concession Area Lease), its agents and employees, in which case only the party that acted grossly negligent or with willful misconduct shall be responsible or liable.

ARTICLE XII. UTILITIES

Section 12.01 **UTILITY SERVICES AND CHARGES.** (a) Pursuant to the Concession Area Lease, American is obligated to provide access to reasonable and normal amounts (as determined by Landlord and American) of electric, heat, air conditioning, domestic cold water (if applicable), high temperature hot water (if applicable), gas (if applicable) and sewage (if applicable) services to the Premises for use by Tenant provided by utility systems, connections and related equipment existing as of the Commencement Date; but neither Landlord nor American have any obligation to provide telephone or data transmission and communication services to the Premises. The types, capacities and amounts of the various utilities which are being provided by American to the Concession Area, including the Premises, are set forth on the Utilities Matrix, which is included as an exhibit to the Concession Area Lease. All of such utilities, except for electricity for all food & beverage concession locations, and telephone and data communication services, are to be provided without charge by American in accordance with the Concession Area Lease. Should Tenant require access to utility services over and above those provided by American as set forth on such Utilities Matrix, Tenant shall pay directly for the costs of extending those additional utilities to the Premises,

if available. Tenant shall be solely responsible for all fees, deposits and charges, including use or connection fees, hook-up fees, standby fees, and the like, for fire alarm, burglar alarm, telephone, data transmission and communication and cable television used in or upon or furnished to the Premises, including, without limitation, any services to be supplied by American, irrespective of whether any of the foregoing are initially paid in advance by American, Landlord or otherwise.

(b) Intentionally omitted.

(c) Landlord, American or the Authority shall not be liable for damages, loss of business, loss of profits or otherwise for any interruption, reduction, disruption, curtailment or failure in the supply, quality or character of electricity, services from a central utility plant or any other utility or other service, or if either the quantity, quality or character thereof is changed or is no longer available for Tenant's requirements, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character will not excuse or relieve Tenant from its obligations hereunder, including but not limited to the payment of Rentals or all other sums, damages, fees, costs and expenses payable under this Sublease. Except as otherwise provided by applicable law, any such interruption, reduction, disruption, curtailment, failure or change in quantity, quality or character shall not constitute or be deemed to constitute actual or constructive eviction of Tenant. Any obligation of American to furnish utilities is conditioned upon the availability of adequate energy sources. American has the right to reduce heating, cooling and lighting within the Premises and the public areas as required by any mandatory or voluntary fuel or energy saving allocation, or similar statute, regulation, order or program. No such interruptions, reductions, disruptions, curtailments or failures shall entitle Tenant to any abatement of Rentals or relieve Tenant from fulfillment of any covenant or agreement set forth in this Sublease, except specifically provided in this Section 12.01(c). Notwithstanding the foregoing, if Tenant is prevented from opening to the public for more than five (5) days during any Lease Year by an interruption in utility services due to the negligence of Landlord or American, including, without limitation, electricity, gas, water, plumbing, sewage, telephone communications, heating, ventilation, or air conditioning, but American's operations and the flow of Enplaned Passengers nevertheless continue normally through such interruption of utility services in the Premises, Guaranteed Rent that would otherwise apply during such period will be reduced by the proportion that three hundred sixty-five (365) days bears to the actual number of days Tenant was able to operate during such calendar year.

(d) If applicable, Tenant shall operate its additional heating, ventilating and air conditioning system(s) ("**HVAC**") serving the Premises so as to maintain comfortable conditions during its hours of operation. Temperatures in the Premises shall be compatible with temperatures in the Terminal. Tenant's obligation to connect to the services supplied by American, as set forth in this Section 12.01 and **Exhibit D**, as well as Tenant's operation and maintenance of its HVAC system(s) within the Premises, shall be as set forth herein, in **Exhibit D** and in any related document(s), such as the Design Guidelines or approved Final Drawings. If Tenant desires to install any equipment which shall exceed the capacity of any utility facilities or which shall require additional utility facilities, Tenant shall not have the right to do so without Landlord's and American's prior written approval of Tenant's plans and specifications therefor. If such installation is approved by Landlord and American, and if such additional facilities are provided to accommodate Tenant's installation, Tenant agrees to pay Landlord, on demand, the cost of providing such additional utility facilities or utility facilities of greater capacity. Tenant shall in no event use any of the utility facilities in any way which shall overload or overburden the utility systems at the Terminal and the Airport. Landlord and American shall have the right to impose reasonable restrictions and to require Tenant to comply with any and all state and local regulations and measures adopted from time to time with respect to conservation of any utilities, including water usage.

ARTICLE XIII. ATTORNMENT AND SUBORDINATION

Section 13.01 **ATTORNMENT.** Landlord shall be permitted to assign this Sublease to American or its designee; and, in the event of such assignment, Tenant shall attorn to American or its designee and recognize American or its designee as the landlord for all purposes hereunder.

Section 13.02 **SUBORDINATION.** Tenant further agrees that this Sublease shall be subordinate to the Concession Area Lease, the Authority Lease and to any and all mortgages, deeds of trust and ground leases that may now exist or at any time hereafter constituting a lien or charge upon the Concession Area or the Terminal or other improvements that constitute a part of the Concession Area and to any and all advances to be made thereunder, and to the interest thereon, and all renewals, modifications, replacement and extensions thereof. Tenant, within no more than fifteen (15) days after written request, shall execute any and all instruments, releases and other documents that may be required by each and every mortgagee, trustee and holder thereof for the purpose of subjecting and subordinating this Sublease to the lien of any such mortgage or deed of trust.

Section 13.03 **ESTOPPEL STATEMENT.** Within twenty (20) days after request therefor by Landlord, Tenant shall execute, in recordable form, and deliver to Landlord a statement, in writing, certifying (a) that this Sublease is in full force and effect, (b) the Rental Commencement Date and the Expiration Date hereof, (c) that Rentals and all other charges hereunder are paid currently without any offset or defense thereto, (d) the amount of Rentals and all other charges hereunder, if any, paid in advance, (e) whether this Sublease has been modified and, if so, identifying the modifications, (f) that, to the best of its knowledge, there are no uncured defaults by Landlord or stating in reasonable detail those claimed by Tenant, and (g) such other matters as may be reasonably requested by Landlord.

ARTICLE XIV. ASSIGNMENT AND SUBLETTING

Section 14.01 **RESTRICTIONS, PROCEDURES AND OTHER ASPECTS GOVERNING TENANT.** (a) Tenant shall not transfer or assign this Sublease or Tenant's interest in or to the Premises or any part thereof without having first obtained the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion; provided, however, the transfer of Tenant's securities in connection with Tenant becoming a publicly held company or issuing securities in connection with an additional public offering of securities shall not constitute a transfer or assignment of this Sublease. The public trading of Tenant's securities on a nationally recognized stock exchange or on the NASDAQ market shall not constitute or be considered to result in any such transfer or assignment of this Sublease. Each transfer, assignment or subletting to which there has been consent shall be by instrument in writing, in form satisfactory to Landlord, and shall be executed by the transferee, assignee or subtenant who shall agree in writing for the benefit of Landlord to be bound by and to perform the terms, covenants and conditions of this Sublease. Failure to first obtain in writing Landlord's consent, or failure to comply with the provisions herein contained shall operate to prevent any such transfer, assignment or subletting from becoming effective. The receipt by Landlord of rent from an assignee, transferee, subtenant or any other occupant of the Premises shall not be deemed a waiver of the covenant in this Sublease against assignment, transfers and subletting or an acceptance of the assignee, transferee, subtenant or any other occupant as a tenant or a release of the Tenant from further observance or performance by Tenant of the covenants contained in this Sublease.

(b) Notwithstanding the foregoing provisions of this Article 14, Tenant shall have the right to transfer or assign this Sublease, with Landlord's consent, such consent not to be unreasonably withheld, to: (1) a subsidiary of Tenant or its parent entity or to an entity that is an Affiliate of Tenant or its parent entity; (2) any entity with which Tenant shall merge, reorganize or consolidate; or (3) any entity acquiring all or

substantially all of the assets of, or equity interests in, Tenant or which may succeed to a controlling interest in the business of Tenant; provided that in the case of any and each such transfer or assignment under clauses (2) and (3) above which is permitted hereunder, Landlord shall have the discretionary right to withhold its consent unless: (i) such transferee or assignee shall have a net worth equal to or greater than Tenant (or its guarantor, if any) as of the effective date of any proposed transfer or assignment; (ii) such transferee or assignee shall have proven airport concession operating experience and the ability to efficiently and effectively operate the business in the Premises consistent with at least as high a standard as then exists in the Premises; (iii) the business conducted in the Premises by such transferee or assignee shall be conducted under the same Permitted Use and under a trade name required to be used by Tenant hereunder; (iv) Tenant shall not be in default after the applicable notice and cure periods under any of the terms and provisions hereof; (v) the use of the Premises by such transferee or assignee shall not violate any agreements affecting the Premises, Landlord or other tenants or occupants in the Airport and shall not disrupt the concession mix within the Terminal as determined in the sole and absolute discretion of Landlord; (vi) if Tenant is a certified M/W/DBE or if Tenant's certified M/W/DBE participant is a member/partner of a limited liability company/general partnership or joint venturer of a joint venture with Tenant, any such transfer or assignment of this Sublease shall not effect, modify or otherwise jeopardize the required M/W/DBE participation interest under this Sublease; (vii) except as may otherwise be prohibited under federal securities laws, notice of any proposed transfer or assignment shall be given to Landlord at least thirty (30) days prior to its proposed effective date, and there shall be delivered to Landlord instruments evidencing such proposed transfer or assignment and the agreement of such transferee or assignee to assume and be bound by all the terms, conditions and covenants hereof, all in form reasonably acceptable to Landlord; and (viii) Tenant and its guarantor, if any, shall continue to remain fully liable for the payment of all sums due and the performance of all the terms and conditions hereof.

(c) Tenant shall not sublet the Premises or any part thereof without having first obtained the prior written consent of Landlord. In the event Tenant requests permission to sublease, the request shall be submitted to Landlord prior to the effective date of the sublease requested and shall be accompanied by a copy of the proposed sublease agreements and of all agreements collateral thereto. The identity of the subtenant, the area or space to be subleased, the rental to be charged, the type of business to be conducted, recent audited financial statements and history and all other information requested by Landlord shall be specified. In the event of an assignment or sublease where the rental per square foot established in the sublease exceeds the rental per square foot established in this Sublease, Tenant shall pay to Landlord as Additional Rent the excess of the rental received from the transferee or subtenant over that specified to be paid by Tenant herein per square foot. Should any method of computation of rental to be paid by a transferee or subtenant, other than computation based upon a rental rate per square foot be employed, the provisions of this paragraph will apply if the rental received for the proportionate area of the Premises by Tenant exceeds the rental paid to Landlord for said proportionate area of the Premises.

(d) If Tenant is a corporation, limited liability company, association or partnership which, under the current laws, rules or guidelines promulgated by the governmental body or agency having jurisdiction and authority to promulgate the same, is not deemed a public corporation, or is an unincorporated association or partnership, the transfer, assignment or hypothecation, in the aggregate of more than a controlling interest of the total outstanding voting stock or voting interests in such corporation, limited liability company, association or partnership shall be deemed an assignment and transfer within the meaning and provisions hereof.

(e) Notwithstanding anything to the contrary set forth in this Article XIV and regardless of any Landlord approval noted herein, any and all proposed assignments, transfers and subletting and/or any other arrangement pursuant to which Tenant authorizes any other Person to use and occupy the Premises shall also be subject to the written consent of American and the Authority determined in their sole and absolute

discretion and not be effective until any such required consents of American and the Authority have been obtained.

ARTICLE XV. WASTE OR NUISANCE

Section 15.01 **WASTE OR NUISANCE.** Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, invitees, subtenants or agents to, injure, deface or otherwise harm the Premises, Concession Area, Terminal or the Airport, nor commit any waste upon the Premises, Concession Area, Terminal or the Airport, and shall not place a load upon the floor of the Premises which exceeds the floor load per square foot which such floor was designed to carry. Tenant shall not, nor shall Tenant permit any of its employees, contractors, subcontractors, licensees, subtenants or agents to, commit any nuisance or other act or thing which may constitute a menace or which may affect either American's operation of the Terminal, Landlord's operation of the Concession Area or the Authority's operation of the Airport or which may disturb the quiet enjoyment of any other occupant or tenant of the Airport. Tenant shall not use or permit to be used any medium that might constitute a nuisance, such as loudspeakers, sound amplifiers, tape decks, compact disc players, radios, televisions, or any other sound-producing or other device which will carry sound or objectionable odors outside the Premises except as may otherwise be approved in advance in writing by Landlord and, upon notice from Landlord to Tenant's business representative at the Premises, Tenant shall cause any such noise or odors to cease immediately. Tenant shall not allow any use of the Premises or any other portion of the Concession, Area, Terminal and/or the Airport in a manner which is a source of annoyance, disturbance or embarrassment to Landlord, American and/or the Authority, or to the other tenants and occupants of the Concession Area, Terminal and/or the Airport or which is deemed by Landlord or American, in their sole discretion, as not in keeping with the character of the Concession Area, Terminal and/or Airport. The Premises shall not be used for any unlawful or immoral purpose or which will invalidate or increase the premiums on any of the Landlord's, American's or the Authority's insurance.

ARTICLE XVI. TRADE NAME, TRADEMARKS AND THE JOINT MARKETING FUND

Section 16.01 **TRADE NAME.** Tenant shall operate its business in the Premises under the name specifically set forth in the Data Sheet ("Trade Name") and shall not change the Trade Name or character of the business operated in the Premises, including, without limitation, Tenant's Permitted Use, without the prior written approval of Landlord, which may be withheld in Landlord's absolute discretion.

Section 16.02 **TRADEMARKS.** "**Trademarks**" means the trademarks, trade names, logos, service marks, trade styles, trade dress and other proprietary marks of American and its Affiliates, including American Eagle, Inc. Tenant acknowledges that the Trademarks are and will remain at all times the exclusive property of American and its Affiliates. No interest in, license or other right to use the Trademarks is granted or may be deemed to granted to Tenant under this Sublease or otherwise. Tenant may not make any use of the Trademarks, or any colorable imitation or abbreviation thereof, including any reference by advertising or otherwise to the names "American Airlines", "American Airlines, Inc.", unless such use or reference has been specifically approved in writing by American in advance.

Section 16.03 **JOINT MARKETING FUND.** Landlord shall cause to be provided a central marketing and promotional program which, in Landlord's sole judgment, will serve to generally market and promote the overall concession operations at the Terminal or on any item that may enhance the overall passenger experience at the Terminal. Tenant, along with other concession facility operators, will contribute to the fund for this program which shall be known as the "**Joint Marketing Fund**". Tenant shall contribute during each month, as Tenant's share to the Joint Marketing Fund, and pay to Landlord as Additional Rent,

an amount equal to Ex. 2.a. of Tenant's monthly Gross Receipts. This amount is payable to Landlord and must be paid no later than the fifteenth (15th) day following the end of each Lease Month. If Tenant is unable to calculate actual Gross Receipts in time to make the required monthly payment to the Joint Marketing Fund, the payment may be based on an estimate of monthly Gross Receipts. Any and all such estimated payments must be adjusted at the end of each 6-month period of each Lease Year. Within thirty (30) days after the end of each such 6-month period, Tenant must submit a report to Landlord reconciling estimated and actual Gross Receipts and showing any under or overpayments to the Joint Marketing Fund. A check for any underpayments must accompany the reconciliation. All overpayments will be credited to the next payment(s) due from Tenant for its contributions to the Joint Marketing Fund; or, if the Sublease has expired or has been terminated for any reason other than a default by Tenant, overpayments shall be refunded, without interest, to Tenant within sixty (60) days of the Sublease termination date by Landlord. Landlord shall not be obligated to expend more for marketing and promotional programs than is actually collected from Tenant and other concession facility operators in the Terminal. Any services and personnel so provided shall be under the exclusive control and supervision of Landlord, who shall have the sole authority to employ and discharge personnel, retain third-party independent contractors and to establish all budgets with respect to the Joint Marketing Fund. The primary purpose, but in no way a limitation, of the Joint Marketing Fund, will be to fund intra-Terminal promotional and advertising programs such as permanent directories, graphics, take-one directory pamphlets and establishing customer service and training programs with respect to the operations of the concession facilities in the Terminal, such as customer surveys, "secret shopper" programs and sales technique seminars, sales/service incentive awards for Tenant and other concession operators' employees or on any other items that may enhance the user's overall experience in the Terminal. Landlord shall conduct quarterly meetings to discuss the promotional and advertising programs and customer service and training programs. In the event the Premises is located within an expansion of or a new area within the Terminal where a grand opening date or grand opening events shall be set by Landlord, then Tenant shall also pay an initial Joint Marketing Fund assessment in the amount set forth in the Data Sheet in addition to Tenant's monthly contributions to the Joint Marketing Fund, such initial assessment to be payable in one lump sum within sixty (60) days prior to the Rental Commencement Date. Landlord reserves the right at any time to terminate the Joint Marketing Fund and, in such event, shall notify Tenant in writing. Thereafter, in the event of such termination, Tenant shall no longer be obligated to make any further contributions to the Joint Marketing Fund and any remaining funds previously contributed to the Joint Marketing Fund shall be used by Landlord to promote the overall concession program and facilities within the Terminal. Landlord, following any such termination, also reserves the right to reinstate the Joint Marketing Fund and, in such event, shall notify Tenant in writing and thereafter, Tenant, upon any such reinstatement, shall immediately recommence contributions to the Joint Marketing Fund in accordance with this Section 16.03. Upon the expiration or earlier termination of the Concession Area Lease, Landlord is required to remit any unused monies in the Joint Marketing Fund in equal shares to American and the Authority.

ARTICLE XVII. DAMAGE AND DESTRUCTION

Section 17.01 **PARTIAL DESTRUCTION.** (a) Landlord and American shall not be required to make reparation for any injury or damage by fire or other cause, or to make any restoration or replacement of any Fixed Improvements, Refurbishments, or any other real or movable property located or installed in the Premises or in the Concession Area by or on behalf of Tenant, except as otherwise provided herein.

