

Lease No. AMT-004

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

AGREEMENT OF LEASE

Between

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

And

BMW OF NORTH AMERICA, LLC.

Dated as of March 8, 2009

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Schedule A
Schedule B

Exhibit A
Exhibit A-1

Lease No. AMT-004

THIS AGREEMENT OF LEASE, made as of the 8th day of March, 2009 (hereinafter called the "Agreement"), by and between THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter called "the Port Authority"), a body corporate and politic created by Compact between the States of New Jersey and New York, with the consent of the Congress of the United States of America, and having an office and place of business at 225 Park Avenue South, New York, New York 10003; and BMW OF NORTH AMERICA, LLC (hereinafter called the "Lessee"), a limited liability corporation organized and existing under the laws of the State of Delaware and having an office and place of business at 300 Chestnut Ridge, Woodcliff Lake, New Jersey 07677-7731, whose representative is: Herbert L. Klein.

WITNESSETH, THAT:

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

Section 1. Letting

The Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at the property of the Port Authority more fully described in Section 30(j) hereof (sometimes hereinafter called the "Facility" or the "marine terminal"), in the City of Jersey City, in the County of Hudson and State of New Jersey, the open area shown in diagonal-cross hatching and outlined in broken lines (hereinafter called "Area A") on a sketch hereto attached, hereby made a part hereof, and marked "Exhibit A", and together with the buildings, structures, fixtures, improvements and other property, if any, of the Port Authority located or to be located or constructed therein or thereon, the said land and buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter called the "premises". The Port Authority and the Lessee hereby acknowledge that the premises constitutes non-residential property.

Section 2. Term

The term of the letting under this Agreement of the Premises shall commence at 12:01 o'clock A.M. on March 8, 2009 (hereinafter referred to as the "Effective Date") and, unless sooner terminated, shall expire at 11:59 o'clock P.M. on April 30, 2019.

Section 3. Rental

(a) For the purposes of this Section and for all other purposes under this Agreement the following terms shall have the respective meaning provided below:

(1) "Annual period" shall mean as the context requires the twelve-month period commencing with the Rental Payment Start Date and each of the twelve-month periods thereafter occurring during the term of the letting under this Agreement commencing on each anniversary of the Rental Payment Start Date occurring during the term of the letting hereunder.

(2) "Rental Payment Start Date" shall mean the earlier of (i) the Effective Date, or (ii) the date on which the Lessee commences in the premises any of the operations authorized therein by Section 4 of this Agreement.

(b) Basic Rental

(1) The Lessee shall pay annual rental (hereinafter called the "basic rental") at the rate of Eight Hundred Fifty-three Thousand Seven Hundred Seventy-six Dollars and No Cents (\$853,776.00) per annum, payable in advance in monthly installments of Seventy-one Thousand One Hundred Forty-eight Dollars and No Cents (\$71,148.00) on the Rental Payment Start Date and on the first day of each calendar month thereafter during each such annual period except that if the Rental Payment Start Date shall be a day other than the first day of a calendar month the installment of basic rental payable on the Rental Payment Start Day shall be an amount equal to the amount of the installment described in this subparagraph multiplied by a fraction the numerator of which shall be the number of days from the Rental Payment Start Date to the last day of the calendar month in which the Rental Payment Start Date shall fall and the denominator of which shall be the number of days in that calendar month. The basic rental set forth in this subparagraph shall be adjusted during the term of the letting in accordance with the provisions of subparagraph (2) of this paragraph.

(2) As used in this subparagraph:

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

(ii) "Base Period" shall mean the calendar month immediately preceding the calendar month in which the Rental Payment Start Day shall occur.

(iii) "Adjustment Period" shall mean, as the context requires, the calendar month immediately preceding the calendar month in which the first anniversary of the Rental Payment Start Date shall occur under this Agreement and the calendar month immediately preceding the calendar month in which the each anniversary of such date shall thereafter occur during the term of the letting hereunder.

(iv) "Anniversary Date" shall mean, as the context requires, the first anniversary of the Rental Payment Start Date and each anniversary of such date which thereafter occurs during the term of the letting hereunder.

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

Commencing on each Anniversary Date occurring during the term of the letting under this Agreement and continuing through to the day preceding the next Anniversary Date, or the expiration date of the term of the letting of the Lease, as the case may be, both dates inclusive, in lieu of the basic rental set forth in paragraph (b) hereof the Lessee shall pay a basic rental in equal monthly installments payable on the first day of each calendar month at a rate per annum equal to the greater of:

(i) the sum obtained by adding to the basic rental set forth in paragraph (b) hereof the product obtained by multiplying such basic rental by one hundred percent (100%) of the Percentage Increase for such Anniversary Date, or

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

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

provided, however, that in no event shall the basic rental that shall be payable pursuant to paragraph (b) hereof and this paragraph commencing with each Anniversary Date and continuing through to the day preceding the following Anniversary Date, or the expiration date of the term of the letting of the Lease, as the case may be, both dates inclusive, exceed the amount set forth in the Schedule attached hereto, hereby made a part hereof, and marked "Schedule B" opposite the respective Anniversary Date. For example, if the Percentage Increase for the calendar month of the preceding the first Anniversary Date is shown to be two percent (2%) then the basic rental payable under paragraph (b) hereof and this subparagraph for the one-year period commencing on the first Anniversary Date shall be \$879,384.00, but if (1) said increases are shown to be four percent (4%) then the basic rental for that one-year period shall be \$887,927.00 and if (2) said increases are shown to be six percent (6%) then the basic rental for that one-year period shall be \$896,460.00.

(3) In the event the Index to be used in computing any adjustment referred to in subparagraph (2) of this paragraph is not available on the effective date of such adjustment, the Lessee shall continue to pay the basic rental at the

annual rate then in effect subject to retroactive adjustment at such time as the specified Index becomes available, provided, however, that the Port Authority may at its option substitute for such Index the Index for the latest preceding month then published to constitute the specified Index. In the event the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100) shall hereafter be converted to a different standard reference base or otherwise revised or the United States Department of Labor shall cease to publish the United States Consumer Price Index for All Urban Consumers - New York-Northern New Jersey-Long Island, NY-NJ-CT (All Items, unadjusted 1982-84=100), then for the purposes hereof there shall be substituted for the Index such other appropriate index or indices properly reflecting changes in the value of current United States money in a manner similar to that established in the Index used in the latest adjustment as the Port Authority in its discretion shall determine.

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

If any adjustment of the basic rental referred to in subparagraph (2) of this paragraph is effective on a day other than the first day of a calendar month, there shall be payable in advance on the effective date of rental adjustment an installment of the basic rental equal to 1/12th of the increment of annual basic rental as adjusted multiplied by a fraction, the numerator of which shall be the number of days from the effective date of the rental adjustment to the end of the calendar month in which the rental adjustment was effective and the denominator of which shall be the number of days in that calendar month.

(c) Annual Throughput Rental

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

(a) The term "Annual Period" shall mean, as the context requires, the twenty-four day period commencing on March 8, 2009 and ending on March 31, 2009 and thereafter the twelve-month period commencing on April 1, 2009 and each succeeding twelve-month period commencing on each April^{1st} thereafter occurring during the term of the letting under the Lease.

(b) The term "Guaranteed Annual Throughput Number" shall mean sixty thousand (60,000) for each Annual Period to occur during both the term of the letting under this Agreement and under Lease Number AMT-001 heretofore entered into between the Port Authority and the Lessee as of December 22, 1987 (hereinafter "the Other Lease"). In the event the term of the letting under this Agreement is terminated pursuant to the provisions of Section 38 hereunder, the term "Guaranteed Annual Throughput Number" shall mean thirty thousand (30,000) for each Annual Period thereafter occurring after such date of termination.

(2) In addition to all other basic rentals payable by the Lessee under the Lease, the Lessee shall pay to the Port Authority an additional basic rental (hereinafter called the "Annual Throughput Rental") in accordance with the provisions of this paragraph. If the Port Authority shall not receive dockage charges and wharfage charges pursuant to the Port Authority's tariff, as incorporated in FMC Schedule PA-10, or any successor tariff, as the same may be amended from time to time during the term of the letting (which charges are hereinafter sometimes called "Dockage and Wharfage Charges" and which tariff is hereinafter called "the Tariff"), on at least the Guaranteed Annual Throughput Number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during any Annual Period occurring during the period from the Effective Date through the expiration date of the term of the letting hereunder, then the Lessee shall pay to the Port Authority an amount equal to the product obtained by multiplying (1) the difference between the Guaranteed Annual Throughput Number and the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during such Annual Period as to which the Port Authority received Dockage and Wharfage Charges by (2) the sum of Sixteen Dollars and No Cents (\$16.00) (hereinafter called the "Unit Rate"). The Unit Rate shall be adjusted during the term of the letting proportionately to such adjustments as may be made to the per ton wharfage charge for unboxed motor vehicles discharged at public berths located at the Port Authority's Marine Terminal facilities, as set forth in the Tariff. The time and manner of payment of the Annual Throughput Rental shall be as set forth in subparagraph (c) of this paragraph.

The computation of the Annual Throughput Rental for each Annual Period, or a portion of an Annual Period as herein provided, shall be individual to such Annual Period and without relation to any other Annual Period, or any other portion of any annual Period.

(3) The Lessee shall pay the Annual Throughput Rental described in subparagraph (b) of this paragraph as follows: on the thirtieth day of the month following the end of each Annual Period occurring during the period from The Effective Date through the expiration of the term of the letting, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee setting forth the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during the Annual Period for which the statement is made as to which the Port Authority has received Dockage and Wharfage Charges. Whenever any such statement shall show that the number of vehicles

discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during that Annual Period as to which the Port Authority has received Dockage and Wharfage Charges is less than the Guaranteed Annual Throughput Number, the Lessee shall pay within sixty (60) days following the date set forth above of the rendering of said statement an amount equal to the product obtained by multiplying (1) the difference between the Guaranteed Annual Throughput Number and the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during that Annual Period as to which the Port Authority has received Dockage and Wharfage Charges by (2) the Unit Rate as of March 31, 2010, and on each anniversary of such date throughout the balance of the term of the letting.

(4) Upon any termination of the letting hereunder (even if stated to have the same effect as expiration), the Lessee shall render to the Port Authority on the thirtieth day of the first month following the month in which the effective date of such termination occurs a statement certified by a responsible officer of the Lessee setting forth the number of vehicles discharged to the Facility for the account of the Lessee and/or discharged from the Facility by the Lessee during the period from the commencement of the Annual Period in which the effective date of termination occurs through the effective date of termination as to which the Port Authority has received Dockage and Wharfage Charges. The statement shall also set forth the product obtained by multiplying (1) the number of vehicles described in the immediately preceding sentence by (2) a fraction, the numerator of which shall be 365 and the denominator of which shall be the number of days from the commencement of the Annual Period in which the effective date of termination occurs through the effective date of termination (the result of such calculation being hereinafter called "the Projected Number of the Lessee's Vehicles"). If the Projected Number of the Lessee's Vehicles is less than the Guaranteed Annual Throughput Number as of the effective date of termination, then the Lessee shall pay to the Port Authority Annual Throughput Rental for the Annual Period in which the effective date of termination occurs in an amount equal to the product obtained by multiplying (i) the difference between the Guaranteed Annual Throughput Number and the Projected Number of the Lessee's Vehicles by (ii) the Unit Rate as of the effective date of termination. Any Annual Throughput Rental due to the Port Authority under this subparagraph shall be remitted within sixty-(60) days following the date set forth above for the rendering of the statement referred to herein.

(5) During the period from the Effective Date through the expiration of the date of the letting, the Lessee shall continue to provide the Port Authority with a written statement setting forth the following information within thirty (30) days of the completion of the discharge of vehicles from any waterborne vessel to the Facility across a public wharf for the account of the Lessee and/or the discharge of vehicles to any waterborne vessel from the Facility across a public wharf by the Lessee: (1) the name of the waterborne vessel, (2) the date or dates on which such vehicles were so discharged to the Facility and/or the date or dates on which such vehicles were so discharged from the Facility, and (3) the cumulative number of each model of vehicle so discharged to the Facility and/or the cumulative number of each model of vehicle so discharged from the Facility.

(6) Effective on the Effective Date, the obligations of the Lessee set forth in Section 24 entitled "Survival of the Obligations of the Lessee" shall include the following obligation in the event of termination of the Lease under Section 21 entitled "Termination" (any such termination being hereinafter in this paragraph called a "Termination"): on account of the Lessee's obligation to pay the Annual Throughput Rental, an amount equal to all such Annual Throughput Rental payable as provided for in paragraph (d) hereof for the balance of the term of the letting, following the effective date of the Termination (which remaining term of the letting is hereinafter called "the Remaining Term"); the amount of such Annual Throughput Rental payable as provided for in paragraph (d) of this Agreement for the Remaining Term shall be derived by multiplying the number of whole Annual Periods that would have occurred during the Remaining Term by the product of (1) the Unit Rate and (2) the Guaranteed Annual Throughput Number.

(d) Abatement

(i) In the event the Lessee shall at any time by the provisions of this Agreement become entitled to an abatement of Basic Rental, the Basic Rental for each square foot of land let to the Lessee under this Agreement, the use of which is denied the Lessee, shall be reduced for each calendar day or major fraction thereof the abatement remains in effect, at the rate of \$1.96 for each square foot of land the use of which is denied the Lessee, subject to adjustment as provided hereinabove, (it being understood that there shall be no abatement of Basic Rental under the Lease for any portion of the premises other than land area or for any portion of the term except as specifically provided in this Agreement).

(ii) In the event the Lessee shall at any time by the provisions of this Agreement become entitled to an abatement of Annual Throughput Rental, the Annual Throughput Rental for each acre of land let to the Lessee under this Agreement, the use of which is denied the Lessee, shall be reduced for each calendar day or major fraction thereof the abatement remains in effect, at the rate of 3,000 cars per acre of land the use of which is denied the Lessee (it being understood that there shall be no abatement of Annual Throughput Rental under the Lease for any portion of the premises other than land area or for any portion of the term except as specifically provided in this Agreement).

Section 4. Use of the Premises

The Lessee shall use the premises primarily for the receipt, preparation, storage incidental to distribution, and distribution of imported motor vehicles and parts therefor which are substantially waterborne to or from the Facility, for the account of persons, firms and corporations other than the Lessee. The Lessee shall not use the premises for any other purpose whatsoever.

Section 5. Construction by the Lessee

(a) The Lessee shall be required to perform certain work in: (i) the premises hereunder, including the striping of the pavement in the open area, and (ii) the premises let to the Lessee in the Other Lease, as hereinabove defined in Section 3 (c)(1)(b). Prior to commencing the performance of any construction work the Lessee shall submit to the Port Authority for its approval a Construction Application, in the form prescribed by the Port Authority, and containing such terms and conditions as the Port Authority may include, setting forth in detail and by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same. The data to be supplied by the Lessee shall identify separately each item of construction work the Lessee proposes to perform, and shall describe in detail the improvements, fixtures, equipment, and systems, if any, to be installed by the Lessee. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee to the Port Authority shall bear the seal of a qualified architect or professional engineer, who shall be responsible for the administration of the work in accordance with the Port Authority's requirements, and shall be in sufficient detail for a contractor to perform the work. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may require for such review. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until the Port Authority has approved each such contractor or subcontractor. The Lessee shall include in any such contract or subcontract such provisions as the Port Authority may approve or require, including, without limitation thereto, provisions regarding labor harmony. The Lessee shall cause each such contractor and subcontractor to obtain and maintain in force such insurance coverage and performance bonds as the Port Authority shall specify. All work to be performed by the Lessee hereunder shall be done in accordance with the said Construction Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. Upon completion of the construction work the Lessee shall supply the Port Authority with a certificate signed by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this paragraph that all of the work performed by the Lessee has been performed in accordance with the plans and specifications approved by the Port Authority and the provisions of this Agreement and the Lessee shall supply the Port Authority with as-built drawings in such form and number as are requested by the Port Authority.

(b) In the event of any inconsistency between the provisions of this Agreement, and those of the Construction Application, the provisions of this Agreement shall control. The Lessee shall conduct no public operations in the premises until the construction work to be performed by the Lessee has been completed and the Port Authority has determined the premises to be suitable for occupancy by the Lessee.

(c) The Lessee shall be solely responsible for the plans and specifications used by it and for the adequacy or sufficiency of such plans and specifications and all of the improvements depicted thereon or covered thereby, regardless of the consent thereto or approval thereof by the Port Authority or the incorporation therein of any Port Authority requirements or recommendations. The Port Authority shall have no obligation or liability in connection with the performance of any of the aforesaid work or for the contracts for the performance thereof entered into by the Lessee. Any warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of the Port Authority as well as the Lessee.

(d) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall do all preventive maintenance and make all repairs, replacements, rebuilding, and painting necessary to keep such improvements, fixtures, finishes, and decorations made or installed by the Lessee (whether the same involves structural or non-structural work) in the condition they were in when made and installed except for reasonable wear.

(e) The Lessee shall pay all claims lawfully made against it by its contractors, subcontractors, material-men and workmen and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the work and shall cause its contractors and subcontractors to pay all such claims lawfully made against them.

(f) The Lessee shall expend not less than Two Hundred Thousand Dollars and No Cents (\$200,000.00) (the "minimum Construction Amount") in direct payments to contractors, architects, suppliers, subcontractors or any other person engaged by the Lessee or any of its contractors for work performed or materials purchased in connection with the design, construction and installation of the work described in this Section.

Section 6. Infrastructure

(a) The Port Authority has constructed and installed at the Facility, off the premises, (i) a berth for the loading and unloading of seagoing car carrying vessels (hereinafter sometimes called the "Berth"); (ii) a paved access route connecting the Berth to the premises; (iii) a five acre first point of rest in the vicinity of the Berth sufficient for the receipt and staging of motor vehicles discharged to the Facility by the Lessee and which shall be lighted and fenced, the configuration of which are shall be designated by the Facility Manager from time to time (which area is hereinafter sometimes called the "First Point of Rest Area"); and (iv) storm and sanitary drains and water mains on the perimeter of the premises (the facilities described in items (ii), (iii) and (iv) as shown on the sketch attached hereto, hereby made a part hereof and marked "Exhibit A-1" are hereinafter collectively referred to as the "Infrastructure"). Subject to such non-arbitrary rules and regulations as the Port Authority may have or may hereafter promulgate for the safe and efficient operation of the Facility and the Infrastructure in accordance with the

provisions of the Section of this Agreement entitled "Rules and Regulations", the Port Authority hereby grants to the Lessee the non-exclusive right to use the Infrastructure in common with other users thereof.

(b) Upon the Port Authority's receipt from the Lessee or its agent, of at least ninety-six (96) hours' prior written notice of the arrival of a seagoing vessel carrying motor vehicles and parts therefore to be discharged to the Berth for and on behalf of the Lessee, the Port Authority will make the Berth available to such seagoing vessel, for such purpose. Such preferential use of the Berth shall be under such permit as the Port Authority may issue upon application therefore prior to the arrival of the seagoing vessel and subject to the provisions of the Tariff, including, without limitation, payment to the Port Authority with respect to each seagoing vessel of dockage charges and wharfrage charges under the Tariff. The Lessee shall have no right to the use of the Berth for the berthing of seagoing vessels except as expressly provided for in this Agreement. Notwithstanding the Lessee's use of the Berth as herein described, the Port shall have no liability to the Lessee resulting from the use of the Berth by others, for the purposes described herein, with Port Authority consent.

(c) In consideration of the foregoing and notwithstanding the provisions of paragraph (e) of this Section, the Lessee hereby agrees to be responsible for any and all work, and its costs therefore, associated with its use of the Infrastructure, including without limitation, costs of snow-removal and security services to safeguard the property of the Lessee, or the property for which the Lessee is responsible, placed on or discharged to the First Point of Rest Area.