(b) In the event the Fixed Improvements or Refurbishments are damaged by any casualty covered under an insurance policy required to be maintained by Tenant pursuant to this Sublease, then Tenant shall repair the same as soon as reasonably possible (following any repair of Base Building Work by American that may be necessary to permit Tenant repairs to proceed) and this Sublease shall continue in full force and effect. In the event the Fixed Improvements or Refurbishments are damaged by any casualty not

covered under any insurance policy required to be maintained by Tenant pursuant to this Sublease, then Landlord may, at Landlord's option (1) repair such damage at Landlord's expense and continue this Sublease in full force and effect, or (2) give written notice to Tenant within ninety (90) days after the date of occurrence of such damage of Landlord's intention to terminate this Sublease as of the date of the damage; provided, however, that if such damage is caused by an act or omission to act of Tenant, then Tenant shall repair such damage, promptly at its sole cost and expense. Any repair or restoration of the Premises by Landlord after the termination of this Sublease shall not be deemed to reinstate this Sublease or give Tenant any right to have this Sublease reinstated. In the event Landlord elects to terminate this Sublease under this section, Tenant shall have the right, within thirty (30) days after receipt of the notice from Landlord, to notify Landlord in writing of Tenant's intention to repair such damage at Tenant's expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible. If Tenant does not give such notice within the above thirty (30) day period, this Sublease shall be terminated as of the date specified by Landlord in its notice to Tenant.

Section 17.02 **TOTAL DESTRUCTION.** If the Concession Area or the Premises are totally destroyed during the Term by any cause whether or not covered by the insurance required under this Sublease (including, without limitation, any destruction required by any authorized public authority), and the Concession Area or the Premises cannot be repaired or replaced within sixty (60) days of such total destruction, this Sublease shall terminate as of the date of such total destruction at the option of American, Landlord or the Authority with a total abatement of Rental obligations as of such date, but without affecting any of Tenant's obligations which may have accrued or other rights or remedies of American, Landlord or Tenant which may have arisen as a result of such termination, including insurance claims based on the destruction.

Section 17.03 **DAMAGE OR DESTRUCTION OF THE TERMINAL.** If fifty percent (50%) or more of the Terminal shall be damaged or destroyed by an insured risk, or if twenty-five percent (25%) or more of the Terminal shall be damaged or destroyed by an uninsured casualty, notwithstanding that the use and occupancy of the Premises is not materially affected thereby, and if as a result of any such damage or destruction American's flight operations at the Terminal are suspended or more than fifty percent (50%) curtailed for a period of sixty (60) days or more, Landlord shall have the right to terminate this Sublease within ninety (90) days from the date of such damage or destruction. In such event, this Sublease shall terminate upon a mutually agreeable date (or, in the absence of a mutually agreed upon date, on the date reasonably specified by Landlord or American which shall be within one hundred eighty (180) days from the date of such damage or destruction) and Tenant, upon such termination, shall surrender the Premises to Landlord. American shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Terminal; and Landlord shall not be required, pursuant to this Section 17.03 or otherwise, to repair any damage or destruction to the Concession Area or the Premises; provided, however, Tenant shall not be obligated to repair any damage or destruction to its Fixed Improvements or Refurbishments pursuant to Section 17.01 or 17.04 to the extent and for so long as any damage or destruction to the Terminal precludes such repairs to the Concession Area, the Premises, Fixed Improvements or Refurbishments.

Section 17.04 **DAMAGE OR DESTRUCTION NEAR END OF TERM.** If, during the last Lease Year of the Term, more than twenty-five percent (25%) of the Premises is partially destroyed or damaged, either party may at its option terminate this Sublease as of the date of occurrence of such destruction or damage by giving written notice to the other of its election to do so within twenty-five (25) days after the date of occurrence of such destruction or damage; provided, however, if Landlord elects to terminate this Sublease pursuant hereto, Tenant shall have the right within fifteen (15) days after receipt of the required notice to notify Landlord in writing of Tenant's intention to repair such destruction or damage at Tenant's

expense and without reimbursement from Landlord or American, in which event this Sublease shall continue in full force and effect and Tenant shall proceed to make such repairs as soon as possible.

Section 17.05 **ABATEMENT OF RENTALS, REMEDIES.** If twenty-five percent (25%) or more of the Premises is destroyed or damaged, and such destruction or damage materially and adversely impairs or interferes with Tenant's use and occupancy of the Premises as reasonably determined by Landlord and will be repaired pursuant to this Sublease, then in addition to any other remedies which may apply under this Sublease, Landlord and Tenant shall negotiate in good faith to reach a mutually satisfactory agreement on an equitable abatement, for the period during which such damage and repair continues, of the amounts which may be due and owing as Rentals, which abatement shall be based on any projected resulting reduction in Tenant's Gross Receipts. Except for abatement of Rentals (if any), Tenant shall have no claim against Landlord or American for any damage suffered by reason of any such damage, destruction, repair or restoration unless said damage is caused by the gross negligence or willful misconduct of Landlord or American, nor shall Tenant have any claim against the Authority for any such damage regardless of its cause. It is understood that, in the application of the foregoing Sections in this Article XVII, American's and Landlord's obligations shall be limited to repair and restoration of the Base Building Work for the Premises to, as nearly as possible, a condition and quality as existed at the commencement of Tenant's Work hereunder. In no event shall Landlord or American be responsible to repair or restore any portion of the Premises relating to Tenant's Work and/or installed by Tenant in the Premises including, but not limited to, Tenant's Fixed Improvements, Refurbishments, Operating Equipment, personal property, products and inventory.

Section 17.06 **WAIVER.** Tenant hereby expressly waives the provisions of Section 227 of the New York Real Property Law, and of any successor law of like import then in force; and Tenant agrees that the provisions of this Sublease shall govern and control in lieu thereof.

ARTICLE XVIII. CONDEMNATION

Section 18.01 **CONDEMNATION.** (a) If more than thirty percent (30%) of the Floor Area of the Premises shall be taken or condemned for any public or quasi-public use under any governmental law, ordinance or regulation or by the right of eminent domain or in the event of a private conveyance, by purchase, sale or otherwise, in lieu thereof ("**Taking**"), this Sublease shall terminate as of the date of such Taking; and the Term hereof shall cease as such date of Taking and all Rentals shall be abated during the unexpired portion of this Sublease, effective on the date physical possession is commenced by the taking or condemning authority.

(b) If thirty percent (30%) or less of the Floor Area of the Premises should be taken or condemned as aforesaid, this Sublease shall not terminate; rather, the amounts which may be due and owing as Rentals during the unexpired portion of the Term (or for such shorter period during which such Taking or condemnation shall continue) shall be reduced proportionally based on the projected reduction, if any, in Tenant's Gross Receipts as mutually agreed to by Landlord and Tenant (and, if unable to agree, Landlord's reasonable decision with respect thereto shall be conclusive and binding) effective on the date physical possession is commenced by the taking or condemning authority, such reduction to end on the date (if such date falls during the Term) that the Premises is returned to Tenant in a condition which reasonably allows for the commencement of business; provided, however, that in all events any reduction under this section in the Authority's allocated share of Rentals shall require the prior written approval of the Authority. If the taking or condemning authority does not specify the actual portions of floor area of the Premises to be taken or condemned as aforesaid, then Landlord, Tenant and American shall endeavor to agree on such actual portions (and, if they are unable to so agree, American's reasonable decision with respect thereto shall be conclusive and binding).

(c) A voluntary sale or transfer of interest of all or any part of the Premises or the public areas in the Terminal by Landlord or American to any public or quasi-public body, agency, person or other entity having the power of eminent domain, either under threat of condemnation or while condemnation proceedings are pending, shall be deemed to be a Taking under the power of eminent domain for the purposes of Article XVIII. Tenant hereby waives the provisions of any statute or other law that may be in effect at the time of the occurrence of any such Taking under which a lease/sublease is automatically terminated or pursuant to which a tenant is given the right to terminate a lease/sublease by reason of such a Taking.

Section 18.02 **AWARD.** All compensation awarded for any Taking or condemnation (or, in either case, the proceeds of a private sale in lieu thereof) of the Premises shall be the property of the party entitled to any such compensatory award under the Authority Lease and to the extent Tenant is not entitled to any such compensatory award under the Authority Lease, Tenant hereby assigns its interest in any such award to American. The distribution of any such compensatory awards shall be made to the Authority, American, Landlord, if any, and Tenant, if any, as set forth in the Authority Lease.

ARTICLE XIX. DEFAULTS, REMEDIES AND DAMAGES

Section 19.01 **EVENTS OF DEFAULT.** The occurrence, at any time prior to or during the Term, of any one (1) or more of the following events (referred to herein, singly, as an "**Event of Default**" and collectively as "**Events of Default**") shall be an Event of Default by Tenant under this Sublease:

(a) Tenant fails to pay any Rentals or any other charges or sums whatsoever due hereunder (including without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure so to perform) for more than five (5) days after written notice from Landlord to Tenant that such Rentals or any other charges or sums whatsoever due hereunder were not received on the date required for payment pursuant to this Sublease together with all Late Interest accrued from the due date, provided, that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws and, provided, however, if Landlord gives such written notice once during a twelve (12) month period and the delinquent payment has not been fully cured (including Late Interest), no further written notice of default shall be required with respect to that payment or any other payment during such twelve (12) month period to establish a payment default and, thereafter, during such twelve (12) month period an Event of Default shall be deemed to have occurred if any payment under this Sublease is not made when due and such failure continues for a period of five (5) days after such payment was due; or

(b) Tenant fails to perform any other of the terms, conditions, or covenants of this Sublease to be observed or performed by Tenant for more than twenty (20) days after written notice from Landlord to Tenant of such default (unless such default cannot be cured within said twenty (20) days, in which event Tenant shall not be deemed to be in default hereunder if Tenant shall have commenced to cure said default promptly within said twenty (20) days and shall thereafter proceed to prosecute such cure to completion with all reasonable dispatch and diligence, provided that in no event shall such cure period extend beyond seventy-five (75) days or such longer period of time as is approved by Landlord in writing, and if Tenant's cure period is so extended, Tenant must, within five (5) days after the written extension notice, provide a written plan to Landlord outlining all steps Tenant is taking to cure the default and when the cure shall be completed), provided that such notice from Landlord shall be in lieu of, and not in addition to, any notice of default required by applicable laws; or

(c) Tenant fails to submit any statement or report required on or before the date required by this Sublease, including without limitation the statements and reports required by Article III, and such failure continues for five (5) days after written notice by Landlord, provided such notice shall not be required if

Landlord has previously given two (2) notices of such a failure during the preceding twelve (12) month period; or

(d) Tenant fails to commence construction of Tenant's Work within twenty (20) days of the Authority's approval of the TAA for such Tenant's Work and such failure is not occasioned by reason of Force Majeure; or

(e) Tenant fails to complete Tenant's Work, move into and merchandise/stock the Premises with high-quality goods, products or services and to initially open for business on or before the Latest Rental Commencement Date; or

(f) Tenant fails to operate continuously in the manner and during the hours established by Landlord pursuant to Section 7.02 hereof or for the Permitted Use or discontinues its business operations in the Premises for a period in excess of forty-eight (48) consecutive hours; or

(g) Tenant's abandonment of the Premises, or permitting this Sublease to be taken under any writ of execution or similar writ or order; or

(h) Tenant fails to comply with any obligation as a result of any inspection or audit and such failure continues for ten (10) days after written notice from Landlord to Tenant of such failure; or

(i) If applicable, the failure of Tenant to obtain and maintain continuously throughout the Term, its eligibility and certification from the Authority of its M/W/DBE status and/or to renew such eligibility and certification as may be required by the Authority from time to time and such failure shall continue for a period of twenty (20) days; or

(j) Tenant fails comply with any of the other operational requirements set forth in Section 7.02 or any of the exhibits referenced therein (such as compliance with staffing/personnel, street pricing or fails to achieve the Minimum Performance Standards, for example); or

(k) Tenant shall fail to carry insurance as required under this Sublease on the date of such failure or to comply with any applicable law, rule or regulation concerning security, and such failure continues for forty-eight (48) hours after written notice from Landlord thereof; or

(l) A governmental authority, board, agency or officer with competent jurisdiction terminates or suspends any certificate, license, permit or authority held by Tenant without which Tenant shall not be lawfully empowered to conduct its business operations in the Premises; or

(m) Except as otherwise provided by applicable law, if the estate hereby created shall be taken on execution or by other process of law, or if Tenant shall be judicially declared bankrupt or insolvent according to law, or if any assignment shall be made of the property of Tenant for the benefit of creditors, or if a receiver, guardian, conservator, trustee in involuntary bankruptcy or other similar officer shall be appointed to take charge of all or any substantial part of Tenant's property by a court of competent jurisdiction, or if a petition shall be filed for the reorganization of Tenant under any provisions of law now or hereafter enacted, and such proceeding is not dismissed within thirty (30) days after it is begun, or if Tenant shall file or consent to a petition for such reorganization, or for arrangements under any provisions of such laws providing a plan for a debtor to settle, satisfy or extend the time for the payment of substantially all or general payment of debts; and/or

(n) Any act or omission to act by Tenant which, directly or indirectly, puts Landlord in default of its

obligations to American under the Concession Area Lease or puts Landlord in default of its obligations to the Authority under the Operator Permit;

then, during such time as such Event(s) of Default is/are continuing, Landlord may at any time, at Landlord's option, give to Tenant five (5) days' notice of termination of this Sublease (which shall be in lieu of any notice required under New York law) and, in the event such notice is given, this Sublease and the Term shall come to an end and expire (whether or not said Term shall have commenced) upon the expiration of said five (5) days with the same effect as if the date of expiration of said five (5) days were the Expiration Date, but Tenant shall remain liable for damages and all other sums payable pursuant to the provisions of Section 19.03.

Section 19.02 REMEDIES. (a) If Tenant shall default in the payment when due of any installment of Rentals or if Tenant shall default in the performance of any of the other terms, provisions, conditions or covenants of this Sublease, or if this Sublease and the Term shall expire and come to an end as provided in Section 19.01: (1) Landlord and its agents and servants may immediately, or at any time after such default or after the date upon which this Sublease and the Term shall expire and come to an end, re-enter the Premises or any part thereof, without notice, either by summary proceedings or by any other applicable action or proceeding, or by force or otherwise (without being liable to indictment, prosecution or damages therefor), and may repossess the Premises and dispossess Tenant and any other Person from the Premises and remove any and all of their property and effects from the Premises; and/or (2) Landlord, at Landlord's option, may relet the whole or any part or parts of the Premises, from time to time, either in the name of Landlord or otherwise, to such tenant or tenants, for such term or terms ending before, on or after the Expiration Date, at such rental or rentals and upon such other conditions, which may include concessions and free rent periods, as Landlord, in its sole discretion, may determine. Landlord shall have no obligation to relet the Premises or any part thereof and shall in no event be liable for refusal or failure to relet the Premises or any part thereof, or, in the event of any such reletting, for refusal or failure to collect any rent due upon any such reletting, and no such refusal or failure shall operate to relieve Tenant of any liability under this Sublease or otherwise to affect any such liability; Landlord, at Landlord's option, may make such repairs, replacements, alterations, additions, improvements, decorations and other physical changes in and to the Premises as Landlord, in its sole discretion, considers advisable or necessary in connection with any such reletting or proposed reletting, without relieving Tenant of any liability under this Sublease or otherwise affecting any such liability.

(b) Tenant hereby waives the service of any notice of intention to re-enter or to institute legal proceedings to that end which may otherwise be required to be given under any present or future law. Tenant, on its own behalf and on behalf of all Persons claiming through or under Tenant, including all creditors, does further hereby waive any and all rights which Tenant and all such persons might otherwise have under any present or future law to redeem the Premises, or to re-enter or repossess the Premises, or to restore the operation of this Sublease, after (1) Tenant shall have been dispossessed by a judgment or by warrant of any court or judge, or (2) any re-entry by Landlord, or (3) any expiration or termination of this Sublease and the Term, whether such dispossess, re-entry, expiration or termination shall be by operation of law or pursuant to the provisions of this Sublease. The words "re-enter", "re-entry" and "re-entered" as used in this Sublease shall not be deemed to be restricted to their technical legal meanings. In the event of a breach or threatened breach by Tenant, or any persons claiming through or under Tenant, of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord shall have the right to enjoin such breach and the right to invoke any other remedy allowed by law or in equity as if re-entry, summary proceedings and other special remedies were not provided in this Sublease for such breach. The right to invoke the remedies hereinbefore set forth in this Sublease is cumulative and shall not preclude Landlord from invoking any other remedy allowed by law or in equity.

(c) No re-entry or taking possession of the Premises by Landlord shall be construed as an election on its part to terminate this Sublease unless a written notice of such intention is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Sublease for such previous breach and shall have the remedies provided herein.

(d) In the event of re-entry by Landlord, Landlord may remove all Persons and property from the Premises; and such property may be stored in a public warehouse or elsewhere at the cost of, and for the account of, Tenant, with notice but without resort to legal process and without Landlord being deemed guilty of trespass, conversion or becoming liable for any loss or damage which may be occasioned thereby. In the event Tenant shall not remove its property from the Premises within five (5) days after Tenant has vacated the Premises, then such property shall be deemed abandoned by Tenant; and Landlord may dispose of the same without liability to Tenant subject to the rights of the City of New York, the Authority, American and their designees to such property. If Landlord removes such property from the Premises and stores it at Tenant's risk and expense, and if Tenant fails to pay the cost of such removal and storage after written demand therefor and/or to pay any Rental then due, then, after the property has been stored for a period of thirty (30) days or more, Landlord may sell such property at public or private sale, in the manner and at such times and places as Landlord deems commercially reasonable following reasonable notice to Tenant of the time and place of such sale. The proceeds of any such sale shall be applied first to the payment of the expenses for removal and storage of the property, the preparation for the conducting of such sale, and for attorneys' fees and other legal expenses incurred by Landlord in connection therewith, and the balance shall be applied as provided in this subsection 19.02(d).

(e) Tenant expressly waives, for itself and for any person claiming through or under Tenant, any rights which Tenant or any such person may have under the provisions of Section 2201 of the New York Civil Practice Law and Rules and of any successor law of like import then in force, in connection with any holdover summary proceedings which Landlord may institute to enforce the foregoing provisions of this Sublease.

Section 19.03 **DAMAGES.** (a) If this Sublease and the Term shall expire and come to an end as provided in Section 19.01, or by or under any summary proceeding or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Section 19.02(a), or by or under any summary proceeding or any other action or proceeding, then, in any of such events:

(1) Tenant shall pay to Landlord, American and the Authority all Rentals and other charges payable under this Sublease by Tenant to Landlord to the date upon which this Sublease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be; and

(2) Tenant shall also be liable for and shall pay to Landlord, as damages, any deficiency ("**Deficiency**") between the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 19.02(a) for any part of such period (first deducting from the rents collected under any such reletting all of Landlord's expenses in connection with the termination of this Sublease or Landlord's re-entry upon the Premises and with such reletting including, but not limited to, all repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration costs and other expenses of preparing the Premises for such reletting). Any such Deficiency shall be paid in monthly installments by Tenant on the days specified in this Sublease for payment of installments of Guaranteed Rent, Landlord shall be entitled to recover from Tenant each monthly Deficiency as the same shall arise, and no suit to collect the amount of the Deficiency for any month shall prejudice Landlord's

right to collect the Deficiency for any subsequent month by a similar proceeding. Solely for the purposes of this Section 19.03(a)(2), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have terminated or expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted, from time to time, to reflect any increases which would have been payable pursuant to any of the provisions of this Sublease including, but not limited to, the provisions of the Data Sheet and Section 2.01 of this Sublease if the Term hereof had not been terminated; and

(3) At any time after the Term shall have expired and come to an end or Landlord shall have re-entered upon the Premises, as the case may be, whether or not Landlord shall have collected any monthly Deficiencies as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, as and for liquidated and agreed final damages, a sum equal to the amount by which the Guaranteed Rent reserved in this Sublease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of four percent (4%) per annum. If, before presentation of proof of such liquidated damages to any court, commission or tribunal, the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting. Solely for the purposes of this Section 19.03(a)(3), the term "Guaranteed Rent" shall mean the Guaranteed Rent in effect immediately prior to the date upon which this Sublease and the Term shall have expired and come to an end, or the date of re-entry upon the Premises by Landlord, as the case may be, adjusted to reflect any increases preceding such event pursuant to the provisions of the Data Sheet and Section 2.01.