(d) Without limiting the generality of any of the provisions of this Agreement, the Port Authority shall have no liability of any kind whatsoever for loss, theft or damage of or to any property, equipment or materials of any kind whatsoever placed on the Berth or the First Point of Rest Area, or elsewhere at the Facility, including, but not limited to, any loss, theft or damage due to the acts or omissions of the Port Authority. The Lessee hereby acknowledges that the Port Authority shall have no responsibility to keep the Berth or the First Point of Rest Area guarded, attended or patrolled at any time. In consideration of the foregoing and notwithstanding the provisions of paragraph (c) of this Section,

(e) Notwithstanding the provisions of paragraph (b) of this Section, the Lessee shall not do anything or permit anything to be done which will interfere with the rights of others to use the Infrastructure and the Port Authority agrees to require its other lessees at the Facility not to interfere with the Lessee's right to use the Infrastructure, as set forth herein. Nothing in this paragraph shall be deemed or construed to be a grant or letting to the Lessee of any berth or construed to be a grant or letting to the Lessee of any berth, roadway, utility lines or structures, or common area, or of any facility forming a part of the Infrastructure. The effective period of the permission granted under this Agreement with respect to the use of the facilities forming a part of the Infrastructure shall commence on the Effective Date and shall expire simultaneously with the expiration (or earlier termination) of the letting of the premises hereunder. The Port

Authority shall be responsible for the repairs, replacements, and maintenance of the Infrastructure unless such repairs, replacements, or maintenance are required as a result of the acts or omissions of the Lessee, its officers, employees, agents, representatives, or contractors.

Section 7. Quiet Enjoyment

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

Section 8. Ingress and Egress

The Lessee for itself, its officers, employees, agents and business invitees shall have the right of ingress and egress between the premises and the city streets outside the Facility. Such right shall be exercised by means of such pedestrian or vehicular ways, to be used in common with others having rights of passage within the Facility, as may from time to time be designated by the Port Authority for the use of the public. The use of any such way shall be subject to the rules and regulations of the Port Authority which are now in effect or which may hereafter be promulgated for the safe and efficient operation of the Facility. The Port Authority may at any time temporarily or permanently close, or consent to or request the closing of, any such way or any other area at, in or near the Facility presently or hereafter used as such, so long as a means of ingress and egress as provided above remains available to the Lessee. The Lessee hereby releases and discharges the Port Authority and its successors and assigns, of and from any and all claims, demands, or causes of action which the Lessee may now or at any time hereafter have against any of the foregoing, arising or alleged to arise out of the closing of any way or other area whether within or outside the Facility. The Lessee shall not do or permit anything to be done which will interfere with the free access and passage of others to space adjacent to the Premises or in, along, across or through any streets, ways and walks near the premises.

Section 9. Governmental and Other Requirements

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

(b) The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future governmental laws, rules, regulations, requirements, orders and directions which may pertain or apply to its operations

hereunder, or to its use and occupancy of the premises hereunder, and in addition shall make all improvements, repairs and alterations which may be so required.

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

Section 10. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees and others on the Premises with its consent to observe and obey) the Rules and Regulations of the Port Authority (the "Rules and Regulations") now in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the government of the conduct and operations of the Lessee as may from time to time during the letting be promulgated by the Port Authority for reasons of safety, health, or preservation of property, or for the maintenance of the good and orderly appearance of the Premises, or for the safe or efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Lessee of every such further rule or regulation at least five (5) days before the Lessee shall be required to comply therewith. The Lessee will not be deemed in default of its obligations under this paragraph to compel other than its officers and employees to comply with the Rules and Regulations of the Port Authority if it has used its best efforts to compel such compliance.

(b) If a copy of the Rules and Regulations is not attached as Exhibit R to this Agreement, then the Port Authority will notify the Lessee thereof either by delivery of a copy, or by publication in a newspaper published in the Port of New York District, or by making a copy available at the office of the Secretary of the Port Authority. The Port Authority hereby agrees to apply the Rules and Regulations set forth in Exhibit R and any further rule or regulation hereafter promulgated by the Port Authority equitably and without discrimination against the Lessee and all other tenants at the Facility except to the extent that any such Rule or Regulation may be inapplicable by agreement or otherwise to the Lessee or any such tenant.

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

(d) In the event that any present or future Rule or Regulation, or any part thereof, is inconsistent with the rights granted to the Lessee under this Agreement or prevents the use of the premises for the purposes stated under this Agreement, then, only to the extent of such inconsistency, it shall not apply to the Lessee, its agents, employees

or invitees; but nothing herein contained shall limit the effectiveness of any rule or regulation now or hereafter promulgated by the Port Authority for reasons of safety, health or preservation of property, or for the safe or efficient operation of the Facility.

Section 11. Method of Operation

(a) In the performance of its obligations hereunder and in the use of the Premises, the Lessee shall conduct its operations in an orderly and proper manner, so as not to annoy disturb or be offensive to others near the Premises or at the Facility, and within twenty-four (24) hours the Lessee shall remove the cause of any objection made by the Port Authority relative to the demeanor, conduct or appearance of any of the employees of the Lessee or of any others on the Premises with the consent of the Lessee.

(b) The Lessee shall not allow any garbage, debris or other waste materials (whether solid or liquid) to collect or accumulate on the Premises and the Lessee shall remove from the Premises and from the Facility all garbage, debris and other waste materials (whether solid or liquid) arising out of its operations hereunder. Any such material which may be temporarily stored shall be kept in suitable waste receptacles, the same to be made of metal and equipped with tight-fitting covers, and in any case to be designed and constructed to contain safely the waste material placed by the Lessee therein. Said receptacles shall be provided and maintained by the Lessee and shall be kept covered except when being filled or emptied. The Lessee shall use extreme care when effecting removal of all such material, shall effect such removal at such times and by such means as are first approved by the Port Authority, and shall in no event make use of any facilities or equipment of the Port Authority for the removal of such material except with the prior consent of the Port Authority.

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

(d) The Lessee shall not commit any nuisance or permit its employees or others on the Premises with its consent to commit or create or continue or tend to create any nuisance in or near the Facility. The Port Authority hereby agrees to apply the provisions of this paragraph equitably and without discrimination against the Lessee and all other tenants at the Facility.

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

(f) The Lessee shall not allow to emanate from the premises any noxious or objectionable smokes, gases, or vapors.

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

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

(i) The Lessee shall not do or permit to be done any act or thing on the Premises or at the Facility which (i) will invalidate or conflict with any fire insurance policies covering the Premises or any part thereof, or the Facility, or any part thereof, or (ii) which, in the opinion of the Port Authority, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations permitted by this Agreement, or (iii) which will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon. The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the National Fire Protection Association and of the Insurance Services Office of New Jersey, or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Lessee on the Premises, and the Lessee shall, subject to and in accordance with the provisions of this Agreement relating to construction by the Lessee, make all improvements, alterations and repairs of the Premises that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction which may pertain or apply to the operations of the Lessee on the Premises. If by reason of any failure on the part of the Lessee to comply with the provisions of this paragraph, any rate for fire insurance, extended coverage or rental insurance on the Premises or any part thereof, or on the Facility or any part thereof, shall at any time be higher than it otherwise would be, then the Lessee shall pay to the Port Authority that part of all premiums paid by the Port Authority which shall have been charged because of such violation or failure by the Lessee.

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

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

Section 12. Signs

(a) Except with the prior consent of the Port Authority, the Lessee shall not erect, maintain or display any advertising, signs, posters or similar devices at or on the premises or elsewhere at the Facility, provided, however, that the Lessee may erect, maintain and display one (1) identification sign on the exterior of the premises and may erect, maintain, and display a reasonable number of identification, directional and informational signs necessary for its operations within the premises and in the hallways of any building which the premises are located. The type of signs erected by the Lessee pursuant to this provision, and the location and method of installation thereof shall be subject to the Port Authority's approval which approval shall not be unreasonably withheld. The Lessee shall keep all signs installed in any portion of the premises regularly open to the public and any signs installed on the exterior of any portion of the premises at all times in a clean, first-class condition and appearance. All maintenance, repair and replacement obligations of the Lessee pursuant to this Agreement shall be applicable to all signs installed by the Lessee, and on or before the expiration or earlier termination of this Agreement the Lessee shall remove the same and repair and restore the area affected thereby to the same condition and appearance as the adjacent surface.

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

Section 13. Indemnity and Liability Insurance

(a) The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees and representatives, from all claims and demands of third persons including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, arising out of the use or occupancy of the premises by the Lessee or by its officers, agents, employees, or representatives, contractors, subcontractors or their employees, or by others on the Premises with the consent of any of the foregoing persons, or out of any other acts or omissions of the Lessee, its officers, agents or employees on the premises or elsewhere at the Facility, or out of the acts or omissions of others on the premises with the consent of the Lessee, including claims and demands of the party, if any, from which the Port Authority derives its rights in the Facility for indemnification arising by operation of law or through agreement of the Port Authority with such party.

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

(c) The Lessee, in its own name as assured, shall maintain and pay the premiums on the following described policies of Commercial General Liability Insurance (which insurance shall include without limitation Garage Keeper's Legal Liability coverage) and Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with its operations hereunder which policies shall cover its operations hereunder and shall be effective throughout the letting, in limits not lower than the following:

(1) Bodily-injury liability: for injury to or wrongful death of one person, \$2,000,000; for injury to or wrongful death or more than one person from any one occurrence, \$2,000,000; and

(2) Property-damage liability: for all damages arising out of injury to or destruction of property in any one occurrence, \$2,000,000.

(3) Commercial Automobile Liability Insurance: (covering owned, non-owned and hired vehicles), combined single limit per occurrence for death, bodily injury and property damage liability, \$2,000,000.

In addition, the Lessee shall also take out and maintain Worker's Compensation Insurance in accordance with the requirements of law, and the Lessee's Worker's compensation Policy shall be specially endorsed to include coverage afforded by the U. S. Longshoremen's and Harbor Workers' Compensation Act.

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

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

(e) As to insurance of any type whatsoever required or permitted by any provision of this Agreement, a certified copy of each of the policies or a certificate evidencing the existence thereof, or a binder, shall be delivered to the Port Authority, as the case may be, either prior to the commencement of the term hereof or prior to the commencement of any specific work item. In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving ten (10) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. Notwithstanding the foregoing, it is specifically understood and agreed that the Port Authority shall have the right upon notice to the Lessee given from time to time and at any time to require the Lessee to increase any or all of the minimum limits to commercially reasonable amounts, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly comply therewith and shall promptly submit a certificate or certificates evidencing the same or substitute such carrier with another carrier satisfactory to the Port Authority.

Section 14. Maintenance and Repair

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

(b) The Lessee shall repair, replace, rebuild and paint all or any part of the premises or of the Facility which may be damaged or destroyed by the acts or omissions of the Lessee or by those of its officers or employees, or of other persons on or at the premises with the consent of the Lessee, other than employees of the Port Authority, its agents, and contractors. The provisions of this paragraph shall not require the Lessee to repair, replace, rebuild, or paint any portion of the Facility, other than the premises, damaged or destroyed by the acts or omissions of persons other than the Lessee, its officers, members, employees, agents or contractors.

(c) Commencing on the Effective Date of this Agreement, the Port Authority shall (i) install a fence and jersey barriers around the perimeter of the premises,

and (ii) assume the responsibility for all pavement maintenance and repair on the premises. Notwithstanding the foregoing, the Port Authority shall not be liable to the Lessee for the maintenance and repair of the fence and guardrail upon its installation unless the Port Authority shall reconfigure the premises as the same may be required pursuant to the provisions of Section 48 hereof. In the event the Port Authority resurfaces the premises, in whole or in part, at the Port Authority's cost and expense, (the specifications for such resurfacing to be determined by the Port Authority and the Lessee), the Port Authority shall thereafter no longer be liable to the Lessee for any further pavement maintenance and repair of the premises (including the resurfacing thereof) on any part of the premises during the balance of the term of the letting under this Agreement.

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

(e) Except under circumstances as to which paragraph (b) of this Section applies, the Port Authority will repair, replace, and maintain the Infrastructure. Notwithstanding the foregoing, in the event that as a result of a casualty insured against in favor of the Port Authority under the New Jersey Standard Form of Fire Insurance Policy and the New Jersey Form of Extended Coverage Endorsement carried by it on any wharf, roadway, structure, or other facility which is part of the Infrastructure or in the event of a casualty which at the time of the occurrence of the damage would have been covered by the New Jersey Standard Form of Fire Insurance Policy and the New Jersey Standard Form of Extended Coverage Endorsement, whether or not said policy or endorsement was actually carried by the Port Authority at the time of such damage, the Infrastructure is damaged (without the fault of the Lessee, its officers, employees, agents, or contractors) so as to render it unusable in whole or in part, then

(1) if the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that the necessary repairs or rebuilding can be completed within ninety (90) days after the occurrence of the damage, the Port Authority shall repair or rebuild with due diligence.

(2) if the Port Authority, acting in a non-arbitrary and non-capricious manner, determines that the necessary repairs or rebuilding cannot be completed within ninety (90) days after the occurrence of the damage, then the Port Authority shall have the option exercisable by notice given to the Lessee within sixty (60) days' of the occurrence of the damage: (i) to repair or rebuild with due diligence, provided, that in the event the Port Authority shall notify the Lessee that the Port

Authority elects this option, the Lessee shall have the right on thirty (30) days' notice to the Port Authority given within ten (10) days' of its receipt of the Port Authority's notice to terminate the letting under this Agreement with the same effect as expiration provided, that, a responsible officer or partner of the Lessee shall certify to the Port Authority that on an economic or operational basis the premises are unusable by the Lessee for the operations described in Section 4 of this Agreement prior to the substantial completion of the repairs or rebuilding and the Lessee shall give the Port Authority notice of such termination in writing within twenty (20) days after the Lessee's receipt of notification from the Port Authority respecting the duration of the repairs or rebuilding and provided, further, that the Lessee is not then in default under this Agreement after the giving of a notice thereof, and the expiration of any applicable period to cure, or under notice of termination from the Port Authority either on the date of the giving of its notice to the Port Authority or on the effective date thereof; or (ii) to terminate the Lessee's right to the use of the damaged wharf, roadway, structure, or other facility only, provided, that in the event the Port Authority shall notify the Lessee that the Port Authority elects this option, the Lessee shall have the right on thirty (30) days' notice to the Port Authority given within ten (10) days' of its receipt of the Port Authority's notice to terminate the letting under this Agreement with the same effect as expiration provided, that a responsible officer of the Lessee certifies to the Port Authority that on an economic or operational basis the premises is unusable for the continued operations of the Lessee as provided in Section 4 hereof without the use of the damaged wharf, roadway, structure, or other facility which has been damaged or destroyed and the Lessee shall give the Port Authority notice of such termination in writing within twenty (20) days after the Lessee's receipt of notification from the Port Authority terminating the Lessee's right to the use thereof, and provided, further, that the Lessee is not in default under this Agreement after the giving of a notice thereof, and the expiration of any applicable period to cure, or under notice of termination from the Port Authority either on the date of the giving of the notice or on the effective date thereof; or (iii) to terminate the letting as to the entire premises, provided, that in the event the Port Authority elects this option the Port Authority shall certify to the Lessee that at least 50% of the other leases at the Facility have been similarly terminated. In the event the letting under this Agreement is terminated pursuant to the provisions of this paragraph, this Agreement and the letting hereunder shall cease and expire on the effective date of termination stated in the notice as if such date were the date originally stated herein for the expiration of this Agreement. Such termination shall not relieve the Lessee of any obligations or liabilities which shall have accrued on or before the effective date of termination stated in the notice, or which shall mature on such date.

(3) If, in the case of any event described in this paragraph, the Port Authority elects to repair or rebuild, the Lessee shall not be entitled to any abatement of the Basic Rental payable under this Agreement except if, and only to the extent that, the Port Authority actually received the proceeds of rental insurance, if any, in effect in connection with such damage. Nothing herein shall be construed to imply an obligation on the Port Authority to carry any such insurance. In no event shall the Lessee be entitled to an abatement of the Facility Rental or Additional Basic Rental payable pursuant to the provision of this Agreement.

Section 15. Casualty

(a) In the event that as a result of a casualty, whether or not insured or insurable; the premises are damaged the Lessee shall rebuild the same with due diligence. The proceeds of insurance from coverages secured in accordance with the Section of this Agreement entitled Maintenance and Repair shall be made available to the Lessee against the cost of such rebuilding.

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

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

Section 16. Construction by the Lessee

The Lessee shall not erect any structures, make any improvements or do any other construction work on the premises or alter, modify or make additions, improvements or repairs to or replacements of, any structure now existing or built at any time during the letting, or install any fixtures without the prior consent of the Port Authority. In the event any construction, improvement, alteration, modification, addition, repair or replacement is made, with or without the Port Authority's consent, and unless the consent of the Port Authority shall expressly provide otherwise, the same shall immediately become the property of the Port Authority, and the Lessee shall have no right to remove the same either during the letting or at the expiration thereof unless the Port Authority, at any time prior to the expiration of the term of the letting, or any

extension or renewal thereof, shall give notice to the Lessee to remove the same, or to cause the same to be changed to the satisfaction of the Port Authority, in which case the Lessee agrees to remove the same, or change it in compliance with such notice. In case of any failure on the part of the Lessee to comply with such notice, the Port Authority may effect the removal or change, and the Lessee hereby agrees to pay the cost thereof to the Port Authority upon demand. The Lessee shall have no obligations to change, restore or remove any part or aspect of the premises (hereinafter called the "Restoration Obligations") to the condition the same was in before the completion of any specific work item, unless at the time of approval of the Tenant Alteration Application and plans submitted by the Lessee, the Port Authority has specifically required such Restoration Obligations.

Section 17. Additional Rent and Charges

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

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

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

Section 18. Rights of Entry Reserved

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

(b) Without limiting the generality of the foregoing, the Port Authority, by its officers, employees, agents, representatives, and contractors, and on behalf of furnishers of utilities and other services, shall have the right, for its own benefit, for the benefit of the Lessee, or for the benefit of others than the Lessee at the Facility, to maintain existing and future utility, mechanical, electrical and other systems and to enter upon the Premises at all reasonable times to make such repairs, replacements or alterations as the Port Authority shall deem necessary or advisable and, from time to time, to construct or install over, in or under the Premises new systems or parts thereof, and to use the Premises for access to other parts of the Facility otherwise not conveniently accessible; provided, however that in the exercise of such rights of access, repair, alteration or new construction the Port Authority shall not unreasonably interfere with the use and occupancy of the Premises by the Lessee.

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

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

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

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

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

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

Section 19. Limitation of Rights and Privileges Granted

(a) The premises are let to the Lessee and the Lessee takes the same subject to all the following: (i) easements, restrictions, reservations, covenants and agreements, if any, to which the premises may be subject; rights of the public in and to any public street; (ii) rights, if any, of any enterprise, public or private, which is engaged in furnishing heating, lighting, power, telegraph, telephone, steam, or transportation services and of the municipality and State in which the premises are located; (iii) permits, licenses, regulations and restrictions, if any, of the United States the municipality or State in which the Premises are located, or other governmental authority.

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

(c) Nothing in this Agreement contained shall grant to the Lessee any rights whatsoever in the air space above the roof of any building or buildings or portion of any building or buildings, if any are included in the premises (except to the extent required in either case for the performance of any of the obligations of the Lessee hereunder), or more than twenty (20) feet above the present ground level of any open area included in the premises. If any construction or installation is contemplated in this Agreement, the height thereof above ground shall be as determined solely by the Port Authority.

Section 20. Prohibited Acts

(a) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of the drainage and sewerage system, water system, communications system, fuel system, electrical, fire-protection system,

sprinkler system, alarm system, fire hydrants and hoses and other systems, if any, installed or located on, under, or in the premises.

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

(c) The Lessee shall not operate any engine or any item of automotive equipment in any enclosed space on the premises unless such space is adequately ventilated.

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

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

(f) The Lessee shall not keep or store in the premises, explosives, inflammable liquids or solids or oxidized materials or use any cleaning materials having a harmful corrosive effect on any part of the Premises.