(b) If the Premises, or any part thereof, shall be relet together with other space in the Concession Area, the rents collected or reserved under any such reletting and the expenses of any such reletting shall be equitably apportioned for the purposes of this Section 19.03. Tenant shall in no event be entitled to any rents collected or payable under any reletting, whether or not such rents shall exceed the Guaranteed Rent reserved in this Sublease. Nothing contained in Sections 19.01, 19.02 or this Section 19.03 shall be deemed to limit or preclude the recovery by Landlord from Tenant of the maximum amount allowed to be obtained as damages by any statute or rule of law, or of any sums or damages to which Landlord may be entitled in addition to the damages set forth in Section 19.03(a).

Section 19.04. **LANDLORD'S RIGHT TO CURE TENANT'S DEFAULT.** If Tenant shall default in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, Landlord, at any time thereafter and without notice (except as notice may otherwise be required to be given to Tenant pursuant to any specific term or provision of this Sublease) may remedy such default for Tenant's account and at Tenant's expense, without thereby waiving any other rights or remedies of Landlord with respect to such default.

ARTICLE XX. BANKRUPTCY OR INSOLVENCY

Section 20.01 **TENANT'S INTEREST NOT TRANSFERABLE.** Neither Tenant's interest in this Sublease, nor any estate hereby created in Tenant, nor any interest herein or therein, shall pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law except as may specifically be provided pursuant to the United States Bankruptcy Code, as amended (the "**Code**").

Section 20.02 **ELECTION TO ASSUME SUBLEASE.** Even though this Sublease is a sublease of real property in an airport, the parties contractually agree that this Sublease shall be construed to be a lease of

real property in a shopping center within the meaning of Section 365(b)(3) of the Code. If Tenant becomes a Debtor under Chapters 7, 11 or 13 of the Code, and the Trustee (as defined in the Code) or Tenant, as Debtor-In-Possession (as defined in the Code), elects to assume this Sublease for the purpose of assignment to a third party or otherwise, such election and assignment, if any, may only be made if all the terms and conditions of the applicable provisions of the Code are satisfied. If the Trustee or Tenant, as Debtor-In-Possession, fails to elect to assume or reject this Sublease by the 60th day after the entry of the Order for Relief in a case under Chapters 7, 11 or 13 of the Code, this Sublease shall thereafter be deemed rejected and terminated in accordance with Section 365 of the Code. The Trustee or Tenant, as Debtor-In-Possession, shall thereupon immediately surrender possession of the Premises to Landlord, and Landlord shall have no further obligation to Tenant or Trustee hereunder. The acceptance of Rentals by Landlord after the 60th day shall not be deemed a waiver of Landlord's rights herein and under Section 365 of the Code, and Landlord's right to be compensated for damages in such bankruptcy case shall survive.

Section 20.03 **OCCUPANCY CHARGES.** When, pursuant to the Code, the Trustee or Tenant, as Debtor-In-Possession, shall be obligated to pay reasonable use and occupancy charges for the use of the Premises or any portion thereof, such charge shall not be less than the Guaranteed Rent and Percentage Rent and all other monetary obligations of Tenant for the payment of Additional Rent.

Section 20.04 **OTHER LAWS.** The provisions of this Article 20 concerning the rights of Landlord and the obligations of Trustee, Tenant, Debtor (as defined in the Code), Receiver (as defined in the Code), Debtor-In-Possession and each and every permitted assignee are in addition to such rights and obligations provided by law, including applicable provisions of the Code. Nothing contained in this Article 20 shall limit or reduce in any manner whatsoever rights and/or obligations which are otherwise provided by law.

ARTICLE XXI. ACCESS BY LANDLORD, AMERICAN AND THE AUTHORITY

Section 21.01 **RIGHT OF ENTRY.** Landlord, American and the Authority and their respective officers, employees and representatives shall each have the right to enter the Premises for any reasonable purpose (including inspecting the condition of the Premises and any equipment used by Tenant) during ordinary business hours. Tenant shall cooperate upon receipt of any such notice and arrange for its personnel to be available during any such entry. The Authority, American and Landlord and their respective officers, employees and representatives shall each have the further right to enter the Premises to make such repairs, alterations, improvements or additions as they may deem necessary or desirable; and such parties shall be allowed to take all material into and upon the Premises that may be required without the same constituting an eviction of Tenant in whole or in part; and Rentals and other charges reserved hereunder shall not abate while said repairs, alterations, improvements or additions are being made, by reason of loss or interruption of business of Tenant or otherwise. In exercising such right of entry, Landlord shall use reasonable efforts not to disrupt Tenant's business in the Premises. The Authority, American, Landlord and their agents shall each have the further right to enter the Premises without notice at any time in the event of an emergency. Tenant shall assure Landlord, American and the Port Authority emergency access to all enclosed areas of the Premises either by delivering duplicate keys to the Premises to Landlord's General Manager and American's JFK Airport Manager or by providing emergency telephone numbers by which the Store Manager can be reached on a twenty-four (24) hour basis. Finally, Landlord, during the last six (6) months prior to the expiration of the Term, may enter the Premises for the purpose of exhibiting the same to prospective tenants and their representatives.

ARTICLE XXII. TENANT'S PROPERTY

Section 22.01 **TAXES ON TENANT'S PROPERTY.** Tenant shall be responsible for, and agrees to pay

prior to delinquency, any and all taxes and other assessments, levies, fees and other governmental charges and impositions or every kind or nature, regular or special, direct or indirect, presently foreseen or unforeseen, known or unknown, levied or assessed by municipal, county, state, federal or other governmental taxing or assessing authority, upon, against or with respect to (a) Tenant's leasehold interest in the Premises, (b) the Fixed Improvements, the Operating Equipment, all furniture, fixtures, equipment, inventory and any other personal property of any kind owned by, or placed, installed or located in, within, upon or about the Premises by or on behalf of Tenant, and (c) all alterations, additions, or improvements of whatsoever kind or nature, if any, made to the Premises, by or on behalf of Tenant, irrespective of whether any such tax is assessed, real or personal, and irrespective of whether any such tax is assessed to or against, American, the Authority, Landlord or Tenant (collectively, **"Tenant's Taxes"**). Tenant shall provide Landlord with evidence of Tenant's timely payment of such Tenant's Taxes upon Landlord's request. If at any time any of such Tenant's Taxes are not levied and assessed separately and directly to Tenant (for example, if the same are levied or assessed to Landlord, American or the Authority, or upon or against the building containing the Premises and/or the land underlying said building), Tenant shall pay to Landlord Tenant's share thereof as reasonably determined and billed by Landlord. **Tenant hereby agrees to indemnify, defend and hold Landlord, American, the Authority and the City of New York harmless from any and all Tenant's Taxes and costs, damages, expenses and liabilities (including, without limitation, reasonable attorneys' fees) in connection with any such Tenant's Taxes described in this Section 22.01.**

Section 22.02 **LOSS AND DAMAGE.** Except with respect to Landlord's own negligence, Landlord shall not be responsible or liable to Tenant for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying premises or any part of the premises adjacent to or connected with the Premises or any part of the building of which the Premises are a part, or any other area in Concession Area, the Terminal or the Airport, or for any loss or damage resulting to Tenant or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes, or (without limiting the foregoing) for any damage or loss of property within the Premises from any cause whatsoever. Tenant shall give immediate notice to Landlord in case of any damage to or destruction of all or any part of, or of accidents occurring within the Premises, or of defects therein, or of any damage to or destruction of any inventory, fixtures or equipment within the Premises. In no event shall American or the Authority have any liability to Tenant whatsoever for the foregoing damage and destruction.

ARTICLE XXIII. HOLDING OVER

Section 23.01 **HOLDING OVER.** If, at the termination or expiration of this Sublease, Tenant has not delivered possession of the Premises to Landlord as required in Section 6.04, and, for any reason, Tenant retains possession of the Premises or any portion thereof, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes either: (a) the creation of a month-to-month tenancy, or (b) the creation of a tenancy at sufferance, in either case upon the terms and conditions set forth in this Sublease; provided, however, that the monthly Guaranteed Rent shall, in addition to all other sums which are to be paid by Tenant hereunder, whether or not as Additional Rent, be equal to double the highest monthly Guaranteed Rent paid in the preceding twelve (12) month period (and prorated in the case of (b) on the basis of a three hundred sixty-five (365) day year for each day Tenant remains in possession), plus Additional Rent accruing during the period of Tenant's occupancy based on a termination for an Event of Default if such unlawful holding over exceeds five (5) days after the natural expiration or earlier termination of the Term. The provisions of this Section 23.01 shall not constitute a waiver by Landlord of any right of re-entry as herein set forth; nor shall receipt of any hold-over rent or other amount under this Sublease or any other act in apparent affirmation of the tenancy operate as a waiver of the right to terminate this Agreement for a breach of any of the terms, covenants, or obligations to be performed by or on behalf of Tenant. No holding over by Tenant, whether with or without consent

of Landlord, shall operate to extend this Sublease except as otherwise expressly provided. The preceding provisions of this Section 23.01 shall not be construed as consent for Tenant to retain possession of the Premises in the absence of prior written consent thereto by Landlord. **Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority and the City of New York from and against any and all loss, claims, demands, liabilities, damages (including, without limitation, consequential damages), costs and expenses (including, without limitation, attorneys' fees and expenses) resulting from any failure by Tenant to surrender the Premises in the manner and condition required by this Sublease upon the expiration of the Term or earlier termination of this Sublease, including, without limitation, any claims made by any proposed new tenant founded upon such failure.**

Section 23.02 SUCCESSORS. All rights and liabilities herein given to, or imposed upon, the parties hereto shall inure to and be imposed upon the respective heirs, executors, administrators, successors and assigns of the said parties; and, if there shall be more than one (1) entity or individual comprising Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however, shall inure to the benefit of any assignee of Tenant unless the assignment to such assignee has been approved in advance by Landlord in writing as required by Article XIV.

ARTICLE XXIV. RULES AND REGULATIONS

Section 24.01 RULES AND REGULATIONS. Tenant shall at all times comply with any and all Rules and Regulations (as hereinafter defined) in effect at the Airport or the Terminal. The term "**Rules and Regulations**" means all rules and regulations governing the conduct and/or operations of the Airport or the Terminal as may be promulgated from time to time, by any governmental authorities, including but not limited to, the FAA, the U.S. Department of Transportation ("**DOT**"), the TSA and/or the EPA, and any rules and regulations promulgated from time to time by Landlord or American specifically for or otherwise affecting conduct and/or operations in the Terminal and/or Concession Area, provided that Landlord's and American's rules do not have an unreasonable and material adverse discriminatory impact on concession operations within the Concession Area. Landlord shall not have any duty or obligation to enforce the Rules and Regulations or the terms and conditions in any other lease or sublease as against any other tenant; Landlord and American shall not be liable to Tenant for violations of the same by other tenants, invitees, their servants, employees, contractors, subcontractors and agents. Tenant's failure to keep and observe the Rules and Regulations shall constitute a material breach of the terms hereof in the same manner as if the Rules and Regulations were contained herein as covenants.

ARTICLE XXV. QUIET ENJOYMENT

Section 25.01 LANDLORD'S COVENANT. Subject to the terms and conditions hereof, the terms and provisions of the Concession Area Lease, the Authority Lease as well as the Consent Agreement, upon payment by Tenant of Rentals herein provided and other charges payable by Tenant hereunder, and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term without hindrance or interruption by Landlord.

ARTICLE XXVI. PERFORMANCE GUARANTY

Section 26.01 PERFORMANCE GUARANTY. (a) Tenant shall provide Landlord with the Performance Guaranty in the amount specified in the Data Sheet, which shall be at Landlord's option, in the form of either immediately available funds or the unconditional, irrevocable standby letter of credit ("**Letter of Credit**"), as security for the faithful observance and performance by Tenant of the terms,

covenants and conditions of this Sublease on Tenant's part to be observed and performed. Such Letter of Credit must be in form and content as set forth in **Exhibit H.** No surety bonds shall be permitted. If Landlord permits Tenant to provide a Letter of Credit, the following shall be applicable. Such Letter of Credit must be for a term of not less than one (1) year which term shall be automatically renewed for successive one (1) year periods, unless the Bank gives not less than sixty (60) days prior written notice that it will not so renew the Letter of Credit for such successive term and the last term of the letter of credit shall end not less than sixty (60) days after the Expiration Date. If such letter of credit is not automatically renewed as aforesaid, Tenant agrees to cause the Bank to renew such letter of credit, from time to time, during the Term, at least ninety (90) days prior to the expiration of said letter of credit or any renewal or replacement, upon the same terms and conditions. In the event of any transfer of said Letter of Credit pursuant to Section 26.05, and notice of such transfer to Tenant, Tenant, within twenty (20) days thereafter, shall cause a new Letter of Credit to be issued by said Bank to the transferee, upon the same terms and conditions, in replacement of the Letter of Credit so transferred and Landlord agrees that, simultaneously with the delivery of such new Letter of Credit, it will return to said Bank the Letter of Credit being replaced. The Letter of Credit shall be held in trust by Landlord for the purposes set forth in this Article and shall not be transferred except for transfer (a) to an agent for collection, or (b) pursuant to the provisions of Section 26.05. In the event Tenant defaults beyond any applicable grace period hereunder in the performance of its obligations to issue a replacement Letter of Credit, or in the observance or performance of Tenant's agreement to cause the Bank to renew the Letter of Credit, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank to make payment to Landlord of the entire sum of the Letter of Credit or the undrawn portion thereof, as the case may be, which sum may be held by Landlord as the Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article. If payment of the entire sum of the Letter of Credit or the undrawn portion thereof is made to Landlord by reason of Tenant's failure to renew or replace the Letter of Credit in accordance with the foregoing provisions of this Article, Landlord shall have the right, at any time on behalf of Tenant, to replace said Performance Guaranty with a new Letter of Credit issued by the Bank or any other bank selected by Landlord, in Landlord's sole discretion, and Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's agent and attorney-in-fact to cause the Bank or any such other bank selected by Landlord to issue such a replacement Letter of Credit. The Letter of Credit provides for partial drawings. In the event Tenant defaults in the payment when due of an installment of Rentals and such default shall continue for a period of five (5) days after notice by Landlord to Tenant of such default or if this Sublease and the Term shall expire and come to an end, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, then Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, may from time to time, draw on the Letter of Credit in one (1) or more drawings for the amount of any Rentals then due and for any amount then due and payable to Landlord under this Sublease. In the event of a partial drawing, as provided in the immediately preceding sentence, Tenant shall, within five (5) days after demand, cause the Bank to issue an amendment to the Letter of Credit restoring the amount available thereunder to the amount required under this Sublease. Notwithstanding anything to the contrary set forth in this Sublease, including, but not limited to, the foregoing provisions of this Article, in addition to all rights granted to Landlord pursuant to the provisions of the Sublease, if this Sublease and the Term shall expire and come to an end as provided in Article XIX, or by or under any summary proceeding, or any other action or proceeding, or if Landlord shall re-enter the Premises as provided in Article XIX, or by or under any summary proceeding or any other action or proceeding, Landlord, in addition to all rights and remedies which Landlord may have under this Sublease or at law, shall have the right to require the Bank to make payment to Landlord of the entire sum of the Letter of Credit or the undrawn portion thereof, as the case may be, which sum shall be held by Landlord as a Performance Guaranty in the same manner as if said sum had been deposited with Landlord pursuant to the provisions of this Article.

(b) Any Performance Guaranty held by Landlord in the form of immediately available funds (cash) shall be held subject to the provisions of any and all legal requirements applicable thereto. Landlord agrees that, if not prohibited by law or the general policies of lending institutions in New York, Landlord shall deposit the Performance Guaranty held by Landlord either in an account that does not bear interest or in an interest-bearing account at a bank or banks selected by Landlord, and all interest, if any, accruing thereon shall be added to and become a part of the Performance Guaranty and shall be retained by Landlord under the same conditions as the principal sum held as the Performance Guaranty. Notwithstanding anything to the contrary set forth in the preceding sentence of this Section 26.01(b), in the event the Performance Guaranty is held in an interest-bearing account, Landlord shall be entitled to retain the one percent (1%) administrative fee permitted by law to by landlords with respect to security deposits.

Section 26.02 **APPLICATION OF PERFORMANCE GUARANTY.** In the event Tenant defaults in the observance or performance of any term, covenant or condition of this Sublease on Tenant's part to be observed or performed, including, but not limited to, the covenant for the payment of Rentals, beyond the applicable notice and cure periods provided under this Sublease for curing such default, Landlord may use, apply or retain the whole or any part of any Performance Guaranty held by Landlord under any of the provisions of Section 26.01, to the extent required for the payment of any Rentals or performance of any other obligations, without thereby waiving any other rights or remedies of Landlord with respect to such default, and Landlord shall hold the remainder of such Performance Guaranty as security for the faithful performance and observance by Tenant of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed with the same rights as hereinabove set forth to use, apply or retain all or any part of such remainder in the event of any further default by Tenant under this Sublease.

Section 26.03 **RESTORATION OF PERFORMANCE GUARANTY.** If Landlord uses, applies or retains the whole or any part of the Performance Guaranty held by Landlord under any of the provisions of this Article, Tenant, promptly after notice thereof, shall deliver to Landlord, in cash or by cashier's check or certified check, payable to the order of Landlord, the sum necessary to restore the Performance Guaranty to the sum required under this Sublease.

Section 26.04 **RETURN OF SECURITY.** The Letter of Credit and/or any remaining portion of any Performance Guaranty then held by Landlord for the performance of Tenant's obligations under this Sublease as security shall be returned to Tenant after (a) sixty (60) days following the Expiration Date and (b) the full observance and performance by Tenant of all of the terms, covenants and conditions of this Sublease on Tenant's part to be observed and performed.