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

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

Section 21. Termination

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

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

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

(3) A petition under any part of the federal bankruptcy laws or an action under any present or future insolvency law or statute shall be filed against the Lessee and shall not be dismissed within sixty (60) days after the filing thereof; or

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

(5) The Lessee shall, without the prior approval of the Port Authority, become a possessor or merged corporation in a merger, a constituent corporation in a consolidation, or a corporation in dissolution.; or

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

(7) By or pursuant to, or under authority of any legislative act, resolution or rule, or any order or decree of any court or governmental board, agency or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of the Lessee, and such possession or control shall continue in effect for a period of ninety (90) days; or

(8) The Lessee shall voluntarily abandon, desert or vacate the premises or discontinue its operations at the Premises or at the Facility for a period in excess of sixty (60) days or, after exhausting or abandoning any right of further appeal,

the Lessee shall be prevented for a period of ninety (90) days by action of any governmental agency from conducting its operations on the premises, regardless of the fault of the Lessee; or

(9) Any lien shall be filed against the premises because of any act or omission of the Lessee and shall not be discharged or bonded within thirty (30) days; or

(10) The Lessee shall fail duly and punctually to pay the rental or to make any other payment required under this Agreement when due to the Port Authority; or

(11) The Lessee shall fail to keep, perform and observe each and every other promise, covenant and agreement set forth in this Agreement, on its part to be kept, performed or observed, within thirty (30) days after its receipt of notice of default thereunder from the Port Authority (except where fulfillment of its obligation requires activity over a period of time, and the Lessee shall have commenced to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice, and continues such performance without interruption except for causes beyond its control);

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

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

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

(d) The rights of termination described above shall be in addition to any other rights of termination provided in this Agreement and in addition to any rights and remedies that the Port Authority would have at law or in equity consequent upon any

breach of this Agreement by the Lessee, and the exercise by the Port Authority of any right of termination shall be without prejudice to any other such rights and remedies.

Section 21A. Termination with Cause

Further, in the event the Port Authority exercises its right to revoke or terminate this Agreement for any reason under this Agreement, the Lessee shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such termination, including without limitation any re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of the premises which may be used and occupied under this Agreement (on failure of the Lessee to have it restored), preparing the premises for use by a succeeding lessee, the care and maintenance of the premises during any period of non-use of the premises, the foregoing to include, without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), repairing and altering the space and putting the premises in order (such as but not limited to cleaning and decorating the same).

Section 22. Right of Re-entry

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 21 of this Agreement, have the right to re-enter the premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or other legal proceedings. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 23. Waiver of Redemption

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

Section 24. Survival of the Obligations of the Lessee

(a) In the event that the letting shall have been terminated in accordance with a notice of termination as provided in Section 21 of this Agreement, or the interest of the Lessee shall have been cancelled pursuant thereto, or in the event that the Port Authority has re-entered, regained or resumed possession of the premises in accordance with the provisions of Section 22 of this Agreement, all of the obligations of the Lessee under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of the letting, as originally fixed in Section 2 hereof, and the amount or amounts of damages or deficiency shall become due and payable to the Port Authority to the same

extent, at the same time or times and in the same manner as if no termination, cancellation, re-entry, regaining or resumption of possession has taken place. The Port Authority may maintain separate actions each month to recover the damage or deficiency then due, or at its option and at any time may sue to recover the full deficiency (less the proper discount) for the entire unexpired term.

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

(1) The amount of the total of all annual rentals (including without limitation the Facility Rental, if any), less the installments thereof paid prior to the effective date of termination, except that the credit to be allowed for the installment paid on the first day of the month in which the termination is effective shall be prorated for the part of the month the letting remains in effect on a daily basis; and

(2) An amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such termination, cancellation, re-entry, regaining or resumption of possession, collecting all amounts due to the Port Authority, the restoration of the premises (on failure of the Lessee to have restored), the reletting of the premises, the care and maintenance of the premises during any period of vacancy of the premises, the foregoing to include without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of in-house legal services), boiler insurance premiums, if any, brokerage fees and commissions, repairing and altering the premises and putting the premises in order (such as but not limited to cleaning and decorating the premises).

Section 25. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, may occupy the premises or may relet the premises and shall have the right to permit any person, firm or corporation to enter upon the premises and use the same. Such reletting may be of part only of the premises or of the premises, and for a period of time the same as or different from the balance of the term hereunder remaining, and on terms and conditions the same as or different from those set forth in this Agreement. The Port Authority shall also, upon termination or cancellation pursuant to Section 21 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 22 of this Agreement, have the right to repair and to make structural or other changes in the premises, including changes which alter the character of the premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection

with the use of the premises (or portion thereof) during the balance of the term of the letting as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender.

Section 26. Remedies to Be Nonexclusive

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

Section 27. Surrender

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

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

Section 28. Acceptance of Surrender of Lease

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

Section 29. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing (which shall include a telegram when delivered to the telegraph company), and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an office of such party, officer or representative during regular business hours; or (iii) if directed to the Lessee, delivered to the premises at any time during normal business hours; or (iv) forwarded to such party, officer or representative at the office address by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar courier service. The Lessee shall designate an office within the Port of New York District and an officer or representative whose regular place of business is at such office. Until further notice, the Port Authority hereby designates its Executive Director, and the Lessee designates the person whose name appears on the first page of this Agreement as their respective officers or representatives upon whom notices and requests may be served, and the Port Authority designates its office at 225 Park Avenue South, New York, New York 10003, and the Lessee designates its office, the address of which is set forth in Page 1 of this Agreement, as their respective offices where notices and requests may be served. For informational purposes only, the Port Authority hereby agrees to deliver copies of all such notices to Salim El-Murr, 20 Colony Road, Jersey City, New Jersey 07305.

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

Section 30. General

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

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

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

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

(4) If the Lessee is a limited liability company, its obligations shall be performed and its rights shall be exercised by its members, trustees, officers and employees;

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

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

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

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

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

(f) All payments required of the Lessee by this Agreement shall be made by mail to The Port Authority of New York and New Jersey, P. O. Box 95000-

1517, Philadelphia, Pennsylvania 19195-1517, or made via the following wire transfer directions: Name of bank: TD Bank, Bank ABA number: 031201360, Account number: (Ex. 1) or to such other address as may be substituted therefor.

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

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

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

(j) As used in this Agreement, "Facility" or "marine terminal" shall mean the real property, buildings, structures, fixtures, improvements, and other property transferred to the Port Authority under the provisions of three deeds from the Penn Central Corporation, a Pennsylvania corporation, and The United New Jersey Railroad and Canal Company, a New Jersey corporation, each of which deeds was dated December 30, 1981, and it shall also mean such additional property adjacent thereto as the Port Authority may hereafter acquire and any additional structures, fixtures, improvements and other property which may have been heretofore or may hereafter be installed or constructed on any property or properties heretofore mentioned.

(k) As used in this Agreement, "letting" shall include any extension of the letting under this Agreement, whether made by agreement or by operation of law, and "Manager of the Facility" or "Manager" shall mean the person or persons from time to time designated by the Port Authority to exercise the powers and functions vested in the said Manager or in the Superintendent of the Facility by this Agreement; but until further notice from the Port Authority to the Lessee, it shall mean the Manager (or the Acting Manager) Port Authority Marine Terminals-New Jersey for the time being, or his duly designated representative or representatives.

(l) No designation in this Agreement of any area as a street, highway, roadway or other comparable characterization, whether or not by name, shall be or be deemed to be an admission, recognition or acknowledgement of public or private rights in the area so designated, or as a dedication for or a consent to any public or private use of

the same. All use in this Agreement of names and designations in connection with such areas is merely for the purpose of fixing geographical locations.

Section 31. Premises

(a) The Lessee acknowledges that it has not relied upon any representation or statement of the Port Authority or its Commissioners, officers, employees or agents as to the condition of the Premises or the suitability thereof for the operations permitted on the Premises by this Agreement. The Lessee, prior to the execution of this Agreement, has thoroughly examined the Premises as existing and has found the same to be suitable and satisfactory for the operations of the Lessee contemplated and permitted under this Agreement. Without limiting any obligation of the Lessee to commence operations under this Agreement at the time and in the manner stated elsewhere in this Agreement, the Lessee agrees that no portion of the Premises will be used initially or at any time during the letting which is in a condition unsafe or improper for the conduct of the operations of the Lessee, so that there is possibility of injury or damage to life or property, and the Lessee further agrees that before any use it will immediately correct any such unsafe or improper condition. Nothing contained in this Section is intended to relieve the Port Authority from any obligations expressly assumed by the Port Authority as elsewhere set forth in this Agreement.

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

(c) The Port Authority acknowledges and agrees that it shall install such fencing, jersey barriers and/or guard rails, as it shall, in its sole discretion deem appropriate, in such area on the perimeter of the premises as it shall determine and in the First-Point-of-Rest Area, for the purpose of securing such areas. The Port Authority shall determine the location, manner, type and method of construction and the size of any of the foregoing.

Section 32. Force Majeure

(a) Neither the Port Authority nor the Lessee shall be liable for any failure, delay or interruption in performing its obligations hereunder due to causes or conditions beyond its control, including without limitation thereto, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type (whether affecting the Port Authority or its contractors, or subcontractors). Further, neither party shall be liable unless the failure, delay or interruption shall result from failure on the part of such party to use reasonable care to prevent or reasonable efforts to cure such failure, delay or interruption. This provision shall not apply to or affect failures by the Lessee to pay the rentals or other charges specified in this Agreement.

(b) The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency. The Port Authority shall not discriminate against the Lessee or arbitrarily single out the Lessee or its premises in connection with the Port Authority's voluntary compliance with any law, rule, regulation, requirements, order or direction described in this paragraph, and if it is permitted to do so under such law, rule, regulation, requirements, order or direction, and to the extent practicable, the Port Authority will allocate such service or services to the Lessee and other lessees at the Facility.

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

Section 33. Brokerage

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

Section 34. Non-Liability of Individuals

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

Section 35. Services

(a) The Port Authority shall be under no obligation to supply the Lessee with any services provided by utility companies and other service providers, including but not limited to water, gas, electricity, sewer service, heat, steam, air-

conditioning, telephone, telegraph, cable, or electrical guard or watch service. Nothing contained herein shall be construed to relieve the Port Authority of its obligation to construct the Infrastructure pursuant to the provisions of Section 6 of this Agreement.

(b) The Lessee shall promptly pay all water and sewer charges both covering consumption on the premises. In the event the municipality or public utility is the direct provider of cold water and sewer service, the Lessee shall make arrangements with such entity for such service and pay bills directly to the provider for same. If any such bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of additional rental, payable to the Port Authority on demand.