Section 26.05 **TRANSFER OF LETTER OF CREDIT.** In the event of a transfer of Landlord's interest in this Sublease, Landlord shall transfer the Letter of Credit and/or any remaining portion of any Performance Guaranty then held by Landlord as security for the performance of Tenant's obligations under this Sublease to the transferee, and Landlord shall thereupon be released from all liability for the return of such security; Tenant agrees to look solely to the transferee for the return of any such security and it is agreed that the provisions of this sentence shall apply to every sale or transfer of the Premises or Landlord's interest in this Sublease by Landlord named herein or its successors, and to every transfer or assignment made of any such security. Any transferee shall be deemed to have agreed that any Letter of Credit or Performance Guaranty transferred to such transferee pursuant to this Section shall be held in trust for the purposes of this Article.

Section 26.06 **NO ASSIGNMENT OF SECURITY BY TENANT.** Tenant agrees that it will not assign, mortgage or encumber, or attempt to assign, mortgage or encumber, the Letter of Credit or any Performance Guaranty held by Landlord under this Sublease, and that neither Landlord nor its successors

or assigns shall be bound by any such assignment, mortgage, encumbrance, attempted assignment, attempted mortgage or attempted encumbrance. Landlord shall not be required to exhaust its remedies against Tenant before having recourse to the Letter of Credit, the Performance Guaranty or any other security held by Landlord. Recourse by Landlord to the Letter of Credit, the Performance Guaranty or any other security held by Landlord shall not affect any remedies of Landlord which are provided in this Sublease or which are available in law or equity.

ARTICLE XXVII. MISCELLANEOUS

Section 27.01 WAIVER; ELECTION OF REMEDIES. One (1) or more waivers of any covenant or condition by either party shall not be construed as a waiver of a subsequent breach of the same covenant or condition by the other party, and the consent or approval to or of any act by Tenant requiring consent or approval shall not be deemed to render unnecessary such consent or approval to or of any subsequent similar act by Tenant. No breach by either party of a covenant or condition hereof shall be deemed to have been waived by the non-breaching party unless such waiver is in writing and signed by a representative of the non-breaching party. The rights and remedies of Landlord hereunder or in any specific Section, subsection or clause hereof shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have elsewhere hereunder or at law or equity, whether or not such Section, subsection or clause expressly so states.

Section 27.02 ENTIRE AGREEMENT. This Sublease supersedes all prior agreements between the parties and sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises; and there are no actual or implied covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as are set forth herein (other than the Concession Area Lease, the Consent Agreement and Authority Requirements), and none thereof shall be used to interpret, construe, supplement or contradict this Sublease. **Neither Landlord nor its agents or representatives have made any representation or warranty regarding the profitability of the Premises, the enplaned passenger and/or airline volume in the Terminal and/or the Airport or operating airlines in the Terminal and/or the Airport; and Tenant has not entered into this Sublease in reliance on any such representations, warranties or financial projections prepared or furnished to Tenant by Landlord or its agents or representatives.** No alteration, amendment, change or addition to this Sublease shall be binding upon Landlord or Tenant unless reduced to writing and signed by each party.

Section 27.03 INTERPRETATION; USE OF PRONOUNS; AUTHORIZATION. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint ventures between the parties hereto; it being understood and agreed that neither the method of computation of Rentals, nor any other provision contained herein, nor any acts of the parties herein, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant. Whenever herein the singular number is used the same shall include the plural, and the masculine gender shall include the feminine and neuter genders. If this Sublease is signed on behalf of a corporation, partnership or other entity, the signer is duly authorized to execute this Sublease on behalf of such corporation, partnership or entity.

Section 27.04 DELAYS; FORCE MAJEURE. "**Force Majeure**" means, strictly in relation to the conditions that may cause a party to be temporarily or partially prevented from performing its obligations to the other party under this Sublease, and not for any other purpose or for any benefit of a third party: (a) strikes, boycotts, lockouts, labor disputes, labor disruptions, work stoppages or slowdowns, unless involving employees of Tenant; (b) embargoes, shortages of material, acts of God, acts of the public enemy, acts of a governmental authority (including, without limitation, the FAA, the DOT, the TSA and

the EPA or defense authorities), extreme weather conditions, riots, rebellion, or sabotage, war (declared or undeclared), invasion, insurrection, or terrorism; or (c) any other circumstances for which an affected party is not responsible and which are not within its ability to control in the exercise of commercially reasonable efforts. In the event either party is delayed in the performance of any obligation required by this Sublease, such performance shall be excused (unless the specific provision otherwise provides) for the period of the delay, and performance of any such obligation shall be extended for a period equal to the delay, if and only if the delay is by reason of Force Majeure. However, the time for Tenant's performance of any obligation shall not be extended due to any lack of funds, financial or economic problems of either Tenant or Tenant's architects, contractors, suppliers, agents, consultants and/or employees If Tenant shall claim a delay due to Force Majeure, Tenant must notify Landlord in writing for receipt by Landlord within fifteen (15) days of the first occurrence of an event of Force Majeure. Such notice must specify in reasonable detail the cause or basis for claiming force majeure and the anticipated delay in Tenant's performance. In no event shall any delay extend Tenant's performance beyond a sixty (60) day period without the specific written approval of Landlord. Under no circumstances shall any such condition or delay (unless the specific provision provides for abatement of Rentals), whether such condition or delay is claimed by Landlord or Tenant, excuse or delay Tenant's payment of any Rentals and other charges due hereunder. Further, Landlord's, American's or the Authority's reasonable reduction but not elimination of heat, light, air conditioning or any other services whatsoever to the Terminal or the Premises shall not relieve or excuse Tenant from any of its obligations hereunder.

Section 27.05 **NOTICES.** Notwithstanding the fact that certain descriptions elsewhere in this Sublease of notices required to be given by one (1) party to the other may omit to state that such notices shall be in writing, any notice, demand, request or other instrument which may be or is required to be given hereunder shall be in writing and sent by (a) United States certified mail, return receipt requested, postage prepaid, (b) United States express mail, (c) recognized overnight national air courier (such as Federal Express, Airborne or UPS for example), (d) personal delivery or (e) any other overnight method creating a receipt, waybill or other indication of delivery. Notices shall be addressed if to the Landlord, at the address as set forth on the Data Sheet, or such other address or addresses as Landlord may designate by written notice, together with copies thereof to such other parties designated by Landlord, and if to Tenant, the address set forth on the Data Sheet, or such other address or addresses as Tenant shall designate by written notice, together with copies thereof to such other parties designated by Tenant. Notices shall be deemed given on the 3rd day after deposit for notices sent under (a) and (b) above, on the first (1st) day after deposit for notices sent under (c) and (e) above and on the date delivered for notices sent under (d) above. Nothing contained in this Section 27.05 shall preclude, limit or modify Landlord's service of any notice, statement, demand or other communication in the manner required by law, including, but not limited to, any demand for rent under Article 7 of the New York Real Property Actions and Proceedings Law or any successor law of like import.

Section 27.06 **CAPTIONS AND SECTION NUMBERS.** The captions, section numbers, article numbers appearing herein are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles hereof nor in any way affect this Sublease.

Section 27.07 **BROKER'S COMMISSION.** Each party represents and warrants to the other party that there are and shall be no claims for brokerage commissions or finder's fees in connection with this Sublease, and each party agrees to indemnify the other and hold it harmless from all liabilities arising from any claim due to its own acts for brokerage commissions and finder's fees in connection with this Sublease. Such indemnity shall survive the termination hereof. Notwithstanding the foregoing, each party shall be solely responsible for the payment of any claims for brokerage commissions or finder's fees as a result of such party's retaining a broker or similar entity in connection with this Sublease.

Section 27.08 **RECORDING.** Tenant shall not record this Sublease or any short form or memorandum

hereof.

Section 27.09 **FURNISHING OF FINANCIAL STATEMENTS.** Tenant has provided Landlord at or prior to the date of this Sublease with statements reflecting its financial condition and a credit report as of a date within the last twelve (12) months as an inducement to Landlord to enter into this Sublease, and Tenant hereby represents and warrants that its financial condition and credit rating have not materially changed since the date of those statements and reports. Upon Landlord's written request, Tenant shall promptly furnish Landlord, from time to time, but not more frequently than once in any Lease Year, with financial statements and a credit report reflecting Tenant's then current financial condition. Landlord shall treat such financial statements, credit reports and information provided to it confidentially, and shall not disclose them except to Landlord's lenders or otherwise as reasonably necessary for the operation of the Terminal or administration of Landlord's business or unless disclosure is required by any judicial or administrative order or ruling.

Section 27.10 **TENANT'S WAIVERS IN ACTION FOR POSSESSION.** Landlord and Tenant agree that in any action brought by Landlord to obtain possession of the Premises, the parties desire an expeditious resolution of such litigation. Accordingly, Tenant shall not file and hereby waives the right to file any non-compulsory counterclaim in such action. Tenant also shall not file and hereby waives the right to file any defense to such action for possession other than the defense that the default alleged by Landlord did not occur unless Tenant would otherwise be precluded from the filing of any such other defense in a separate action.

Section 27.11 **TRANSFER OF LANDLORD'S INTEREST.** In the event of any transfer or transfers of Landlord's interest in the Premises, the transferor shall be automatically relieved of any and all obligations on the part of Landlord accruing from and after the date of such transfer, provided that (a) the interest of the transferor, as Landlord, in any funds in the hands of Landlord in which Tenant has an interest shall be turned over, subject to such obligations, to the then transferee; and (b) notice of such sale, transfer or lease shall be given to Tenant as required by law. Landlord also has the right at any time to assign this Sublease to American, the Authority or to any successor operator to American or the Authority in the Terminal or the Airport in the event of the expiration, termination or assignment of the Concession Area Lease without notice to Tenant.

Section 27.12 **FLOOR AREA.** The term "Floor Area" as used in this Sublease means with respect to any leasable area of the Premises the aggregate number of square feet of interior floor space of all floor levels therein, including any mezzanine space which shall be measured: (a) with respect to the front and rear width thereof, from the exterior face of the adjacent exterior or corridor wall, or if none, to the center of the demising partition; and (b) with respect to the depth thereof, from the front of the lease line as shown on **Exhibit A-2** to the exterior face of the exterior wall, or corridor wall, or if none, to the center of the demising partition. No deduction or exclusion from Floor Area shall be made by reason of columns, ducts, stairs, elevators, escalators, shafts or other interior construction or equipment.

Section 27.13 **INTEREST ON PAST DUE OBLIGATIONS.** Any amount due from Tenant to Landlord hereunder which is not paid when due (including, without limitation, amounts due as reimbursement to Landlord for costs incurred by Landlord in performing obligations of Tenant hereunder upon Tenant's failure to so perform) shall bear interest at the lesser of: (a) the prime rate of interest plus four percent (4%); (b) or the highest rate permitted by the laws of the State of New York (collectively, "**Late Interest**") from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Tenant hereunder. The "prime rate of interest" means the average interest rate per annum published in the national addition of The Wall Street Journal "Money Rates" section as of the relevant date of determination under this Sublease. If The Wall Street Journal

ceases to publish such an average prime rate, the rate shall be the prime rate established by the commercial bank having an office in the City of New York with the highest net worth and which is a member of the New York Clearing House Association, then establishing and publishing a prime rate, or if no such commercial bank shall establish a prime rate, the rate to be used shall be a comparable rate for the purposes of establishing the cost of money as reasonably determined by Landlord. The parties hereto agree that such late payment charge represents a fair and reasonable estimate of costs and expenses Landlord will incur by reason of any such late payment.

Section 27.14 **LIABILITY OF LANDLORD AND LIMITATION OF DAMAGES.** If Landlord shall fail to perform any covenant, term or condition hereof upon Landlord's part to be performed, and if as a consequence of such default Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the management fees from the concession program in the Terminal received by Landlord; and neither Landlord nor any of the officers, directors, employees, agents, partners or Affiliates of Landlord shall be liable for any deficiency. No shareholder, director, officer, agent or employee of Landlord shall be charged personally or held contractually liable under any term or provision of this Sublease or because of any breach thereof or because of the execution or attempted execution of this Sublease. Landlord (including its shareholders, directors, officers, agents, representatives or employees) shall not be liable to Tenant for any loss of business or any indirect, special, consequential or exemplary damages or lost profits.

Section 27.15 **EXECUTION OF SUBLEASE; NO OPTION.** The submission of this Sublease to Tenant shall be for examination purposes only, and does not and shall not constitute a reservation of an option for Tenant to lease, or otherwise create any interest by Tenant in the Premises or any other premises in the Terminal. Execution of this Sublease by Tenant and the return of same to Landlord shall not be binding upon Landlord, notwithstanding any time interval, until Landlord has executed and delivered this Sublease to Tenant and the parties have obtained the required Consent Agreement executed by the Authority. Once so executed and delivered by Landlord as aforesaid and the parties have obtained the required Consent Agreement executed by the Authority, this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives and assigns where permitted by this Sublease.

Section 27.16 **GOVERNING LAW.** All obligations of the parties hereunder are performable in Queens County, New York. This Sublease shall be governed by and construed under and in accordance with laws of the State of New York except where any state law shall be preempted by any rules, laws or regulations of the government of the United States of America and all agencies thereof. If any provision of this Sublease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, such provision shall be adjusted rather than voided, if possible, in order to achieve the intent of the parties to the extent possible; in any event, all other provisions hereof shall be deemed valid and enforceable to the full extent.

Section 27.17 **SPECIFIC PERFORMANCE OF RIGHTS.** Each party shall have the right to obtain specific performance of any and all covenants or obligations of the other party hereunder except to the extent otherwise provided herein for the benefit of Landlord excusing any such performance by Landlord, and nothing contained herein shall be construed as or shall have the effect of abridging such right.

Section 27.18 **SURVIVAL OF OBLIGATIONS.** All obligations of Tenant hereunder which cannot be ascertained to have been fully performed prior to the end of the Term or any earlier termination hereof shall survive any such expiration or termination. Further, all of the terms, conditions, covenants, provisions, restrictions or requirements imposed upon Tenant hereunder shall be deemed to extend to Tenant's agents, employees, officers, directors, partners, guarantors, contractors, invitees, concessionaires, licensees and subcontractors; and Tenant shall cause all such persons and entities to comply herewith and include any

applicable provisions in any agreements, contracts, subcontracts or the like entered into by Tenant with such persons and/or entities with respect to Tenant's activities and operations in the Premises, the Terminal and the Airport.

Section 27.19 CERTAIN RULES OF CONSTRUCTION. Time is of the essence in Tenant's performance of this Sublease. Notwithstanding the fact that certain references elsewhere in this Sublease to acts required to be performed by Tenant hereunder, or to breaches or defaults of this Sublease by Tenant, omit to state that such acts shall be performed at Tenant's sole cost and expense, or omit to state that such breaches or defaults by Tenant are material, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant hereto shall be performed or fulfilled at Tenant's sole cost and expense, and all breaches or defaults by Tenant hereunder shall be deemed material. Tenant shall be fully responsible and liable for the observance and compliance by concessionaires, franchisees, subtenants and licensees of Tenant and with all the terms and conditions of this Sublease, which terms and conditions shall be applicable to concessionaires, franchisees, subtenants and licensees as fully as if they were the Tenant hereunder; and failure by a concessionaire, franchisee, subtenant or licensee fully to observe and comply with the terms and conditions of this Sublease shall constitute a default by Tenant. Nothing contained in the preceding sentence shall constitute consent by Landlord to any concession, subletting or other arrangement. Further, although the printed provisions of this Sublease were drawn by Landlord, the parties agree that this circumstance alone shall not create any presumption, canon of construction or implication favoring the position of either Landlord or Tenant; and the deletion of language from this Sublease prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption, canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse, adverse or opposite of the deleted language.

Section 27.20 CONFIDENTIALITY. Any and all information contained in this Sublease or provided to or by Tenant and/or Landlord by reason of the covenants and conditions hereof, economic or otherwise, shall remain confidential between Landlord and Tenant and shall not be divulged to third parties other than American and the Authority except as required to be disclosed by law. Landlord shall be permitted to divulge the contents of statements and reports derived and received in connection with the provisions of Articles 3 and 4 in connection with any contemplated sales, transfers, assignments, encumbrances or financing arrangements of Landlord's interest in the Concession Area Lease or in connection with any administrative or judicial proceedings in which Landlord is involved.

Section 27.21 ATTORNEY FEES. If at any time after the date that this Sublease has been executed by Landlord and Tenant, either Landlord or Tenant institutes any action or proceeding against the other relating to the provisions hereof or any default hereunder, the non-prevailing party in such action or proceeding shall reimburse the prevailing party for the reasonable expenses of attorneys' fees and all costs and disbursements incurred therein by the prevailing party, including, without limitation, any such fees, costs and disbursements incurred on any appeal from such action or proceeding. Subject to the provisions of local law, the prevailing party shall recover all such fees, costs or disbursements as costs taxable by the court or arbiter in the action or proceeding itself without the necessity for a cross-action by the prevailing party. Any such amounts due from Tenant to Landlord under this provision shall be considered as Additional Rent hereunder and shall be paid by Tenant to Landlord within twenty (20) days after written demand. Any such amounts due from Landlord to Tenant under this provisions shall be paid by Landlord to Tenant within twenty (20) days after written demand.

Section 27.22 WAIVER OF TRIAL BY JURY. Landlord and Tenant desire and intend that any disputes arising between them with respect to or in connection with this Sublease be subject to expeditious resolution in a court trial without a jury. Therefore, Landlord and Tenant each hereby waives the right to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding or

other hearing brought by either Landlord against Tenant or Tenant against Landlord or any matter whatsoever arising out of, or in any way connected with, this Sublease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.

Section 27.23 **A.D.A. & OTHER HANDICAP ACCESS AND NON-DISCRIMINATION LAWS COMPLIANCE.** Tenant agrees that with respect to the Premises, its Fixed Improvements and Operating Equipment (including communications equipment) thereon, Tenant shall be responsible for compliance with the Americans with Disabilities Act of 1990 ("**ADA**", 42U.S.C.§§12101 et seq.) and the Regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto ("**ADAAG**"). Within five (5) days after receipt, Tenant shall advise Landlord in writing and provide copies of (as applicable), any notices alleging violation of the ADA relating to any portion of the Premises; any claims made or threatened in writing regarding noncompliance with the ADA and relating to any portion of the Premises or any governmental or regulatory actions or investigations instituted or threatened regarding noncompliance with the ADA and relating to any portion of the Premises. Tenant acknowledges that a portion of the Premises is to be used by the traveling public. Tenant shall make available such space to the traveling public on a nondiscriminatory basis, including ensuring access by disabled persons, and shall coordinate its activities and operations with abutting tenants so as to maximize efficient use of available space. If Tenant fails to comply with the requirements of this Section, Landlord, upon reasonable notice to Tenant and an opportunity to cure, shall have the right, but not the obligation, to enter the Premises and perform all necessary tasks to ensure Tenant's compliance with the ADA and other handicap access and nondiscrimination laws and requirements as set forth in this Section 27.23. **Tenant shall indemnify, defend and save harmless Landlord and American from all injury, loss or damage to any Person or property occasioned by Landlord's completion of any necessary tasks to ensure compliance with this Section, except to the extent such loss or damage is the result of the gross negligence or willful misconduct of Landlord or American.** Tenant shall reimburse Landlord for any and all actual costs plus an administrative fee equal to fifteen percent (15%) of such costs incurred in completing such necessary tasks to ensure Tenant's compliance with this Section, including, but not limited to, reasonable attorneys' and consultants' fees and disbursements and costs of corrective measures.