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

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

(e) No failure, delay or interruption in any service or services, whether such service or services shall be supplied by the Port Authority or by others, shall relieve or be construed to relieve the Lessee of any of its obligations hereunder, or shall be or be construed to be an eviction of the Lessee, or shall constitute grounds for any diminution or abatement of the rental or rentals payable under this Agreement, or grounds for any claim by the Lessee for damages, consequential, or otherwise.

Without in any wise affecting the obligations of the Lessee elsewhere stated in this Agreement, the Lessee shall, subject to the provisions of Section 16 of this Agreement, provide, maintain and keep in good order, condition and repair any and all meters (to be located as designated by the Port Authority, other governmental authority or utility), ship-filling lines and other water-using equipment and facilities.

Section 36 Rental Credit

During the term of the letting under this Agreement, and in lieu of the Rental Credit in effect pursuant to Section 36 of that agreement between BMW of North America, Inc., and the Port Authority denominated by Port Authority Lease Number AMT-001, dated as of December 22, 1987, the Lessee shall be entitled to a credit against the basic rental payable by the Lessee pursuant to subparagraphs (1) and (2) of Section 3(b) hereof as follows:

(a) If during an annual period the Port Authority shall receive dockage and wharfage charges on a number of motor vehicles discharged to the Facility by the Lessee that is in excess of seventy-five thousand (75,000) but not in excess of eighty thousand (80,000) motor vehicles, then the Lessee shall be entitled to a credit against basic rental in an amount equal to the product obtained by multiplying (i) the number of motor vehicles so discharged by the Lessee that is in excess of seventy-five thousand (75,000) by (ii) twenty-five percent (25%) of the prevailing FMC Tariff rate in effect for dockage and wharfage.

(b) If during any annual period the Port Authority shall receive dockage and wharfage charges on a number motor vehicles discharged to the Facility by the Lessee that is in excess of eighty thousand (80,000), then the Lessee shall be entitled to a credit against basic rental in an amount equal to the product obtained by multiplying (i) the number of motor vehicles so discharged by the Lessee that is in excess of eighty thousand (80,000) by (ii) fifty percent (50%) of the prevailing FMC Tariff rate in effect for dockage and wharfage. Notwithstanding anything to the contrary in this paragraph, the Lessee shall not be entitled to a credit against basic rental pursuant to this Section for any motor vehicles discharged to the Facility by the Lessee during any annual period that is in excess of one hundred twenty thousand (120,000) motor vehicles to the Facility by the Lessee during such annual period.

(c) For purposes of determining the number of motor vehicles discharged to the Facility by the Lessee under the provisions of paragraphs (a) and (b) of this Section, the following categories of motor vehicles (and no others whatsoever) shall be counted: motor vehicles manufactured by the Lessee or an affiliated company thereof (hereinafter in this Agreement sometimes called "BMW's").

(d) Any credit to which the Lessee shall be entitled pursuant to this Section shall be applied on an annual basis to the monthly installments of basic rental payable by the Lessee during the next succeeding annual period until exhausted. Any such credit arising during the eleventh (11th) annual period under this letting hereunder shall be paid to the Lessee within thirty (30) days after receipt by the Port Authority of the sworn statement required by the Section entitled "Records" hereof, such payment shall be prorated to reflect the fact that the last annual period hereunder is not a full twelve-month period.

Section 37. Records

(a) The Lessee shall maintain in accordance with accepted accounting practice during the term of the letting under this Agreement and for one year thereafter records and books of account (including, without limitation, bills of lading and manifests) recording all transactions in any way connected with or reflecting upon the payment of any rental by the Lessee pursuant to Section 3(d) hereof, and which records and books of account shall be kept at all times within the Port of New York District, as defined in the Port Compact of 1921 authorized by C. 154 Laws of N.Y. 1921 and C. 151 Laws of N.J. 1921, approved by Public Resolution No. 17 of the 67th Congress, First Session, and permit, in ordinary business hours during such time, the examination and audit by the officers, employees and representatives of the Port Authority of such records and books of account and also any of such records and books of account of any company which is owned or controlled by the Lessee, if said company performs services, similar to those performed by the Lessee, anywhere in the Port of New York District. If the Lessee does not make available bills of lading and manifests, the Port Authority shall be entitled to examine and audit such other records and books of account as the Port Authority, acting in a non-arbitrary and non-discriminatory manner, shall deem necessary to calculate the payment of additional basic rental which the Lessee is obligated to make pursuant to Section 3(d) hereof or to substantiate any credit against basic rental which the Lessee has taken pursuant to the provisions of the Section of this Agreement entitled "Credit".

(b) On or before the fifteenth day following the end of any annual period the Lessee shall supply the Port Authority with a statement sworn to by the Lessee's chief financial officer or person performing similar functions setting forth separately the number of BMWs and motor vehicles other than BMWs processed by the Lessee at the premises during the annual period and the marine terminal to which such BMWs and motor vehicles other than BMWs were discharged. The certificate required hereunder shall set forth sufficient information to enable the Port Authority to determine the current amount of additional basic rental to be paid by the Lessee pursuant to subparagraph (1) of Section 3(d) hereof and of any credit against basic rental due the Lessee pursuant to the provision of the Section of this Agreement entitled "Credit".

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

(d) In event that upon conducting an examination and audit as described in this Section the Port Authority determines that unpaid amounts are due to the Port Authority by the Lessee, the Lessee shall be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount of five percent (5%) of each amount determined by the Port Authority audit findings to be unpaid. Each such service charge

shall be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) shall be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Lessee under this Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge shall be deemed a waiver of the right of the Port Authority to payment of any late charge(s) or other service charge(s) payable under the provisions of this Section with respect to such unpaid amount. Each such service charge shall be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the fees to be paid hereunder. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including, without limitation, the Port Authority's rights to terminate the letting hereunder; or (ii) any obligations of the Lessee under this Agreement.

Section 38. Lessee's Right of Termination

In addition to all other rights under this Agreement, from and after November 31, 2013, the Lessee shall have the right to terminate the term of the letting of the premises under this Agreement, without cause, at any time effective from and after November 31, 2014, on three hundred sixty-five (365) days' prior written notice to the Port Authority, provided, however, that any notice given by the Lessee in accordance with the provisions of this Section shall not be effective if the Lessee is under notice of default as to which any applicable period to cure has passed, or is under notice of termination, from the Port Authority, either on the date of the giving of said notice or on the intended effective date thereof. Termination under the provisions of this Section shall have the same effect as if the effective date of termination stated in the notice were the date of expiration of the term of the letting of the premises hereunder. Such termination shall not relieve the Lessee of any liabilities or obligations which shall have accrued on or prior to the effective date of termination or which shall mature on such date.

Section 39. Security Deposit

Upon the execution of this Agreement by the Lessee and delivery thereof to the Port Authority, the Lessee shall deliver to the Port Authority, as security for the full, faithful and prompt performance of and compliance with, on the part of the Lessee, all of the terms, provisions, covenants and conditions of this Agreement on its part to be fulfilled, kept, performed or observed, 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 and acceptable to the Port Authority, in favor of the Port Authority, and payable in the Port of New York District in the amount of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00). 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 term of this 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 clean and irrevocable satisfactory letter of credit. If requested by the Port Authority, said letter of credit shall be accompanied by a letter explaining the opinion of

counsel for the banking institution that the issuance of said clean, irrevocable letter of credit is an appropriate and valid exercise by the banking institution of the corporate power conferred upon it by law. Upon notice of cancellation of a letter of credit, the Lessee agrees that unless the letter of credit is replaced by another letter of credit satisfactory to the Port Authority by a date not later than twenty (20) days prior to the effective date of cancellation, 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 term of this Agreement 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 Agreement on the part of the Lessee. If the Port Authority shall make any drawing under a letter of credit held by the Port Authority hereunder, the Lessee, upon demand by the Port Authority and within two (2) days thereafter, shall bring the letter of credit back up to its full amount. No action by the Port Authority pursuant to the terms of any letter of credit, or any receipt by the Port Authority of funds from any bank issuing such letter of credit, shall be or be deemed to be a waiver of any default by the Lessee under the terms of this Agreement, and all remedies under this Agreement and of the Port Authority consequent upon such default shall not be affected by the existence of a recourse to any such letter of credit.

Section 40. Additional Provisions Governing Pollution

(a) In addition to compliance by the Lessee with all governmental laws, ordinances, rules, regulations and orders now or at any time in effect during the term of the letting hereunder which as a matter of law are applicable to the operation, use or maintenance by the Lessee of the premises or the operations of the Lessee under this Agreement (the foregoing not to be construed as a submission by the Port Authority to the application to itself of such requirements or any of them provided, however, that no immunity or exemption from any of the foregoing requirements shall excuse compliance or be grounds for noncompliance on the part of the Lessee), the Lessee shall conduct its operations on the premises so that there will be at all times a minimum of air pollution, water pollution or any other type of pollution, and a minimum of noise emanating from, arising out of or resulting from such operations. The Lessee agrees that in the conduct of its operations under this Agreement and in the operation, use and maintenance of the premises it will comply with the non-arbitrary and non-capricious requirements of the Port Authority regarding air pollution, water pollution, noise, or any other type of pollution arising out of or resulting from the operation, use or maintenance of the premises by the Lessee. The Port Authority hereby reserves the right from time to time and at any time during the term of the letting hereunder to require the Lessee, and the Lessee agrees, to design and construct at its sole cost and expense such reasonable structure, fences, equipment, devices and other facilities as may be necessary or appropriate to accomplish the objectives set forth in this paragraph. The location, manner, type and method of construction and the size of any of the foregoing shall be determined by the Port Authority, acting in a non-arbitrary and non-capricious manner. The Lessee shall submit for Port Authority approval its plans and specifications covering

the required work and upon receiving such approval shall proceed diligently to construct the same.

(b) The obligations assumed by the Lessee under paragraph (a) of this Section shall continue throughout the term of the letting under this Agreement and shall not be limited, affected, impaired or in any manner modified by the fact that the Port Authority shall have approved any construction application and supporting plans, specifications and contracts covering construction work and notwithstanding the incorporation therein of the Port Authority's recommendations or requirements and notwithstanding that the Port Authority may have at any time during the term of this Agreement consented to or approved any particular procedure or method of operation which the Lessee may have proposed or the Port Authority may have itself prescribed the use of any procedure or method. The agreement of the Lessee to assume the obligations under paragraph (a) of this Section is a special inducement and consideration to the Port Authority in entering into this Agreement with the Lessee.

(c) In the event that the Port Authority, acting in a non-arbitrary and non-capricious manner, shall determine that the Lessee shall fail at any time during the term of the letting under this Agreement to comply with the provisions of paragraph (a) of this Section within thirty (30) days' after receipt of a notice of such default from the Port Authority, the Port Authority shall have the right to cause the Lessee to cease such of its operations on the premises as are being performed in violation of the provisions of this Section. Upon written direction from the General Manager of the Facility specifying the reasons therefore, the Lessee shall promptly cease the operations specified and shall submit to the Port Authority for its written approval the Lessee's proposal for making modifications, corrections or changes in or to its operations so that the same shall not resume any of its operations which have been halted until such written approval has been obtained.

Section 41. Condemnation

(a) In any action or other proceeding by any governmental agency or agencies for the taking for a public use of any interest in all or part of the premises, or in case of any deed, lease or other conveyance in lieu thereof (all of which are in this Section referred to as "taking or conveyance"), the Lessee shall not be entitled to assert any claim to any compensation, award or part thereof made or to be made therein or therefor or any claim to any consideration or rental or any part thereof paid therefor, or to institute any action or proceeding or to assert any claim against such agency or agencies or against the Port Authority for any such taking or conveyance, it being understood and agreed between the parties hereto that the Port Authority shall be entitled to all compensation or awards made or to be made or paid, and all such consideration or rental, free of any claim or right of the Lessee.

(b) In the event that all or any portion of the premises is required by the Port Authority to comply with any present or future governmental law, rule, regulation, requirement, order or direction, the Port Authority may by notice given to the

Lessee terminate the letting with respect to all or such portion of the premises so required. Such termination shall be effective on the date specified in the notice. The Lessee hereby agrees to deliver possession of all or such portion of the premises so required upon the effective date of such termination in the same condition as that required for the delivery of the premises upon the date originally fixed by this Agreement for the expiration of the term of the letting. No taking by or conveyance to any governmental authority as described in paragraph (a) of this Section, nor any delivery by the Lessee nor taking by the Port Authority pursuant to this paragraph, shall be or be construed to be an eviction of the Lessee or a breach of this Agreement or be made the basis of any claim by the Lessee against the Port Authority for damages, consequential or otherwise.

(c) In the event that the taking or conveyance covers the entire premises, or in the event that the letting is terminated with respect to the entire premises pursuant to paragraph (b) of this Section, then this Agreement shall, as of the date possession is taken by such agency or agencies from the Port Authority, or as of the effective date of such termination, cease and determine in the same manner and with the same effect as if the said date were the original date of expiration hereof.

(d) In the event that the taking or conveyance covers a part only of the premises, or in the event that the letting is terminated pursuant to paragraph (b) of this Section with respect to a part only of the Premises, then the letting as to such part shall, as of the date possession thereof is taken by such agency or agencies, or as of the effective date of such termination, cease and determine in the same manner and with the same effect as if the term of the letting had on that date expired.

(e) In the event that the taking or conveyance or the delivery by the Lessee or taking by the Port Authority pursuant to paragraph (b) of this Section results in a change of more than fifty percent (50%) or more of the total usable area of the premises including both open and enclosed space, then the Lessee shall have an option exercisable by notice given to the Port Authority within sixty (60) days after such taking or conveyance to terminate the letting hereunder, as of the date of such taking, and such termination shall be effective as if the date of such taking were the original date of expiration hereof.

(f) In addition to the right of termination provided for in paragraph (e) of this Section, if, in the event of a taking or conveyance or a delivery by the Lessee or taking by the Port Authority pursuant to paragraph (b) of this Section the total usable area of the premises is reduced by more than ten percent (10%) and the Lessee certifies to the Port Authority that the remaining portion of the premises is on an economic or operational basis unusable for the continued operations of the Lessee as provided in Section 4 hereof, giving consideration to the nature and size of the Lessee's operations at that time, the Lessee shall have the right on thirty (30) days written notice to the Port Authority given within thirty (30) days after such taking or delivery to terminate this Agreement and the letting hereunder with respect to the balance of the premises, provided, however, that the Lessee shall not be under notice of default as to which any applicable period to cure has passed, or under notice of termination, from the Port

Authority, wither on the date of its giving of notice to the Port Authority on the effective date thereof. In the event the letting under this Agreement is terminated pursuant to the provisions of this paragraph, this Agreement and the letting hereunder shall cease and expire on the effective date of termination stated in the notice as if such date were the date originally stated in the notice as if such date were the date originally stated herein for the expiration of this Agreement. Such termination shall not relieve the Lessee of any obligations or liabilities which shall have accrued on or before the effective date of termination stated in the notice, or which shall mature on such date.

Section 42. Assignment

The Lessee covenants and agrees that except as hereinafter expressly authorized it will not sell, convey, transfer, assign, mortgage or pledge this Agreement or any par thereof, or any rights created thereby or the letting thereunder or any part thereof.

Section 43. Subletting

(a) The Lessee covenants and agrees that it will not sublet the premises or any part thereof.

(b) If the Lessee sublets in violation of paragraph (a) of this Section, or if the premises are occupied by any person, firm or corporation other than the Lessee, the Port Authority may collect rent from any sublessee or anyone who claims a right to this Agreement or to the letting or who occupies the premises, and shall apply the net amount collected to the rental herein reserved; and no collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraph (a) of this Section, nor an acceptance by the Port Authority of any such sublessee, claimant or occupant as tenant, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained in this Agreement.

Section 44. Environmental Compliance

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

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about or under the premises of any Hazardous Substance whose presence occurred during the term of the letting under this Agreement or resulted from any act or omission of the Lessee or others during the term of the letting under this Agreement, and/or (ii) the disposal, release or threatened release of any Hazardous Substance from the premises during the term of the letting under this Agreement or thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Lessee's use and occupancy of the premises or a migration of a Hazardous Substance from the premises during the term of the letting under this Agreement or

thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting and/or (iv) any personal injury, including wrongful death, property damage and/or natural resource damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements pertaining to any such Hazardous Substance, the premises and/or the activities thereon.

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

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

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

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

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

(b) Without limiting the generality of any of the other terms and provisions of this Agreement, the Lessee hereby expressly agrees to assume all responsibility for, and any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the premises from and after the date of the letting of the premises under this Agreement, including without limitation all Environmental

Requirements and all Environmental Damages and, except for Environmental Damages arising from the sole negligent acts of the Port Authority, the Lessee shall indemnify, hold harmless and reimburse the Port Authority, its Commissioners, officers, agents and employees from and against all such risks and responsibilities and all Environmental Damages and Environmental Requirements (including, without limitation, all fines, penalties, payments in lieu of penalties, and legal expenses incurred by the Port Authority in connection therewith). Prior to the commencement of any legal action or proceeding, as described in paragraph (h) below, in the event responsibility for the presence of Environmental Damages on the premises, or responsibility for the violation of Environmental Requirements thereon is inconclusive, the Lessee shall have the right, at its sole cost and expense, to have qualified personnel of an independent laboratory, mutually acceptable to the Port Authority and the Lessee, perform such environmental site assessment in accordance with applicable State and Federal laws, ordinances, rules, regulations, requirements, orders or directions and *provided, further* that the said assessment shall be done in accordance with a methodology approved by the Port Authority. The party found to have caused the Environmental Damage or found to be in violation of the applicable Environmental Requirement, as determined by the independent laboratory, shall be responsible for the costs and expenses incurred in the retention of such laboratory, provided, however, in the event such report by the independent laboratory is inclusive, the Port Authority and the Lessee shall share such costs and expenses. If so directed, the Lessee shall at its own expense defend any suit based on the foregoing, and in handling such it shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

(c) In addition to and without limiting the generality of the obligations of the Lessee set forth above and elsewhere in this Agreement, the Lessee shall at its sole cost and expense and in accordance with and subject to the provisions of Section 16 of this Agreement, upon notice from the Port Authority, promptly take all actions to completely remove and remediate: (1) any Hazardous Substance present on, about or under the premises whose presence occurred during the term of the letting under this Agreement or resulted from any act or omission of the Lessee or others during the term of the letting under this Agreement, (2) any Hazardous Substance disposed of or released from the premises during the term of the letting under this Agreement or thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting, and (3) any Hazardous Substance present on, about or under the property at the Facility or elsewhere whose presence resulted from the Lessee's use and occupancy of the premises or which migrated from the premises to such other property during the term of the letting under this Agreement or thereafter if the Hazardous Substance came to be present on, about or under the premises during said term of the letting, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Port Authority are necessary to mitigate Environmental Damages, including, but not limited

to, the investigation of the environmental condition of the area to be remediated, the preparation of feasibility studies, reports and remedial plans, and the performance of any cleanup, remediation, mitigation, containment, operation, maintenance, monitoring or restoration work; the standard for any of the foregoing shall be that which requires the lowest level or presence of a particular Hazardous Substance under the laws of the United States or the State of New Jersey, which does not require any restriction on the possible use of the premises or such other property and does not require any institutional or engineering controls as defined in NJAC 7:26E-8. The Lessee agrees that with respect to any of its obligations set forth above in this paragraph it will not make any claim against the Port Authority and/or the City of Jersey City for contribution under any Environmental Requirement. Any actions required under this paragraph shall be performed in a good, safe and workmanlike manner and shall minimize any impact on activities off the premises. The Lessee shall promptly provide to the Port Authority all copies of test results and reports generated in connection with such actions. Promptly upon completion of such investigation and remediation, the Lessee shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the remediated property.

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

(e) Notwithstanding any other provision of this Section, all of the Lessee's obligations, undertakings and responsibilities under this Section shall apply to any Environmental Damage involving any Hazardous Substance whose presence on, about or under the premises occurred prior to the commencement of the term of the letting under this Agreement if any clean-up, remediation or other response action, or indemnification or other action under this Section is required with respect to such Environmental Damage as a result of (1) any violation by the Lessee or the Lessee's Representative, as hereinafter defined, of any Environmental Requirements pertaining to such Hazardous Substance, the premises and/or the activities thereon, or any failure by

the Lessee or the Lessee's Representative to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the premises, including without limitation, those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities, or construction guidelines which have been or may be established by the Port Authority for the Facility and submitted to the Lessee, and/or (2) any negligent act or omission by the Lessee or the Lessee's Representative with respect to such Hazardous Substance. For purposes of this Section, "Lessee's Representative" shall mean its officers, employees, agents, representatives, contractors, customers, guests, invitees, or other persons who are doing business with the Lessee or are on the premises with the Lessee's consent.