Section 27.24 **AIRPORT SECURITY.** Tenant shall be fully responsible, at its sole cost, for providing security for the Premises with no right of reimbursement from Landlord. Tenant hereby agrees that it shall take such reasonable security precautions with respect to the Premises and its operations and personnel as Landlord, American and the Authority, in their discretion, may require from time to time. Notwithstanding the foregoing, Tenant shall comply with security policies, regulations, rules, statutes, orders, directives, mandates and/or practices as such now exist or as they may be changed, amended, or replaced with new and different requirements in the future as Landlord, American (including, without limitation, American's FAA-approved "Safety Program" as it is in effect from time to time), the Authority or any local, state or federal agency of competent jurisdiction, including the FAA and/or the TSA, may from time to time require, including, but not limited to, compliance, at Tenant's sole cost and expense, with any background investigation, fingerprinting, verification of citizenship and residency and badging requirements for all of its personnel employed at the Terminal (including Tenant's employees and employees of any of Tenant's contractors, subcontractors, concessionaires, franchisees, subtenants and licensees) and with respect to screening of all of the equipment, supplies, materials, merchandise, goods, products and inventory. **Tenant hereby covenants and agrees with Landlord that Tenant shall indemnify, defend and hold harmless Landlord, American, the Authority, the City of New York and their respective officers, directors, agents, representatives, elected officials and employees from and against any and all liabilities, claims, costs, damages, demands, expenses, fees, fines, penalties, suits, proceedings, actions and causes of action of any and every kind and nature arising or growing**

out of or in any way connected with, directly or indirectly, the failure by Tenant to strictly comply with the requirements of local, state and federal law, including, but not limited to, the FAA's, the TSA's, the Authority's, American's and Landlord's rules and regulations concerning the subject matter set forth in this Section 27.24.

Section 27.25 **NON-DISCRIMINATION AND AFFIRMATIVE ACTION.** With respect to non-discrimination and affirmative action, Tenant, its agents, employees, licensees, contractors and subcontractors shall comply at all times with all of the terms and conditions set forth in **Exhibit I.** Tenant, for itself, its successors in interest, and assigns, as a part of the consideration for the Sublease, shall covenant and agree that: (a) no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (b) in the construction of any improvements on, over, or under the Premises and furnishing of services thereon, no person on the ground of race, creed, color, sex or national origin shall be excluded from participation in such activities, denied the benefits thereof, or otherwise be subject to discrimination; and (c) Subtenant shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended, and any other present or future laws, rules, regulations, orders or directions of the United States of America with respect thereto which from time to time may be applicable to Subtenant's operations at the Premises, whether by reason of agreement between American, the Authority and the United States Government or otherwise. Furthermore, during the performance of this Sublease, the parties hereto hereby incorporate by reference the provisions set forth in 41 CFR § 60-1.4, §60-250.5 and §60-741.5, which provisions apply to all nonexempt contractors and vendors.

Section 27.26 **LABOR HARMONY.** Tenant agrees that in the use of the Premises or any work performed in or about the Premises that Tenant will employ only labor which can work in harmony with all elements of labor being employed at the Airport. Tenant shall use its best efforts, taking all measures and means, to insure labor harmony in its activities at the Terminal and the Airport, all to the end of avoiding and preventing strikes, walkouts, work stoppages, slowdowns, boycotts and other labor trouble and discord. Tenant particularly recognizes the essential necessity of the continued and full operation of the whole Airport as a transportation center. Tenant shall immediately give oral notice to Landlord (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. If any type of strike, boycott, picketing, work stoppage, slowdown or other labor activity is directed against Tenant or against any of Tenant's operations pursuant to this Sublease which in the opinion of Landlord, American and/or the Authority: (a) physically interferes with the operation of the Terminal or the Airport, or (b) physically interferes with access by the public between the Premises and any portion of the Terminal or the Airport, or (c) physically interferes with access by the public to other areas of the Terminal or the Airport, or (d) physically interferes with the operations of other tenants, concessionaires, lessees or licensees at the Terminal or the Airport, or (e) presents a danger to the health or safety of users of the Terminal or the Airport, persons employed thereat, or to members of the public, whether or not the same is due to the fault of Tenant or is caused by employees of Tenant or of others, Landlord, American and/or the Authority shall have the right at any time during the continuance thereof, by twenty-four (24) hours oral notice, to suspend Tenant's operations hereunder effective at the time specified in such oral notice. During any suspension, Tenant shall cease all its activities and operations hereunder and take such steps to secure and protect the Premises as shall be necessary or desirable. The period of suspension shall end automatically no later than twenty-four (24) hours after the cause thereof has ceased or been cured. While Tenant shall be relieved of its obligation to continually conduct its business in the Premises during a suspension period, suspension shall not relieve Tenant of its payment or reporting obligations hereunder; and there shall be no abatement of Rentals under any circumstances whatsoever

unless otherwise approved in writing by Landlord determined in its sole and absolute discretion.

Section 27.27 **CROSS DEFAULT.** Notwithstanding anything to the contrary contained in this Sublease, a default of Tenant's obligations under the provisions of any other lease with Landlord covering any other concession facilities within the Terminal shall constitute a default by Tenant under this Sublease, entitling Landlord to the rights and remedies provided to it under this Sublease at law, and at equity.

Section 27.28 **DISCOUNT TO CERTAIN EMPLOYEES AND CUSTOMER VOUCHERS.** Notwithstanding anything to the contrary contained in this Sublease, Tenant is hereby required to give a discount for all merchandise, products and/or services sold and/or rendered hereunder to all individuals employed at the Airport, all American employees and to all Terminal airline employees. The discount to be given as required under this Sublease shall be in the amount of ten percent (10%) as compared to Tenant's normal non-sale prices offered to the general public and the discounted portion of the sale shall be separately stated. All Tenants shall honor, for reimbursement by American, food and beverage vouchers issued by American from time to time by passengers bearing a boarding pass or other verifying documentation deemed sufficient by American.

Section 27.29 **LOCAL BUSINESS ENTERPRISE COMMITMENT.** Tenant commits to use good faith efforts to implement an extensive program to utilize Local Business Enterprises in accordance with, and as set forth on, **Exhibit J**.

Section 27.30 **TENANT'S CERTIFICATION.** Tenant hereby represents and warrants to Landlord that Tenant is not, and shall not become, a person or entity with whom Landlord is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or be otherwise associated with such persons or entities. Tenant acknowledges that Landlord is executing this Sublease in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing Landlord to enter into and execute this Sublease. In the event of any breach of the foregoing representations and warranties by Tenant, Landlord shall have the right, in addition to any other remedies provided under this Sublease or at law, to immediately terminate this Sublease upon written notice to Tenant. In the event of any such termination by Landlord, Tenant shall, immediately on receipt of Landlord's termination notice, close the Premises for business and surrender possession of the Premises to Landlord without Landlord resorting to any other legal process.

[SIGNATURE BLOCKS ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant, personally or by their duly authorized agents, have executed this Sublease as of the day and year first above written.

TENANT:

ISATA, LLC,
a New York limited liability company

By: _____

Print Name: STEPHEN R. GREENBAUM

Title: MANAGER

ATTEST:

By: _____

Print Name: _____

Title: _____

LANDLORD:

WESTFIELD CONCESSION MANAGEMENT, LLC,
a Delaware limited liability company

By: _____

Print Name: Arnold L. Mayersohn, Jr.

Title: Assistant Vice President & Secretary

EXHIBIT B

THIS AGREEMENT SHALL NOT BE BINDING UPON THE
PORT AUTHORITY UNTIL DULY EXECUTED BY AN
EXECUTIVE OFFICER THEREOF AND DELIVERED TO THE PERMITTEE AND THE SUBLESSEE BY AN
AUTHORIZED REPRESENTATIVE OF THE PORT AUTHORITY

Port Authority Permit No. AYD-476
Consent to Sublease No. _____
John F. Kennedy International Airport

CONSENT AGREEMENT

THIS AGREEMENT, effective as of _____, 200_ ("Effective Date"), by and among **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** ("Port Authority"), **WESTFIELD CONCESSION MANAGEMENT, LLC** ("Permittee"), _____ ("Sublessee"), a (corporation/partnership/limited liability company) organized and existing under the laws of the State of _____ with an office and place of business at _____, whose representative is _____, and consented to by **AMERICAN AIRLINES, INC.** ("Airline").

WITNESSETH, That:

WHEREAS, by a certain agreement of lease dated as of December 22, 2000 bearing Port Authority Lease No. AYB-085R (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Airline Lease") the Port Authority leased to the Airline certain premises at John F. Kennedy International Airport ("Airport") for certain passenger terminal facilities ("Terminal"), as set forth in Section 5 of the Airline Lease; and

WHEREAS, it was contemplated under the Airline Lease that certain food and beverage, newsstand, specialty retail and other consumer service facilities would be operated in certain portions of the Terminal pursuant to agreements covering the operation of such consumer service facilities and it was stipulated in the Airline Lease that Port Authority consent to the arrangements covering the operation of such consumer service facilities would be required; and

WHEREAS, the Airline and the Permittee have entered into an agreement made as of September 2, 2004 (as may have been heretofore and may be hereafter amended, supplemented or extended, the "Concession Lease") under which the Permittee agreed to provide certain development, leasing, and management services with respect to consumer service operations at the Terminal; and

WHEREAS, the Port Authority and the Permittee have entered into a certain permit agreement identified above by Port Authority Permit Number AYD-476 (as may have been heretofore and may be hereafter supplemented, amended and extended, the "Permit") and covering the services and facilities which the Permittee agreed to provide pursuant to the terms of the Concession Lease; and

WHEREAS, the applicable provisions of the Concession Lease and the Permit require the Permittee to enter into an agreement with a third party unrelated to the Permittee in any manner to operate each consumer service facilities required to be provided pursuant to the terms of the Airline Lease, the Concession Lease and the Permit, provided that the proposed Sublessee and all the terms of its sublease agreement with the Permittee are consented to in writing in advance by the Port Authority and the Airline; and

WHEREAS, the Permittee and the Sublessee have entered into a sublease agreement, consented to by the Airline, a copy of which is attached hereto and made a part hereof ("Sublease"), covering portions of the premises under the Concession Lease (such portions, being hereinafter collectively called the "Space" or the "Spaces"); and

WHEREAS, the Permittee and the Airline have requested the consent of the Port Authority to the proposed Sublease;

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority, the Permittee and the Sublessee hereby agree effective as of the Effective Date, as follows:

1. On the terms and conditions hereinafter set forth, the Port Authority consents to the Sublease.

2. Notwithstanding anything in the Sublease to the contrary, both this Consent Agreement and the Sublease shall terminate, without notice to the Permittee or the Sublessee, on the earliest to occur of: (a) the day preceding the date of expiration or earlier termination of the Airline Lease; (b) the effective date of any revocation of this Consent pursuant to Paragraph 7 hereof; (c) if applicable, the day preceding the date of expiration or earlier termination of the Concession Lease in accordance with its terms; (d) the date of expiration or earlier termination of the Sublease; (e) or such earlier date as the Permittee and the Sublessee may agree upon subject to the terms and provisions hereof. The Sublessee shall cease its activities and operations at the Space and shall quit the Space covered by the Sublease and remove its property and property for which it is responsible therefrom on or before the termination of the Sublease.

3. If the Permittee shall at any time be in default of its obligations under the Permit, the Sublessee shall on demand of the Port Authority pay directly to the Port Authority any rental, fee or other amount due to the Permittee from the Sublessee (including, but not limited to, late charges, liquidated damages, fines and the like). No such payment shall relieve the Permittee from any obligation under the Permit or under this Consent but all such payments shall be credited against the obligations of the Permittee or of the Sublessee, as the Port Authority may determine for each payment or part thereof, in accordance with the provisions of the Permit, Concession Lease and the Airline Lease and consistent with paragraph 4(a) hereof.

4. (a) Neither this Consent, nor anything contained herein, shall constitute or be deemed to constitute a consent to nor shall they create an inference or implication that there has been consent to any enlargement, diminishment, impairment, variation or change in the rights, powers and privileges granted to the Airline under the Airline Lease or to the Permittee under the Permit, nor any limitation, diminishment, modification, change or impairment of any of the rights, powers, privileges or remedies of the Port Authority under the Airline Lease or Permit, nor consent to the granting or conferring of any rights, powers, or privileges to the Sublessee as may be provided by the Sublease if not granted to the Airline under the Airline Lease and to the Permittee under the Permit. Neither this Consent nor anything contained herein, nor any termination of the Sublease, shall affect, impair, diminish, or change any of the duties, responsibilities, liabilities and obligations imposed on the Airline under the Airline Lease and on the Permittee under the Permit nor constitute or be deemed to constitute a release of the Airline or the Permittee, respectively, from any such duties, responsibilities, liabilities and obligations. The Sublease is an agreement between the Permittee and the Sublessee with respect to the various matters set forth therein. Neither this Consent nor anything contained herein shall constitute an agreement between the Port Authority, the Airline or the Permittee that the provisions of the Sublease shall apply and pertain as between them, it being understood that the terms, provisions, covenants, conditions and agreements of the Airline Lease and the Permit shall, in all respects, be controlling, effective and determinative. In addition, in any case of difference or inconsistency between the provisions of this Consent and those of the Sublease, this Consent shall be controlling and, in any case or difference or inconsistency between the terms of the Sublease and those of the Airline Lease or between the terms of the Sublease and those of the Permit, the terms of the Airline Lease, or of the Permit, as the case may be, shall control. The specific mention of or reference to the Port Authority in any part of the Sublease, including, without limitation thereto, any mention of any consent or approval of the Port Authority now or hereafter to be obtained, shall not be or be deemed to create an inference that the Port Authority has granted its consent or approval thereto under this Consent or shall thereafter grant its consent or approval thereto or that the subject matter as to which the consent or approval applies has been or shall be approved or consented to in principle or in fact or that the Port Authority's discretion pursuant to the Airline Lease and Permit as to any such consents or approvals shall in any way be affected or impaired. The lack of any specific reference in any provisions of the Sublease to Port Authority approval or consent shall not be deemed to imply that no such approval or consent is required and the Airline Lease and Permit shall, in all respects, be controlling, effective and determinative.

(b) No provisions of the Sublease including, but not limited to, those imposing obligations on the Sublessee

with respect to laws, rules, regulations, taxes, assessments and liens, shall be construed as a submission or admission by the Port Authority that the same could or does lawfully apply to the Port Authority, nor shall the existence of any provision of the Sublease covering actions which shall or may be undertaken by the Sublessee or the Permittee including, but not limited to, construction on the Space covered by the Sublease, title to property, the right to assign (by operation of law or otherwise) the Sublessee's interest in the Sublease, or to further sublease the Space or any part thereof, and the right to perform services, be deemed to imply or infer that either the Port Authority consent or approval thereto will be given or that either Port Authority discretion with respect thereto will in any way be affected or impaired. References in this paragraph to specific matters and provisions shall not be construed as indicating any limitation upon the rights of the Port Authority with respect to its discretion as to the granting or withholding of approvals or consents as to other matters and provisions in the Sublease which are not specifically referred to herein.

(c) Notwithstanding anything to the contrary stated in the Sublease, the Port Authority does not and shall not grant or permit a cure or grace period to the Sublessee with respect to the Sublessee's monetary payment defaults to the Port Authority.

(d) No changes, amendments, renewals or extensions to the Sublease shall be binding or effective upon the Port Authority unless the same have been approved in advance by the Port Authority in writing. The Port Authority may at any time and from time to time by notice to the Permittee and the Sublessee modify, withdraw or amend any approval, direction, or designation given hereunder or pursuant hereto to the Permittee or the Sublessee. The Sublease shall not be changed, modified, discharged, renewed or extended except by written instrument duly executed by the parties thereto and only with the express prior written consent of the Port Authority.

5. The Sublessee, in its operations under and in connection with the Sublease and in its use and/or occupancy of the Space, agrees to assume, observe, be bound by and comply with all the terms, provisions and conditions of the Airline Lease and the Permit.

6. The granting of this Consent by the Port Authority shall not be, and shall not be deemed to operate as, a waiver of the rights of the Port Authority or of its required consent to any subsequent sublease, sublicensing, or other agreement with respect to the use or occupancy of the Space or any other portion of the Terminal, or to any assignment of the Permit or the Sublease or of any rights under any of the foregoing, whether in whole or in part.

7. The Port Authority shall have the right to revoke this Consent at any time without cause, on thirty (30) days notice to the Sublessee, as to any one or more of the Spaces at which the Sublessee has permission to operate, and no such revocation shall be deemed to affect the Permit or the continuance thereof, but the Sublease as it applies to the Space which is subject to revocation shall be terminated thereby. For informational purposes, the Port Authority will send a copy by regular first class mail of such notice to the Permittee, but failure on the part of the Port Authority to send the informational copy shall not however be or be deemed to be a breach of this Consent, or impair or affect the validity of the notice or request actually given.

8. The Port Authority shall not be obligated to perform or furnish any services or utilities whatsoever in connection with this Consent and the Sublease or the use and occupancy of the Space thereunder.

9. The Sublessee hereby represents and covenants to the Port Authority that it has complied with and will comply with all laws, governmental rules, regulations and orders now or at any time during the term of the Sublease which as a matter of law are applicable to or which affect the operations of the Sublessee under the Sublease or its use and/or occupancy of the Space. The obligation of the Sublessee hereunder to comply with governmental requirements is provided herein for the purpose of assuring proper safeguards for the protection of persons and property. Such provision is not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them.

10. If the Sublessee shall fail to pay any amount required under this Consent 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 of such unpaid amount for each late charge period. There shall be twenty-four (24) 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 (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 Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Consent. 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 paragraph, with respect to such unpaid amount. Nothing in this paragraph 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 Consent, including without limitation under Paragraph 7 hereof or (ii) any obligations of the Sublessee under this Consent. In the event that any late charge imposed pursuant to this Paragraph shall exceed a legal maximum applicable to such late charges, then, in such event, each such late charge payable under this Consent shall be payable instead at such legal maximum.

11. Reference herein to the Sublessee shall mean and include the Sublessee, its directors, officers, agents, employees, contractors, subcontractors and others on the Space or on the Airport with the consent of the Sublessee.

12. It is hereby acknowledged and agreed by the Permittee and the Sublessee that the Port Authority has no obligation under the Airline Lease, the Sublease, this Consent or otherwise to pay, subsidize or in any manner whatsoever finance, directly or indirectly, all or any portion of any amount of the Sublessee's capital investment in the Space or at the Terminal, whether amortized or unamortized. Any specific mention of or reference in the Sublease to the Port Authority in connection with any payment or other compensation to the Sublessee, upon termination of the Sublease or the Concession Lease or upon revocation of this Consent with or without cause (in accordance with the terms of Paragraph 7 hereof), of any amount of the Sublessee's capital investment in the Space or at the Premises shall not be or be deemed to create an obligation or inference of an obligation on the part of the Port Authority to either the Sublessee or the Permittee to pay, subsidize or finance said unamortized capital investment.

13. (a) Without in any manner affecting the obligations of the Airline under the Airline Lease or of the Permittee under the Permit and under this Consent, and notwithstanding the terms and conditions of the Sublease, the Sublessee shall make repairs and replacements in, at or about the Space as if it were the Permittee under the Permit. In addition, the Sublessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, and the City of New York, from and against (and shall reimburse the Port Authority for its costs and expenses including attorneys' fees and other legal 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, for personal injuries and for property damages, arising out of a breach or default of any term or provision of this Consent by the Sublessee or out of its operations under the Sublease or at the Space or out of the use or occupancy of the Space by the Sublessee or others with its consent, or out of any other acts or omissions of the Sublessee, its officers, employees, agents, representatives, contractors, customers, guests, invitees and other persons who are doing business with the Sublessee or who are at the Space or the Premises with the consent of the Sublessee, or out of any other acts or omissions of the Sublessee, its officers and employees at the Airport including claims and demands of the City of New York, from which the Port Authority derives its rights in the Airport, for indemnification, arising by operation of law or pursuant to the Basic Lease (as defined in the Lease) whereby the Port Authority has agreed to indemnify the City of New York against claims. However, all acts and omissions of the Sublessee shall be deemed to be acts and omissions of the Permittee under the Permit and the Lessee shall also be severally responsible therefor, including but not limited to the obligations of indemnification, repair and replacement.

(b) If so directed, the Sublessee shall at it own expense defend any suit based upon any such claim or demand (even if such claim or demand is groundless, false or fraudulent), and in handling the same 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.

14. (a) In addition to the insurance required to be maintained by the Sublessee under the Sublease, the Sublessee in its own name as insured and including the Port Authority as additional insured shall maintain and pay the premiums during the term of the Sublease on a policy or policies of Commercial General Liability insurance, including premises operations, products liability, liquor liability, and completed operations and covering bodily injury, including death, and property damage liability, none of the foregoing to contain care, custody or control exclusions, and providing for coverage in the limits set forth below. Each of the aforesaid policy or policies of insurance shall also provide or contain an endorsement providing that the protections afforded the Sublessee thereunder with respect to any claim or action against the Sublessee by a third person shall pertain and apply with like effect with respect to any claim or action against the Sublessee by the Port Authority, and with respect to any claim or action against the Port Authority by the Sublessee as though the Port Authority was the named insured thereunder, but such endorsement shall not limit, vary, change, or affect the protections afforded the Port Authority thereunder as additional insured. The said policy or policies of insurance shall also provide or contain a contractual liability endorsement covering the obligations assumed by the Sublessee under this subparagraph (a).

	Minimum Limits
Commercial General Liability Combined single limit per occurrence for bodily injury and property damage liability:	$2,000,000

Without limiting the provisions hereof, in the event the Sublessee maintains any of the foregoing insurance in limits greater than aforesaid, the Port Authority shall be included therein as an additional insured to the full extent of all such insurance in accordance with all terms and provisions hereof.

(b) All insurance coverages and policies required under this paragraph 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 term of the consent hereunder. The Port Authority may, at any such time, require commercially reasonable 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.

(c) As to the insurance required by the provisions of subparagraph (a) of this Paragraph, a certified copy of each of the policies or a certificate or certificates evidencing the existence thereof, or binders, shall be delivered to the Port Authority prior to the use of any portion of the Space by the Sublessee. Each policy, certificate or binder delivered as aforesaid shall bear the endorsement of or be accompanied by evidence of payment of the premium thereon. 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. 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. Each such copy or certificate shall contain an additional 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, its Commissioners, officers, agents or employees, 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. A certificate or other evidence of any renewal policy shall be delivered to the Port Authority prior to the expiration of each expiring policy, except for any policy expiring after the date of expiration of the term of the Sublease. The aforesaid insurance shall be written by a company or companies approved by the Port Authority the Port Authority agreeing not to withhold its approval unreasonably. If at any time any of the insurance policies shall be or become unsatisfactory to the Port Authority as to form or substance or if any of the carriers issuing such policies shall become unsatisfactory to the Port Authority, the Sublessee shall promptly obtain a new and satisfactory policy in replacement the Port Authority covenanting and agreeing not to act unreasonably

hereunder. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

15. Without limiting the generality of the provisions of this Consent, the terms, provisions, conditions and agreements of the Airline Lease shall, in all respects, be controlling, effective and determinative and to the extent that any provisions of the Sublease are contrary to, conflict with or are inconsistent with the Airline Lease or this Consent then such provisions of the Sublease shall be deemed null and void and of no force or effect as to the Port Authority, and of no force or effect on the Airline Lease.

16. The Sublessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Sublessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Sublessee assures that it will require that its covered suborganizations provide assurances to the Sublessee that they similarly will undertake affirmative programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

17. Nothing contained in this Consent nor in the Sublease, including without limitation the payment obligation of the Sublessee under Article II of the Sublease, nor the acceptance of any such payment thereunder by the Port Authority from the Sublessee shall create or be deemed to have created a landlord-tenant relationship or privity of estate between the Port Authority and the Sublessee nor shall it be or be deemed to be an attornment by the Sublessee to the Port Authority nor acceptance thereof by the Port Authority and the Sublease and the occupancy by the Sublessee of the Space shall in all events be and remain subject and subordinate to the Airline Lease, Concession Lease and the Permit, consistent with paragraph 4(a) hereof. Neither a partnership nor any joint venture is hereby or by the Sublease created or implied notwithstanding the provisions of the Sublease.

18. Nothing contained in this Consent or the Sublease shall be or deemed to be consent to, or approval of, the erection of any structures, or the making of any improvements, alterations, modifications, additions, repairs or replacements to the Space or the Premises including without limitation the installation of any signs at the Airport. The Permittee and Sublessee agree that no construction, installation or the like, as aforesaid, shall be performed without the prior written approval of the Port Authority and subject to the terms and conditions of the Airline Lease and an approved Tenant Alteration Application which the Sublessee shall prepare and the Permittee and/or the Airline shall submit to the Port Authority.

19. Notwithstanding anything to the contrary stated in the Concession Lease, the Permit or the Sublease, the cost of utilities shall not be charged to the Sublessee unless the Sublessee is a food/beverage vendor, all in accordance with the Airline Lease. By signing below, the Airline expressly agrees to the foregoing, and agrees that the Airline shall not charge to the Permittee the cost of any utilities other than as aforesaid in this Paragraph.

20. Except where expressly required or permitted herein to be oral, all notices, directions, requests, consents and approvals required to be given to or by either party shall be in writing, and all such notices and requests shall be personally delivered to the duly designated officer or representative of such party or delivered to the office of such officer or representative during regular business hours, or forwarded to him or to the party at such address by registered or certified mail. Such designated officer or representative of the Port Authority and the Permittee and their respective offices shall be as set forth in the Permit. The Sublessee shall from time to time designate in writing an office within the Port of New York District and an officer or representative whose regular place of business is at such office upon whom notices and requests may be served. Until further notice, the Sublessee designates the representative named on the first page of this Consent as its representative upon whom notices and requests may be served and its address stated on the first page of this Consent as its office where notices and requests may be served. If mailed, the notices herein required to be served shall be deemed effective and served as of the date of the registered or certified mailing thereof.

21. (a) The Sublessee acknowledges that it has received, and is familiar with the contents of, a copy of the

Amended and Restated Agreement of Lease of the Municipal Air Terminals between The City of New York, as Landlord, and The Port Authority of New York and New Jersey, as Tenant, dated as of November 24, 2004 (the "City Lease").

(b) In accordance with the provisions of the City Lease, the Port Authority and the Sublessee hereby agree as follows:

(1) This Consent is subject and subordinate to the City Lease and to any interest superior to that of the Port Authority;

(2) The Sublessee shall not pay fees or other sums under this Consent for more than one (1) month in advance (excluding security and other deposits required under this Permit);

(3) With respect to this Consent, the Sublessee on the termination of the City Lease will, at the option of The City of New York (the "City"), attorn to, or enter into a direct permit on identical terms with, the City;

(4) The Sublessee shall indemnify the City with respect to all matters to the extent described in Section 31 of the City Lease;

(5) The Sublessee shall not engage in the privilege permitted hereunder for any use other than as permitted under the City Lease;

(6) The Sublessee shall use, operate and maintain the privilege granted hereunder in a manner consistent with the Port Authority's obligations under Section 28 of the City Lease;

(7) The failure of the Sublessee to comply with the forgoing provisions shall be an event of default under this Consent, which, after the giving of reasonable notice, shall provide the Port Authority with the right to revoke this Consent and exercise any other rights that the Port Authority may have hereunder; and

(8) The City shall be named as an additional insured or loss payee, as applicable, under each policy of insurance procured by the Sublessee pursuant to the Consent.

22. This Consent and the interpretation, validity and enforceability thereof shall be governed by the laws of the State of New York.

23. Neither the Commissioners of the Port Authority nor any of them, nor any director, officer, agent or employee of the Port Authority, the Airline, the Permittee or the Sublessee shall be held personally liable to any party under any term or provision of this Consent or because of its execution or attempted execution or because of any breach or alleged breach thereof.

[Note: Signature Blocks and Notary Forms will be provided in the Consent Agreement to be signed]

EXHIBIT C

JOHN F. KENNEDY INTERNATIONAL AIRPORT

TENANT CERTIFIED GROSS RECEIPTS AND RENT STATEMENT

TENANT NAME: _____ **SPACE#:** _____ **CONTACT:** _____

YEAR: _____ **PHONE:** _____

Month	Gross Receipts	RENT										
		Guaranteed Rent	Percentage Rent				Mrktg Fund 0.5%	Electric (F&B Only)	Logistical Support & Pub. Area Main Fee	Taxes	Total Rent
			Breakpoint	Overage	%	Rent					
Jan											
Feb											
Mar											
Apr											
May											
June											
Jul											
Aug											
Sep											
Oct											
Nov											
Dec											
Y-T-D											

CERTIFICATION: The undersigned hereby certifies that the information contained herein is true and correct in all respects.

Signed: _____ Date: _____

Title: _____

EXHIBIT D

DESIGN AND CONSTRUCTION REQUIREMENTS

I. INTRODUCTION AND DEFINITIONS.

A. American has constructed or is in the process of constructing all of the existing improvements for the Terminal as generally shown on Exhibit A-1, including the base building structure and the base building utility systems. American shall have the right to perform the safe removal, encapsulation, enclosure or other disposition of Toxic or Hazardous Materials, if any, that exist within the Premises as of the date Tenant is delivered possession of the Premises. American is obligated under the Concession Area Lease to remediate or remove (or reimburse Tenant for the reasonable costs incurred by Tenant) any such pre-existing Toxic or Hazardous Materials that American determines, in its sole discretion, to be necessary in order for Tenant to perform Tenant's Work. If Tenant encounters any such pre-existing Toxic or Hazardous Materials during the performance of Tenant's Work for the initial construction of the Premises, Tenant shall immediately notify Landlord and American in writing and provide all details related thereto. In no event shall Tenant perform any of Tenant's Work that will in any way disturb any such Toxic or Hazardous Materials so encountered until American has determined whether it is necessary to remediate or remove the same.

B. The term **"American's Work"** shall mean American's total responsibility for construction of improvements for the Premises within the Terminal as set forth in this Exhibit D. The cost of American's Work shall be borne as set forth in this Exhibit D. American's Work shall be of a design, type, size, location, quality and nature as may be selected by American from time to time. Any item of work necessary to complete the Premises which is not hereinafter specifically included as part of American's Work under this Exhibit D shall be considered as part of Tenant's Work.

C. The term **"Tenant's Work"** shall mean Tenant's total responsibility (or any portion thereof) for the construction and improvement of the Premises. Tenant's Work shall be performed at Tenant's sole cost and expense. Tenant's Work shall include, but not be limited to, all work necessary or required to complete the Premises, except those items of work that are specifically included under this Exhibit D as part of American's Work.

II. GENERAL REQUIREMENTS AND PROVISIONS.

A. Tenant's Work shall be subject to Landlord's, American's and the Authority's prior approval, such approval to be determined in their sole discretion, and shall be designed, fabricated, constructed and installed to comply with all of the requirements set forth in the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process and with all of the requirements set forth in other various documents and requirements of the Authority pertaining to Tenant's construction within the Terminal. All details and information contained in either the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process, whether appearing on Tenant's Conceptual Plans and Final Drawings or not, shall be considered a part of Tenant's Conceptual Plans and Final Drawings and design and construction requirements. By this reference the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements are incorporated herein and made a part of this Exhibit D and the Sublease. This Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process requirements may, when the context requires, hereinafter be collectively referred to as **"Tenant's Construction Requirements"**.

B. The design, fabrication, construction and installation of Tenant's Work must comply with each of the following requirements:

1. This Exhibit D.

2. The Design Guidelines.

3. The Tenant Construction Review Manual, the Alteration Application and the TAA Process.

4. Tenant's Final Drawings, as approved by Landlord, American and the Authority.

5. All applicable laws, ordinances, codes, regulations and the requirements of all federal, state or local permitting, building and inspection agencies, including the Authority.

6. All applicable standards of the American Insurance Association, The National Electric Code (latest edition), the American Society of Heating, Refrigeration and Air Conditioning Engineer's Guide (latest edition), the Authority's, American's and Landlord's insurance carriers, the local building codes and regulations and all other agencies having jurisdiction.

In the event of a conflict between any of the above-referenced items, the most stringent requirement shall govern each increment of Tenant's Work.

C. All aspects of Tenant's Work shall be performed in a professional, first-class and workmanlike manner and shall be in a good and first-class and usable condition as of the date of completion and maintained in such condition at all times. All materials used in Tenant's Work, Tenant's construction of the Premises and installations made as a part of Tenant's Work shall be of new, commercial grade and first-class quality. After Tenant's initial construction of the Premises, any and all elective Refurbishments and any and all Refurbishments required of Tenant by Landlord or American under the applicable provisions of the Sublease shall be performed in accordance with all of the requirements set forth in this Exhibit D and the most current editions of the Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, and the TAA Process.

D. Tenant shall be solely responsible for the investment required for the planning, design, development, construction, fabrication and installation of all Fixed Improvements and other permanent leasehold improvements and Operating Equipment necessary to complete the Premises as required to provide the concession services within the Terminal as provided in the Sublease. Such investment shall be subject to the detailed review and approval by Landlord and American as provided elsewhere in the Sublease and in the Tenant's Construction Requirements.

E. All contracts and subcontracts for any portion of Tenant's Work shall require: (i) that all contractors and subcontractors provide labor that can work in harmony with other elements of labor employed or to be employed at the Airport as specified in Section 27.25 hereof; (ii) insurance coverage and suretyship reasonably satisfactory to Landlord, American and the Authority for the protection of Landlord, American, the Authority and their respective laborers, suppliers, contractors, subcontractors and the general public; (iii) that all contractors and subcontractors comply strictly with all of the applicable provisions of the Authority Lease, the Concession Area Lease, this Sublease, this Exhibit D, Tenant Construction Review Manual, the Design Guidelines, the Alteration Application, the TAA Process; and (iv) for all Fixed Improvements and other permanent leasehold improvements to the Premises, performance bonds and payment bonds from the Tenant or its general contractor, in form and substance satisfactory to Landlord and American, each of which shall name Landlord, American and the Authority as an additional obligee and which shall be in the penal

sum equal to the amount of Tenant's total construction contracts and subcontracts. Further, Tenant shall comply and shall cause all of its contractors and subcontractors to comply with the Authority's non-discrimination and affirmative action provisions contained in **Exhibit I** and shall require the inclusion of such provisions in all contracts and subcontracts relating in any way to Tenant's Work.

III. AMERICAN'S WORK.

A. As required by the Concession Area Lease, American shall perform the "**Base Building Work**" which is defined to mean the subflooring, ceiling structure, demising walls, utilities infrastructure and other base building improvements, structures and fixtures which American installs or causes to be installed at the Concession Area in accordance with the Authority Lease. Base Building Work includes delivery of portions of the Concession Area designated for concession activities including the Premises, in "shell condition". "Shell condition" is defined, for purposes of this Sublease, as smooth concrete floors, demising studs and walls, and utility services (conduits, lines, pipes, etc.) of commercially adequate capacity and size located at the lease lines of the Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), heating ventilating and air conditioning systems including access for exhaust ducts for food & beverage locations ("**HVAC**"), fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises. American's Work to be performed or provided at American's sole cost and expense shall be limited to the following:

1. A basic building in "shell condition" for the Premises (for in-line concession facility locations only) to American's specifications. Neither Landlord nor American shall provide any finished walls or wall coverings, finished ceiling or ceiling covering or finished floor covering within the Premises, all of such to be performed by Tenant as part of Tenant's Work.

2. Utility stub-ins of a commercially adequate capacity and size located at the lease lines of each of Premises or areas adjacent thereto for electric, gas (designated food & beverage locations only, except that there is no gas service to Concourse C of the Terminal), access to the telephone communications room, access to satellite and cable television connection points (bar and restaurant and other specifically designated locations only), HVAC systems including access for exhaust ducts for food & beverage locations, fire alarm system, fire sprinkler system, water, waste water and sewer, etc. and any other utility services reasonably necessary for the intended general concessions uses of the Premises, as more fully detailed on the utilities matrix ("**Utilities Matrix**") attached as an exhibit to the Concession Area Lease. Tenant acknowledges that a copy of the Utilities Matrix has been provided to Tenant.

3. Public use service corridors, if any, located as required by code or as selected by American, with such corridor walls, if any, finished on the corridor side only.

B. American and Landlord may, but shall not be required to, provide additional items of basic building shell or base building utility conduit services for the Premises as part of American's Work. If applicable, such additional items, if any, shall be provided in accordance with American's specifications.