(f) Without limiting the Port Authority's remedies that it may have under this Agreement or at law or in equity, the Port Authority shall have the right during the term of the letting under this Agreement and subsequent to the termination or expiration thereof to such equitable relief, including restraining injunctions and declaratory judgments, as may be required to enforce compliance by the Lessee with its environmental obligations under this Section. In the event the Lessee fails to comply with or perform any of its obligations hereunder, the Port Authority at any time during the term of the letting under this Agreement and subsequent to the termination or expiration thereof may elect (but shall not be required) to perform such obligations and the Lessee shall pay to the Port Authority upon demand its costs thereof, including all overhead costs as shall be determined by the Port Authority.

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

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

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

Section 45. Late Charges

If the Lessee should fail to pay any amount required under this Agreement when due to the Port Authority, including without limitation any payment of *rental or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit*, then, in such event, the Port Authority may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period hereinbelow described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent (.8%) 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 Agreement. Each late charge shall be payable immediately upon demand made at any time there for by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be and become additional rent, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the rentals as set forth in this Agreement. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under this Agreement, including without limitation the Port Authority's rights set forth in the Section of this Agreement

entitled "Termination" or (ii) any obligations of the Lessee under this Agreement. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

Section 46. Claims and Counter Claims

The Lessee specifically agrees that it shall not interpose any claims as counterclaims in any summary proceeding or 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.

Section 47. Continued Use and Occupancy After Expiration or Termination

Without in any way limiting the provisions set forth in the Sections of this Agreement entitled "*Termination*", "*Right of Re-entry*" and "*Survival of the Obligations of the Lessee*", unless otherwise notified by the Port Authority in writing, in the event the Lessee remains in possession of the premises after the expiration or termination of the term of the letting under this Agreement, as it may be extended from time to time, in addition to any damages to which the Port Authority may be entitled under this Agreement or other remedies the Port Authority may have by law or otherwise, the Lessee shall pay to the Port Authority a rental for the period commencing on the day immediately following the date of such expiration or the effective date of such termination and ending on the date that the Lessee shall surrender and completely vacate the premises at an annual rate equal to twice the sum of the annual rate of basic rental in effect on the date of such expiration or termination, plus (ii) all items of additional rent and other periodic charges payable with respect to the premises by the Lessee at the annual rate in effect during the 365 day period immediately preceding such date. Nothing herein contained shall give, or be deemed to give, the Lessee any right to remain in possession of the premises after the expiration or termination of the letting under this Agreement. The Lessee acknowledges that the failure of the Lessee to surrender, vacate and yield up the premises to the Port Authority on the effective date of such expiration or termination will or may cause the Port Authority injury, damage or loss. The Lessee 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 Lessee hereby expressly agrees to indemnify and hold the Port Authority harmless against any such injury, damage or loss.

Section 48. Surrender by the Lessee

(a) The Lessee acknowledges and has been advised by the Port Authority that the Port Authority is performing certain construction work in area(s) adjacent to the premises and that the Port Authority, in connection with such work, may require the use of certain portions of the premises. Accordingly, the Lessee hereby agrees, upon thirty (30) days' notice from the Port Authority, to surrender the portion of the premises required by the Port Authority and the term of the letting with respect

thereto and to deliver actual, physical possession of that portion of the premises to the Port Authority, on or before the effective date stated in such notice, in the condition required by the Lease upon surrender, all to intent and purpose that the said term under the Lease and the said rights of renewal, licenses, privileges and options may be wholly merged, extinguished and determined on the date of such surrender with the same force and effect as if the said term were in and by the provisions of the Lease originally fixed to expire on such date. The Lessee shall execute a Surrender Agreement containing such terms and conditions as the Port Authority deems appropriate. In consideration of the Lessee surrendering such area of the premises to the Port Authority, in accordance with this paragraph (a), the Port Authority shall (i) attempt to let comparable space, (ii) adjacent to the premises or elsewhere at the Facility, to the Lessee for the purposes set forth hereunder, (iii) the shape of such comparable space to be conducive to the Lessee's operations, *provided, however*, the Port Authority makes no guaranty that such comparable space will be available at the time of such surrender.

(b) The Lessee hereby acknowledges and agrees that, in the event the Port Authority lets comparable space to the Lessee, that the relocation by the Lessee to such space shall be at the Lessee's sole cost and expense; provided, however, that the Port Authority shall pay for such fencing on the perimeter of the additional premises as set forth in paragraph (c) of Section 31 hereof. The Lessee hereby further acknowledges and agrees that the relocation to comparable space may interfere with the Lessee's operations and may result in a consequent loss in revenue for the Lessee. Without limiting any other terms or provisions hereof the Lessee hereby agrees to release, indemnify and hold the Port Authority harmless for damages, including but not limited to loss of profit, direct or consequential, if any, to the Lessee arising out of or incidental to the Lessee's relocation by the Port Authority as aforesaid. The Lessee hereby agrees at no time during its relocation or as a consequence of the interference in its operations under this Lease caused thereby, will it become entitled to any abatement of the basic rental payable to the Port Authority under this Agreement.

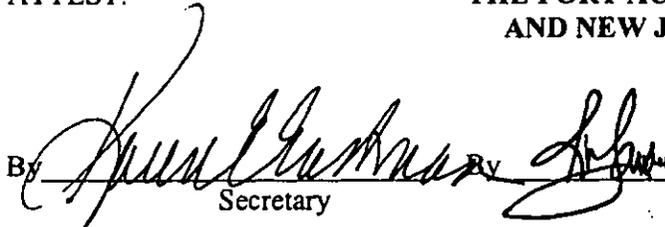
Section 49. Entire Agreement

The within Agreement consists of the following: Sections number 1 through 49, Exhibits A, A-1, and I and Schedules A and B.. It constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and may not be changed, modified, discharged or extended, except by written instrument duly executed on behalf of both the Port Authority and the Lessee. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

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

ATTEST:

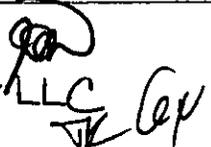
**THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY**

By  Secretary

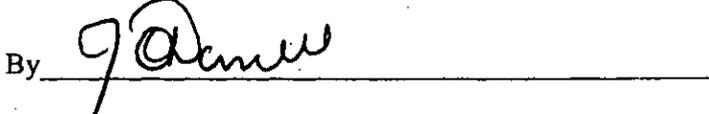
Name RICHARD M. LARRABEE
DIRECTOR, PORT COMMERCE DEPT.
(Please Print Clearly)

(Title) _____
(Seal)

ATTEST:

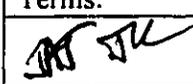
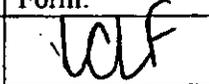
BMW OF NORTH AMERICA, INC. LLC 

By  Secretary

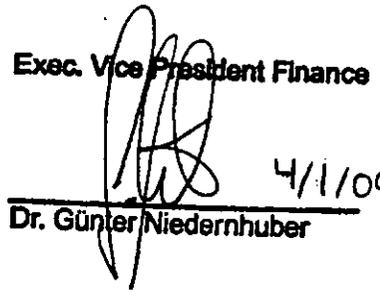
By 

Name J. O. DONNELL
(Please Print Clearly)

(Title) President
(Corporate Seal)

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

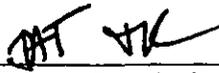
Exec. Vice President Finance

 4/1/09
Dr. Günter Niedernhuber

LCL/DMT

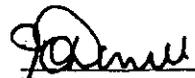
SCHEDULE A

LEASE YEAR BEGINNING	Minimum Rental
11/18/2009	\$879,384.00 per year, payable at \$73,282.00 per month
11/18/2010	\$905,772.00 per year, payable at \$75,481.00 per month
11/18/2011	\$932,940.00 per year, payable at \$77,745.00 per month
11/18/2012	\$960,936.00 per year, payable at \$80,078.00 per month
11/18/2013	\$989,760.00 per year, payable at \$82,480.00 per month
11/18/2014	\$1,019,448.00 per year, payable at \$84,954.00 per month
11/18/2015	\$1,050,036.00 per year, payable at \$87,503.00 per month
11/18/2016	\$1,081,536.00 per year, payable at \$90,128.00 per month
11/18/2017	\$1,113,984.00 per year, payable at \$92,832.00 per month
11/18/2018	\$1,147,404.00 per year, payable at \$95,617.00 per month



For the Port Authority

Initialed:



For the Lessee

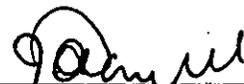
SCHEDULE B
Maximum Rental

Lease Year Beginning	Maximum Rental
11/18/2009	\$896,460.00 per year, payable at \$74,705.00 per month
11/18/2010	\$941,292.00 per year, payable at \$78,441.00 per month
11/18/2011	\$988,356.00 per year, payable at \$82,363.00 per month
11/18/2012	\$1,037,772.00 per year, payable at \$86,481.00 per month
11/18/2013	\$1,089,660.00 per year, payable at \$90,805.00 per month
11/18/2014	\$1,144,140.00 per year, payable at \$95,345.00 per month
11/18/2015	\$1,201,344.00 per year, payable at \$100,112.00 per month
11/18/2016	\$1,261,416.00 per year, payable at \$105,118.00 per month
11/18/2017	\$1,324,488.00 per year, payable at \$110,374.00 per month
11/18/2018	\$1,390,716.00 per year, payable at \$115,893.00 per month



For the Port Authority

Initialed:



For the Lessee

For the Port Authority

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

On the 12th day of June in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared **RICHARD M. LARRABEE**
DIRECTOR, PORT COMMERCE DEPT, 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.

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

Lucy Ambrosino

(notarial seal and stamp)

For BMW of North America, Inc. LLC

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

On the 1st day of April in the year 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Dr. G. Niedernhuber & J. O'Donnell, 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.

Renate Kulnik

(notarial seal and stamp)

RENATE KULNIK
ID # 2372528
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 4/17/2013

(EX. 4)

(EX. 4)