IV. TENANT'S WORK.

A. Tenant shall prepare preliminary conceptual plans ("Conceptual Plans") for the Premises in accordance with the provisions of the Tenant's Construction Requirements and submit them to Landlord, American and the Authority (if American and the Authority determines to review Conceptual Plans) for approval, such

approval to be determined in their sole discretion. The Conceptual Plans must be submitted to Landlord not later than twenty (20) days from the Commencement Date or such shorter period of time as may be required for Tenant to open for business by the Latest Rental Commencement Date, and shall include at a minimum the following:

Floor Plans: To include overall dimensions; interior finishes; construction components; identification of any proposed structural alterations to the Premises.

Fixture Plans: Merchandising layouts of the Premises including fixture locations (permanent and movable); and details and/or catalog cuts of the fixtures including materials with smoke developed ratings and flame spread classifications.

Reflected Ceiling Plans: Showing types and electrical connections for lighting fixtures.

Elevations: Drawings of all interior and storefront elevations of the Premises visible to the public, storefront details illustrating architectural compatibility with surrounding areas, building sections or cross sections to accurately depict design details.

Material Boards: Material boards referenced to floor plans and elevations for the Premises illustrating floor base, wall, door, trim and ceiling materials and color selections; material boards shall include color photos and catalog cuts of furniture and/or fixtures where required; colors and materials for all storefront components. Include smoke developed ratings and flame spread classifications, as applicable.

Project Schedule: A preliminary project schedule describing the actions necessary to implement the project, the sequence of actions and the schedule of actions.

Signage Drawings: The shape, size, color and location of signs, and a description of all methods of fabrication, installation and construction.

B. Landlord shall have the right to require modifications to the Conceptual Plans and any approval granted by Landlord is subject to the Tenant's incorporation of the required modifications and draft set of Tenant specifications to ensure compliance with the Tenant Construction Requirements. In the event Landlord requires any such modifications to the Conceptual Plans, Tenant shall prepare and submit the same for Landlord's review and approval within ten (10) days after receipt of Landlord's modifications. Tenant shall follow the steps as outlined in the Tenant Construction Requirements for submitting the Conceptual Plans required for the Tenant.

C. Tenant shall prepare final drawings and specifications ("Final Drawings") which are based on the approved Conceptual Plans for the Premises as described in the Tenant Design Criteria and Handbook within twenty (20) days from receipt of the approved Conceptual Plans, or earlier as may be required to open the Premises for business no later than the Latest Rental Commencement Date. The Final Drawings shall be prepared, and all calculations must be signed and sealed by a registered architect or a registered engineer licensed in the State of New York, and at a minimum, must include the following:

Drawings: Floor Plans including location of all walls, partitions, and doors; lease lines to adjacent premises; overall dimensions of space with column locations; including room finish schedule with fire rating and door and hardware schedule.

Final Fixturing Plans: Merchandising layouts.

Reflected Ceiling Plans: To include ceiling grid, soffits, drops, recesses, coves, etc.; ceiling heights for each space; all light fixtures; HVAC supply and return grilles; type of ceiling system with fire-rating; sprinklers and smoke detectors; any items attached to or coming through the ceiling, if any, ceiling mounted signs, banners, flags, etc.; and communicated system components.

Structural Drawings: Structural drawings and calculations of proposed structural alterations to the base building.

Signage Drawings: Elevation of storefront showing design, location, size, color and layout of signs, including dimensions, etc., and a description of all methods of construction.

Mechanical Drawings: To include load calculations submitted as required in the Tenant's Construction Requirements and proposed locations of all equipment.

Plumbing Drawings: If applicable, to include location and size of water and supply lines, drains, vents and grease traps; and water and sanitary riser diagrams.

Fire Protection System: Fire suppression system including hydro-calculations, as required, to illustrate Tenant's alteration to existing sprinkler coverage; and fire alarm and location of connection point to the base building fire alarm systems and location of addressable smoke detectors, duct/smoke detectors, combination heat/smoke detectors and addressable heat detectors all per the Tenant's Construction Requirements and all applicable codes and regulations.

Electrical Plans: To include power and lighting layout with circuits and home runs; electrical load requirements; on panel schedules; service riser diagrams; telephone conduits; and load calculations.

Sections: Showing construction materials and design details.

Special Systems: Such as telephone and data transmission line systems; airport access control system (if applicable); paging system (if applicable); cable access television system (if applicable); and master clock system (if applicable).

Locking System: Tenant shall install a lock keying system compatible with American's and the Authority's system on all entrances to the Premises and mechanical room entrances located therein for police, security, fire protection and maintenance reasons.

Specifications: All specifications shall include the requirements contained in the Tenant's Construction Requirements.

D. Tenant shall submit to the Landlord, American and the Authority as part of the Conceptual Plans and Final Drawings, drawings (in color) showing storefronts, window displays, signage and any advertising structures; plus a lighting plan.

E. When Tenant submits any plans and specifications to Landlord it shall include complete sets for each submittal as specified in the Tenant's Construction Requirements.

F. Tenant's Work shall include the procurement of all necessary building permits, licenses, variances, and additional utility services required to facilitate Tenant's construction and occupancy of the Premises, and the payment of any fees associated therewith as may be required by the Authority, other public agencies and

utility companies. Within five (5) days after approval of the Final Drawings or such shorter period of time as may be required for Tenant to open the Premises for business no later than the Latest Rental Commencement Date, Tenant shall make all necessary applications, provide all necessary information, pay all required fees and take all necessary actions to obtain such items and shall endeavor to use due diligence and its best efforts to procure the same as quickly as possible. Please refer to the Tenant's Construction Requirements.

G. Tenant shall comply in all respects with the Tenant's Construction Requirements including, but not limited to, applicable local/state health department requirements, U.S. Department of Labor, Construction Safety and Health Regulations, Part 1926. Tenant shall comply and be liable for all costs associated with adherence to the Americans with Disabilities Act (ADA) codes and guidelines.

H. If the Premises are modified, renovated, or newly-constructed, the Tenant shall: (i) obtain the Architect's/Engineer's New York Seal on two (2) sets of final construction drawings or as may otherwise be specified by the Authority's TAA Process submitted for a building permit; (ii) obtain from the Tenant's contractor(s) a written warranty of all materials and workmanship for a period of one (1) year effective from the date of beneficial occupancy of the Premises. Tenant's contractor(s) shall be required by Tenant in its construction contract to repair and/or replace all defective materials, equipment and workmanship at no cost to the Authority, American, Landlord or Tenant occupying the Premises; (iii) obtain all required manufacturers' guarantees, maintenance manuals and other pertinent documents; and (iv) furnish to Landlord the information and documentation specified in Section 5.01, no later than ninety (90) days after completion of the Fixed Improvements or any Refurbishments.

I. Tenant's Final Drawings must be submitted to Landlord in CADD and satisfy all other requirements for Final Drawings as set forth in this Exhibit D and the Tenant's Construction Requirements.

J. Tenant shall not be permitted to commence any work until all requirements of the Tenant's Construction Requirements and this Exhibit D have been completed.

K. Security clearance must be completed as required by American and/or the Authority.

L. Separate construction deposits of a minimum of Ten Thousand Dollars ($10,000.00) each will be required from both Tenant and from Tenant's general contractor and neither shall be released by Landlord to Tenant or Tenant's general contractor until after satisfactory completion of all requirements of this Exhibit D and the documents referenced herein, approval by both Landlord's American's and the Authority's on-site construction supervision personnel specifying that all of Tenant's Work has been completed and accepted by Landlord, American and the Authority, proper completion of any and all punch list items and acceptance thereof by Landlord and delivery to Landlord of all of the construction close-out documents required under this Sublease and acceptance and approval thereof by Landlord.

M. During the construction periods at the Terminal, Tenant and its agents, servants, employees, contractors and subcontractors shall be permitted entry and access to the Terminal and to the Premises for the purpose of performing and completing all work necessary to make the Premises and other improvements ready for use, occupancy and rental. During the construction periods, Tenant and its agents, consultants and employees, contractors and subcontractors shall observe all applicable rules and regulations and applicable directives imposed by American and/or the Authority at the Terminal as to the conduct of their work. Tenant shall be responsible for securing, keeping and maintaining all of their equipment, materials, supplies, tools, work trailers and the like within the Premises, or within a defined staging area for the exclusive purpose of supporting the Premises construction, subject to Landlord and American approval. Tenant shall also be responsible for insuring that all construction debris is removed from the construction site daily, and that the site is neat and clean at all times. Tenant shall comply in all respects with procedures for project close-out and acceptance of the space as detailed in the Tenant's Construction Requirements.

N. All policies of insurance and bonds addressed in this Sublease shall be issued for the protection of the Landlord, Tenant, American and the Authority, in accordance with their respective insurable interests. The terms of the policies and bonds and the insurer or surety shall be subject to the reasonable approval of Landlord, American and the Authority.

O. Tenant shall provide, maintain and identify the Authority, American and Landlord as an additional insured, with respect to the insurance protection required under the provisions outlined in the Sublease.

P. Construction Costs:

1. As part of Tenant's Work and the construction requirements required in this Sublease, Tenant shall submit to Landlord a statement of the total construction costs which it has certified as correct with all supporting documents required by Landlord as specified in the applicable sections of this Sublease.

2. The Authority, American, Landlord, or an independent professional firm retained by any of them, may audit costs associated with the construction, modification or renovation of the Premises. In this regard, the Authority, American, Landlord and/or their auditing firm(s) shall have the right upon seven (7) days advance request by the Authority, American or Landlord during the Term hereof and for such longer period as required by the Authority, to examine and audit books, records, documents and other evidence and accounting procedures and practices, sufficient to reflect properly all construction costs claimed to have been incurred or anticipated to be incurred, in performing this Sublease. The right of examination shall extend to all documents necessary to allow evaluation of both the validity and reasonableness of said construction costs, including all documents of Tenant who shall make all construction records available to the Authority, American or Landlord within the Port of New York District for examination, audit, or reproduction, upon seven (7) days advance request by the Authority, American or Landlord.

Q. In its construction plans Tenant must insure that the Premises has strong visual appeal and is inviting to the customers; and that the Premises accommodates customers with luggage and meets all Americans With Disabilities Act (ADA) requirements relating to ingress, egress, access and other architectural matters, such as for example, large print price signs for the visually impaired and the ability to communicate with hearing impaired.

V. CONSTRUCTION CHARGEBACKS PAYABLE TO LANDLORD.

A. Landlord may provide items of construction, work or services for the Premises as a part of American's Work at Tenant's sole cost and expense, including, but not limited to the following:

1. Landlord, at Tenant's expense, may install a temporary construction barricade along the storefront area leaseline in a design, material and location approved by Landlord if Tenant fails to install such temporary construction barricade prior to the commencement of any of Tenant's Work in the Premises. If Landlord installs such a barricade, Tenant shall reimburse Landlord therefor as Additional Rent an amount which will be computed at the rate of One Hundred Fifty Dollars ($150.00) per lineal foot of the barricade. Upon completion of Tenant's Work, Tenant shall be responsible, at Tenant's sole cost, to remove such barricade to an appropriate disposal site outside of the Airport.

2. Tenant's general contractor shall pay to American, a non-refundable fee for use of the dumpster, with respect to all construction debris and trash required to be removed from the Terminal by Tenant's general contractor with respect to the performance of Tenant's Work. Such initial fee is estimated to be at the rate of One and 50/100 Dollars ($1.50) per square foot of Floor Area in the Premises and checks are payable to "American Airlines, Inc." but delivered to Landlord's on-site tenant coordinator. If American incurs costs greater than such estimated rate, Tenant shall reimburse American within twenty (20) days of demand for any such actual excess costs.

VI. PROGRESS MEETINGS; MISCELLANEOUS.

A. Representatives of Landlord and Tenant, as designated in writing to each other, shall establish and attend on-site progress meetings with such periods of frequency during the performance of Tenant's Work as may be mutually agreed upon but no less frequently than bi-weekly.

B. Tenant shall perform Tenant's Work so as not to: (i) unreasonably interfere with any other construction being performed at the Terminal or the Airport; or (ii) unreasonably impair the use, occupancy or enjoyment at the Terminal and/or the Airport by Landlord, American, the Authority, other airlines, other subtenants operating concession facilities or customers of any of them.

C. Tenant shall (i) take all safety measures required to protect the Terminal and/or the Airport from injury or damage caused by or resulting from the performance of Tenant's Work and defend, protect and indemnify Landlord, American and the Authority (including their respective agents, commissioners, officers, directors and employees), other airlines, other subtenants operating concession facilities or customers of any of them from any and all claims arising from or in connection with the death of or accident, injury, loss or damage whatsoever caused to any natural person or to the property of any person or entity arising out of, in connection with, or as a result of Tenant's Work; (ii) repair any and all damage to the Terminal and/or the Airport as a result of Tenant's Work; and (iii) require all contractors and subcontractors to comply with all of the Authority's Requirements and Tenant's Construction Requirements for the performance of Tenant's Work.

EXHIBIT E

AUTHORITY STREET PRICING REQUIREMENTS

A. General Authority Street Pricing Policy.

The Aviation Department of the Authority requires specific pricing criteria in all concessions agreements at the Airport. In general, the Authority and American seek to promote fair and reasonable prices in airport concession programs. The street pricing policy is also designed to produce a greater volume of sales, thereby reflecting the Authority's and American's objective to provide high customer service and optimization of financial return. The Authority's street pricing policy requires that prices charged at the Airport will be comparable to off-airport prices. In general, the policy requires any specialty retail, newsstand and food & beverage vendors that operate both on-airport and off-airport to price goods in the on-airport store within the range of prices charged at their off-airport stores. For vendors without off-airport operations in the area, comparable stores in the region are identified to establish the basis for street prices (the specific methodology for this comparison is established based upon the specific type of store and merchandise sold). For duty free concession vendors, where there are no comparable off-airport operations, the pricing policy requires that the prices of duty free merchandise be substantially comparable to the prices charged for duty free goods in duty free stores at other airports in the northeastern United States. Further, vendors must submit price lists for all goods and services in advance for approval. The street pricing policy also requires vendors to post signs in clearly visible locations notifying customers that the store charges fair and reasonable prices that are comparable to other stores in the region. Landlord requires strict adherence to the Authority's street pricing policy.

B. Comparable Locations In the Metro Area.

1. Specialty Retail and Food & Beverage Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the various types of specialty retail and food & beverage concession facilities permitted hereunder shall be compared to similar specialty retail and food & beverage establishments located in major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time.

2. Newsstand and News & Gifts Concession Facilities. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for newspapers, magazines and sundries shall be compared to local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. For price comparative purposes, the street pricing policy requires that the prices charged in the newsstand and news & gift concession facilities permitted hereunder for gifts, souvenirs and novelties shall be compared to both similar gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as well as to the local convenience store chains and/or local non-Airport news & gift locations (excluding any locations which do not have multiple independent competitive sources and operators) in the Metro Area as selected by Landlord from time to time.

C. **Specialty Retail and Food & Beverage Concession Facilities Pricing Requirements.**

Tenant's prices for all specialty retail and food & beverage products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor are the same or comparable with comparable brands in specialty retail and food & beverage establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) comparable establishments in such locations within the Metro Area. Tenant's prices may not exceed the average price of those similar items in the five (5) comparable establishments.

D. **Newsstand and News & Gifts Concession Facilities Pricing Requirements.**

Tenant's prices for all news and gift products permitted to be sold under the Permitted Use clause in this Sublease shall at all times be fair and reasonable and must be competitively priced such that the prices charged therefor for newspapers, magazines and sundries are the same or comparable to those charged by the local convenience store chains and/or local non-Airport news & gift establishments (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time and for gifts, souvenirs and novelties to those charged by comparable gift, souvenir and novelty establishments located in the major regional malls, shopping centers, or other appropriate retail/entertainment complexes (excluding any locations which do not have multiple independent competitive sources and operators) located in the Metro Area as selected by Landlord from time to time. To determine fair, reasonable and comparable prices, Landlord or its agents, at least once per year or more often if Landlord so desires, may select five (5) establishments in such locations within the Metro Area. Tenant's prices on any specific item may not exceed the average price of those similar items in the five (5) comparable establishments.

E. **General Pricing Requirements.**

In all other situations and circumstances for which no specific pricing requirement has been established, Tenant shall abide by the following pricing requirements. Tenant shall offer for sale only goods of first-class quality. For such goods, Tenant shall charge fair, reasonable and competitive prices. When an item has a suggested retail price pre-marked and established by the manufacturer or distributor, Tenant shall not charge the public a price higher than the suggested retail pre-marked price without the prior written approval of Landlord in accordance with the Authority's street pricing policy. When an item has no suggested retail price or pre-marked price, the item shall be sold at a price as first approved by Landlord in accordance with the Authority's street pricing policy.

EXHIBIT F

ADDITIONAL INSURED AND LOSS PAYEE ENTITIES

Each of Tenant's insurance policies (except for workers' compensation and employers' liability coverage) required under Section 11.01 of the Sublease shall name the following entities as additional insureds:

WESTFIELD CONCESSION MANAGEMENT, LLC, a Delaware limited liability company

WESTFIELD, LLC, a Delaware limited liability company

AMERICAN AIRLINES, INC., a Delaware corporation

AMERICAN EAGLE AIRLINES, INC., a Delaware corporation

AMR CORPORATION, a Delaware corporation

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THE CITY OF NEW YORK

NEW YORK CITY ECONOMIC DEVELOPMENT CORPOTATION, a New York not-for-profit corporation

Certificates of Insurance evidencing the Tenant's insurance coverages shall be delivered by Tenant to Landlord upon execution of the Sublease and no later than prior to delivery of the Premises to Tenant at the following address:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

The certificate holder on each of the Certificates of Insurance shall be as follows:

Westfield Concession Management, LLC
John F. Kennedy International Airport-Terminal 8
Jamaica, New York 11430
Attention: General Manager

EXHIBIT G

M/W/DBE CERTIFICATION

To qualify as a Disadvantaged Business Enterprise or Disadvantaged Business ("M/W/DBE"), the firm must meet the criteria established by the U.S. Department of Transportation in 49 CFR Parts 23 and 26 and be certified by the Authority. Currently, to qualify as a DBE, the firm must be a small business concern whose average annual receipts for the preceding three (3) fiscal years does not exceed Thirty Million Dollars ($30,000,000.00) and it must be (a) at least fifty-one percent (51%) owned and controlled by one (1) or more socially and economically disadvantaged individuals, or in the case of any publicly owned business, at least fifty-one percent (51%) of the stock is owned by one (1) or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one (1) or more of the socially or economically disadvantaged individuals who own it. For other types of business operations, the U.S. Small Business Administration size standards are used to determine eligibility for certification. The DBE may, if other qualifications are met, be a franchisee of a franchisor. An airport concession is a for-profit business enterprise, located on an airport, which is subject to the Code of Federal Regulations 49 Part 23, subpart F, that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor, another concessionaire, or the owner or operator of a terminal, if other than the sponsor. The Authority makes a "rebuttable presumption that individuals in the following groups who are citizens of the United States or lawful permanent residents are "socially and economically disadvantaged:

a. Women;

b. Black Americans which includes persons having origins in any of the Black racial groups of Africa;

c. Hispanic Americans which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

d. Native Americans which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;

e. Asian-Pacific Americans which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

f. Asian-Indian Americans which includes persons whose origins are from India, Pakistan and Bangladesh; and

g. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. Section 637(a)).

"**Minority**" means the following: (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (b) Hispanic (all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American culture or origin, regardless of race); (c) 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 (d) 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). For purposes hereof, "Minority

Business Enterprise" or "MBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and continuing. For the purposes hereof, "Women-owned Business Enterprise" or "WBE" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing.

Other individuals may be found to be socially and economically disadvantaged on a case-by-case basis. For example, a disabled Vietnam veteran, an Appalachian white male, or another person may claim to be disadvantaged. If such individual requests that his or her firm be certified as M/WDBE, the Authority, as part of the certification process, will determine whether the individual is socially or economically disadvantaged under the criteria established by the Federal Government. These owners must demonstrate that their disadvantaged status arose from individual circumstances, rather than by virtue of membership in a group.

The Authority has compiled a list, which may be supplemented and revised from time to time by the Authority, to indicate the firms the Authority determined satisfy the criteria for M/W/DBE certification. Such list shall be made available to the proposers upon request. The Authority makes no representations as to the financial responsibility of such firms, their technical competence to perform, nor any other performance-related qualifications. Only listed M/W/DBEs and such firms not so listed, but certified by the Authority as M/W/DBEs hereunder, will count towards M/W/DBE requirements.

Certification of M/W/DBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If a proposer wishes to utilize a firm not so listed but which the proposer believes should be certified as a M/W/DBE, that firm shall submit to the Authority a written request for a determination that the firm is eligible for certification. This shall be done by completing and forwarding such forms as may be required by the Authority from time to time. All such requests shall be in writing, addressed to Mr. John Alexander, Supervisor, Certification Programs or other designee of the Economic Development Department/Office of Business and Job Opportunity, The Port Authority of New York and New Jersey, Newark Legal Center, One Riverfront Plaza, 9P^{thP} Floor, Newark, New Jersey 07102 or such other address as the Authority may designate from time to time. Eligibility for certification shall only be made in writing over the name of the General Manager in charge of the Office of Business and Job Opportunity. The determination of the Authority shall be final and binding on the applicant. For inquiries or assistance, please contact John Alexander at (973) 565-5522.

EXHIBIT H

Westfield Concession Management, LLC
2730 University Boulevard, Suite LL3
Wheaton, Maryland 20902
Attention: Airport Division Project Controller

Date: _____

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. _____

To the Addressee:

At the request of ____A____, we ____B____, hereby open this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. ____C____ in your favor up to an aggregate of $ ____D____ U.S. Dollars, available by your draft(s) on us at sight.

We warrant to you that all of your drafts under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT will be duly honored upon presentation of your draft(s) drawn on us and presented to us at the office of our New York City Branch, now located at ____E____, ____E____ on or before the expiration set forth below or future expiration date as indicated below. Our obligation under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT is the individual obligation of the Bank, in no way contingent upon reimbursement with respect thereto, or upon our ability to perform any lien or security interest.

All drafts must be marked "Drawn Under ____B____ Letter of Credit No. ____C____ dated _____, 200_." Partial drawings under this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT are permitted. Drafts must be accompanied by a statement from an authorized representative of Westfield Concession Management, LLC, or its designee, that ____A____ has not performed certain terms, conditions or covenants contained in the Sublease dated _____, 200_, by and between Westfield Concession Management, LLC and ____A____.

This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT expires at the close of business on ____F____, 200_. This CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT shall be automatically extended without amendment for additional periods of one (1) year from the present or each future expiration date unless we have notified you in writing not less than sixty (60) days before such date that we elect not to extend this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT for such additional period, such notice to be sent by registered or certified mail to you at the address herein. Upon receipt by you of such notice you may draw on us at sight for the balance remaining in this CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT within the then applicable expiration date, no statement required. **EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, THIS CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION) INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.**

_____
Bank Officer/Representative

LEGEND:

A: INSERT APPLICANT NAME, I.E. TENANT NAME.
B: INSERT NAME OF ISSUING BANK.
C: INSERT LOC IDENTIFICATION NUMBER.
D: INSERT DOLLAR VALUE OF INSTRUMENT.
E: INSERT EXACT ADDRESS OF LOCAL BANK BRANCH.
F: INSERT EXPIRATION DATE OF SUBLEASE PLUS 90 DAYS.

EXHIBIT I

AFFIRMATIVE ACTION-EQUAL OPPORTUNITY

Part I AFFIRMATIVE ACTION GUIDELINES – EQUAL EMPLOYMENT OPPORTUNITY

I. As a matter of policy the Authority, Landlord and American hereby require Tenant to comply with the provisions set forth hereinafter in this Exhibit I and in sections 41, 68(I)(b) and 79 (b)(1) of the Authority Lease. The provisions set forth in this Part I are similar to the conditions for bidding on federal government contracts adopted by the Office of Federal Contract Compliance and effective May 8, 1978.

Tenant and Tenant's respective bidders, contractors and subcontractors 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"). Tenant 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. Tenant 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. Tenant 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%; and (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 Tenant and Tenant shall provide written notification to Landlord and the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the 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 herein: (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; and (2) "**Minority**" – as in the Definitions to the Concession Area Lease.

(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 non-working 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 (2) 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 Tenant 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 (6) 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 (1) 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 (6) 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 circulation of solicitations to Minority and female contractor associations and other business associations.

(16) Conduct a review, at least every six (6) months, of all supervisors' adherence to and performance under the Contractors' EEO policies and affirmative action obligations.

(i) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one (1) or more of their affirmative action obligations (subparagraphs (1)-(16) of Paragraph (h) above). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one (1) or more of its obligations under Paragraph (h) hereof provided that: the Contractor actively participates in the group, makes good faith efforts to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's Minority and female workforce participation, makes good faith efforts to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is

the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.

(j) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal opportunity and to take affirmative action for all Minority groups, both male and female, and all women, both Minority and non-Minority. Consequently, the Contractor may be in violation hereof if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation hereof if a specific Minority group of women is underutilized).

(k) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

(l) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

(m) The Contractor shall carry out such sanctions and penalties for violation of this clause including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered by Tenant. Any Contractor who fails to carry out such sanctions and penalties shall be in violation hereof.

(n) The Contractor, in fulfilling its obligations hereunder shall implement specific affirmative actions steps, at least as extensive as those standards prescribed in paragraph (h) hereof so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of these provisions, Tenant shall proceed accordingly.

(o) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanical apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and location at which the work is performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

(p) 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 (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(q) Without limiting any other obligation, term or provision under the Concession Area Lease, the Contractor shall cooperate with all federal, state or local agencies established for the purpose of implementing affirmative action compliance programs and shall comply with all procedures and guidelines established or which may be established by the Authority.

PART II MINORITY BUSINESS ENTERPRISES/WOMEN-OWNED BUSINESS ENTERPRISES

As a matter of policy the Authority, Landlord and American require Tenant and Tenant shall itself and shall require all general contractors or other construction supervisors and each of Tenant's contractors to use every good faith effort to provide for meaningful participation by Minority Business Enterprises (MBEs) and Women-owned Business Enterprises (WBEs) in the construction work, pursuant to the provisions of this Exhibit I. For purposes hereof, "**Minority Business Enterprise**" "(MBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident aliens who are minorities and such ownership is real, substantial and

continuing. For the purposes hereof, "**Women-owned Business Enterprise**" "(WBE)" shall mean any business enterprise which is at least fifty-one percent owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by women and such ownership is real, substantial and continuing. "**Meaningful participation**" shall mean that at least seventeen percent (17%) of the total dollar value of the construction contracts (including subcontracts) covering the construction work are for the participation of Minority Business Enterprises and Women-owned Business Enterprises, of which at least twelve percent (12%) are for the participation of Minority Business Enterprises. Good faith efforts to include meaningful participation by MBEs and WBEs shall include at least the following:

(a) Dividing the work to be subcontracted into smaller portions where feasible.

(b) Actively and affirmatively soliciting bids for subcontracts from MBEs and WBEs, including circulation of solicitations to Minority and female contractor associations. The Contractor shall maintain records detailing the efforts made to provide for meaningful MBE and WBE participation in the work, including the names and addresses of all MBEs and WBEs contacted and, if any such MBE or WBE is not selected as a joint venturer or subcontractor, the reason for such decision.

(c) Making plans and specifications for prospective construction work available to MBEs and WBEs in sufficient time for review.

(d) Utilizing the list of eligible MBEs and WBEs maintained by the Authority or seeking minorities and women from other sources for the purpose of soliciting bids for subcontractors.

(e) Encouraging the formation of joint ventures, partnerships or other similar arrangements among subcontractors, where appropriate, to insure that Tenant and Contractor will meet their obligations hereunder.

(f) Insuring that provision is made to provide progress payments to MBEs and WBEs on a timely basis.

(g) Not requiring bonds from and/or providing bonds and insurance for MBEs and WBEs, where appropriate.

Certification of MBEs and WBEs hereunder shall be made by the Economic Development Department/Business and Job Opportunity of the Authority. If the Contractor wishes to utilize a firm not already certified by the Authority, it shall submit to the Authority a written request for a determination that the proposed firm is eligible for certification. This shall be done by completing and forwarding such form as may be then required by the Authority. All such requests shall be in writing addressed to the Economic Development Department/Business and Job Opportunity, Port Authority of New York and New Jersey, Newark Legal Center, Riverfront Plaza, 9th floor, Newark, New Jersey 07102, or such other address as the Authority may specify by notice. Certification shall be effective only if made in writing by the General Manager in charge of the Economic Development Department/Business and Job Opportunity of the Authority. The determination of the Authority shall be final and binding.

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

EXHIBIT J

LOCAL BUSINESS ENTERPRISE COMMITMENT

As a matter of policy, Landlord, American and the Authority hereby require Tenant and Tenant shall require any Contractor utilized by Tenant to perform construction work on the Premises to comply with the provisions set forth hereinafter in this Exhibit J.

(1) Tenant and each Contractor shall use every good faith effort to maximize the participation of Local Business Enterprises ("**LBEs**") in all construction work on the Premises, including without limitation, the Section 2B Work. In order to assure familiarity with the services and materials provided by LBEs, the Contractor shall attend such meetings as may be called by the General Manager of the Airport on LBEs and shall contact the Queens Air Services Development Office ("**ASDO**"), located at John F. Kennedy International Airport, Bldg. 80, First Floor, South Service Court, Jamaica, NY 11430 to obtain LBE Vendor Profiles and access ASDO's on-line vendor retrieval system ("**BASIS**"). Landlord, American or the Authority has not checked the references, capabilities or financial background of the LBEs registered with the ASDO, but is referring the Contractor to the ASDO and BASIS solely for the purpose of advising Contractors of LBEs who may be interested in providing services and/or materials to the Contractor.

(2) Good faith efforts to include participation by LBEs in construction work shall include at least the following: (i) Dividing the work to be subcontracted and services and materials to be procured into small portions, where feasible. (ii) Soliciting bids on portions of the work to be subcontracted and services and materials to be procured from LBEs registered with ASDO and such other LBEs as the Contractor deems appropriate.

(3) Landlord, American and the Authority are committed to making employment opportunities available to local residents and expects that the Contractor will utilize LBEs.

(4) It is specifically understood and agreed that the requirements set forth herein for the participation of LBEs shall not alter, limit, diminish or modify any of the obligations under the Concession Area Lease or this Sublease including, without limitation, the obligation to put into effect the affirmative action program and the MBE and WBE programs in accordance with the provisions set forth above in Exhibit I.

EXHIBIT K

PERFORMANCE STANDARDS

All items marked with an "*" denote a Minimum Performance Standard. There shall be no notice and cure periods for failure to comply with any Minimum Performance Standard. For all other Performance Standards which are not Minimum Performance Standards, the graduated fines shall not be applicable until fourteen (14) days after Landlord has provided Tenant with written notice of its failure to comply and such failure to comply by Tenant continues after such fourteen (14) day notice and cure period. These graduated fines are in addition to any other remedies available to Landlord under this Sublease, at law or in equity, including, but not limited to, the liquidated damages provisions set forth in Article VII. The Performance Standards and the Minimum Performance Standards are subject to change from time to time as may be directed by Landlord or the Authority.

PERFORMANCE CATEGORIES

A. PRICE AND PRODUCT QUALITY

"Street" Pricing:

1. Landlord will periodically perform benchmark "street" pricing surveys to establish "street" pricing and to ensure that the price/value relationship is consistent with major regional malls, shopping centers and complexes in the Metro Area as further described in Section 7.02(g) and **Exhibit E**. Upon written notification by Landlord of a pricing discrepancy, Tenant shall adjust prices to comply with the "street" pricing policy. Tenants who fail to do so within two (2) days of such notification shall be subject to fines identified herein until strict compliance has been achieved.

2. Tenant shall participate in marketing campaigns designed to promote the "street" pricing message. Tenant's participation may include, but is not limited to, employee buttons, POS signage and window decals.*

3. Tenant will respond within 72 hours to a complaint received on the Fair Pricing '800' number established and advertised by Landlord. Customers shall be reimbursed by Tenant as appropriate and provide evidence of such reimbursement to Landlord when requested from time to time.*

4. Prices for all products and services must be visible on the product, a menu board, price signage and/or on the shelf.*

5. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

Product and Service Quality:

1. All products displayed and offered for sale and all services rendered shall be authentic, high quality and in brand-new condition at all times.*

2. Tenant shall immediately remove from display and shall thereafter not display nor offer for sale any defective or lesser quality products (even if at a lesser price) or products which are deemed to be non-authentic, the so-called

"grey market", "imitation" or "knock-off" products.*

3. Tenant shall only be permitted to sell products or render services for which Tenant has the right, whether by license or otherwise, to sell or render.*

4. Tenant shall install and maintain at all times a display of non-perishable high-quality merchandise and products in the display windows, if any, as required herein and shall keep the display windows well lighted, clean and stocked with non-perishable merchandise or appropriate displays.

5. Window displays shall be changed frequently and no less often than on a quarterly basis.*

6. All newsstand and news & sundries concessions shall sell United States postage at face value with associated signage located in the Premises that postage stamps are available.*

7. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

B. CUSTOMER SERVICE AND PERSONNEL

1. Tenant shall continuously operate its business in the Premises during all Terminal concession service hours. Tenant shall open or keep open the Premises for business upon 2 hours prior verbal notice from Landlord.*

2. The level of Tenant's Operating Staff shall include sufficient numbers (including cashiers, management and supervisory personnel) to fully service and meet the needs of customers at all times.

3. All Operating Staff and employees of Tenant must wear nametags identifying the store and the first name of the person at all times.*

4. All Operating Staff, employees and other representatives of Tenant must wear Authority issued security ID badges at all times whenever located in any sterile/secure area (e.g., beyond security checkpoints) of the Airport.* It is recommended that such security ID badge be worn at all time when on Airport property.

5. All Operating Staff and employees of Tenant shall be courteous, neat in appearance, appropriately attired and shall use skill and diligence in the conduct of business and shall not act in a loud, offensive or otherwise objectionable manner or in a manner detrimental to the best interests of Landlord or the Authority.*

6. All Operating Staff and employees of Tenant shall be knowledgeable about all products displayed and offered for sale and all services rendered and able to respond appropriately to questions from customers about products and services.*

7. All Operating Staff and employees shall have sufficient knowledge of the Terminal in which each is employed and of the Airport to promptly and courteously direct passengers in and around the Terminal and the Airport, including, without limitation, to airlines, gates, customer information booths or customer information personnel, baggage carts, ATMs, other concession locations, telephones, rest rooms, escalators and elevators, exits and access to other terminals, and ground transportation.

8. Tenant must accept at least 2 nationally recognized credit cards for payment. Tenant must provide all customers with a receipt for all purchases made. Tenant shall offer shipping and gift wrap services (if appropriate for the type and size of the merchandise or product being offered) at cost. Tenant must provide, without charge, change making service at each cashier's location regardless of whether a purchase is made.*

9. All customers must be greeted in a friendly and timely manner and must thank the customer and provide a friendly goodbye by Tenant's Operating staff and employees.*

10. All Operating Staff and employees must regularly participate in Landlord's TOS training, classroom and in-store training.*

11. The layout of the Premises must be convenient for travelers with luggage, easy to navigate.

12. Tenant shall, within twenty-four (24) hours of receipt of any customer complaint by Tenant, forward a copy of the complaint to Landlord and Tenant shall respond to such complaint in writing within three (3) days after receipt thereof and shall make a good faith effort to explain, resolve or rectify the cause of such complaint.*

13. Tenant's Store Manager or his or her designee, must be available, by telephone and such other communication device as Landlord may require, on a twenty-four (24) hour per day, seven (7) day per week basis to respond to Landlord on day to day issues and in the event of emergencies.*

14. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.

C. PREMISES CLEANLINESS AND APPEARANCE

1. Tenant shall operate the Premises in a well-organized, safe, professional, clean and attractive manner and condition at all times, and all Fixed Improvements (including walls, floors, etc.) and Operating Equipment (including POS systems, fixtures and furniture) shall be maintained in good condition and repair at all times.*

2. No auction, liquidation, going out of business, fire or bankruptcy sale may be conducted or advertised by sign or otherwise in the Premises.*

3. Any area occupied by Tenant and all equipment and materials used by Tenant shall at all times be kept clean, sanitary, and free from rubbish, refuse, dust, dirt, spills, stains, offensive or unclean materials, flies and other insects, rodents and vermin in accordance with any and all applicable rules, regulations and requirements of Landlord and in accordance with any and all laws, statutes, ordinances and regulations that may be promulgated from time to time by governmental agencies and authorities. Storefronts are to be kept clean and free from dirt, dust and debris.*

4. Exterior and interior signage are properly illuminated and all lighting fixtures are in good working order.*

5. All trash receptacles are adequate in number, not overflowing.*

6. Display cases shall be kept completely stocked with merchandise and attractive.

7. No merchandise shall be displayed outside of the Premises or on the floor at any time.*

8. Graduated Fines. Failure to comply with either the Minimum Performance Standard or the Performance Standard will result in the implementation of a graduated fine system for all instances of non-compliance which occur during a rolling twelve (12) month period:

First Violation: $100.00/day until corrected.
Second Violation: $200.00/day until corrected.
Third Violation: $300.00/day until corrected.
Fourth and subsequent Violations: On each subsequent violation following the third violation, the fines will increased in $100.00 increments. For example, on the fourth violation the daily fine assessed will be $400.00 and on the fifth violation, the daily fine assessed will be $500.00.
All fines assessed by Landlord shall be paid by Tenant to Landlord within ten (10) days after written demand.