Torres Rojas, Genara

From: dan.conaton@2wglobal.com
Sent: Monday, March 28, 2011 9:50 AM
To: Van Duyne, Sheree
Cc: Torres Rojas, Genara; Duffy, Daniel
Subject: Freedom of Information Online Request Form

Information:

First Name: Daniel
Last Name: Conaton
Company: Wallenius Wilhelmsen Logistics
Mailing Address 1: 188 Broadway
Mailing Address 2:
City: Woodcliff Lake
State: NJ
Zip Code: 07677
Email Address: dan.conaton@2wglobal.com
Phone: 201-505-7410
Required copies of the records: Yes

List of specific record(s):
We request any and all current agreements or understandings between The Port Authority of New York and New Jersey and FAPS, Inc. in Port Newark, NJ including but not limited to the following including all attachments or exhibits to each or agreements of similar name or subject: • Agreement of Lease LPN 309 dated on or about November 1, 2010 • Surrender and Termination Agreement • Railroad Operating Agreement • Arrearage Settlement • Release and Covenant Not to Sue In addition we request: • A complete copy with all attachments of Lease LPN 293 Agreement of Lease dated June 1, 2009.

THE PORT AUTHORITY OF NY & NJ

Daniel D. Duffy
FOI Administrator

May 12, 2011

Mr. Daniel Conaton
Wallenius Wilhelmsen Logistics
188 Broadway
Woodcliff Lake, NJ 07677

Re: Freedom of Information Reference No. 12230

Dear Mr. Conaton:

This is a response to your March 28, 2011 request, which has been processed under the Port Authority's Freedom of Information Policy (the "Policy") for copies of all current agreements between the Port Authority and FAPS, Inc., agreement LPN 309 dated on or about 11/1/10 and Agreement LPN 293 dated 6/1/09 with all attachments.

Material responsive to your request and available under the Policy, which consists of 347 pages, will be forwarded to your attention upon receipt of a photocopying fee of $86.75 (25¢ per page). Payment should be made in cash, certified check, company check or money order payable to "The Port Authority of New York & New Jersey" and should be sent to my attention at 225 Park Avenue South, 17th Floor, New York, NY 10003.

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

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

Very truly yours,

Daniel D. Duffy
FOI Administrator

225 Park Avenue South, 17th Floor
New York, NY 10003
T: 212 435 2542 F: 212 435 7555

RELEASE AND COVENANT NOT TO SUE

THIS RELEASE AND COVENANT NOT TO SUE ("Release"), dated as of October 1, 2010, made by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter referred to as the "Port Authority") and **FAPS, INC.** (hereinafter referred to as the "Lessee").

W I T N E S S E T H:

WHEREAS, effective as of June 1, 2009, the Port Authority and the Lessee entered into that certain Agreement of Lease Number L-PN-293 ("Lease 293"), for certain premises located at Port Newark (hereinafter called the "Facility"), on the north side of the Port Newark Channel ("Port Newark North") and on the south side of the Port Newark Channel ("Port Newark South"), comprised of portions of the premises previously leased to the Lessee pursuant to Agreement Number L-PN-265, dated December 1, 2000 ("Lease 265") at the Facility ("Lease 265 Premises"), portion of the premises previously leased to the Lessee pursuant to Agreement Number L-PN-266, dated December 1, 2000 ("Lease 266") at the Facility ("Lease 266 Premises"), and portions of the premises previously leased to the Lessee pursuant to Agreement Number L-PN-291, dated February 15, 2009 ("Lease 291") at the Facility (the "Lease 293 Premises"), such premises being hereinafter known as the "Lease 293 Premises", and pursuant to Lease 293 and to a related Surrender and Termination Agreement entered into on even date therewith (the "Lease 293 Surrender Agreement"), Lease 265, Lease 266 and Lease 291 were terminated;

WHEREAS, pursuant to a Surrender and Termination Agreement (the "Surrender Agreement") of even date herewith, the Port Authority and the Lessee have agreed to: (i) the termination of Lease 293, and (ii) the surrender of certain portions of the Lease 293 Premises (the "Surrendered Premises");

WHEREAS, the Port Authority and the Lessee have further agreed that those portions of the Lease 293 Premises that were not surrendered in accordance with the Surrender Agreement shall be the premises located at the Facility that are the subject of Agreement Number L-PN-309 ("Lease 309"), contemporaneously entered into, as demised pursuant to and described more specifically in said Lease 309 (the "Lease 309 Premises"), and the terminal space that is the subject of the Railroad Operating Agreement (the "Operating Agreement"), governing the use of certain railroad tracks and related terminal area at the Facility (the "Terminal Space"); and

WHEREAS, this Release does not include any claims that may arise under Lease 309 or the Operating Agreement.

NOW, THEREFORE, in consideration of the covenants contained in this Release and other good and valuable consideration, the adequacy and sufficiency of which are acknowledged by the parties hereto, the parties hereby covenant and agree as follows:

CONFORMED COPY

1. All aforementioned "Whereas Clauses" set forth above are incorporated and made a part hereof and shall have the full force and effect, as if each were fully set forth herein.

2. The Lessee for itself and on behalf of its shareholders, officers, directors, employees, representatives, agents, successors, and assigns, does hereby release the Port Authority, and its Commissioners, officers, directors, employees, representatives, agents, successors, and assigns (collectively, the "PA Released Parties") of and from any and all actions, causes of action, suits, debts, dues, sums of money, claims, controversies, damages and/or demands whatsoever, of any kind and nature whatsoever, fixed or contingent, known or unknown, whether at law, admiralty/maritime law or in equity, which the Lessee ever had or now has or hereafter can, shall or may have, against the PA Released Parties, for, upon, or by reason of any matter, cause or thing resulting from, arising out of, or incurred with respect to, or alleged to result from, arise out of, or be incurred with respect to, or arising under Lease 265, Lease 266, Lease 291, Lease 293, the Lease 265 Premises, the Lease 266 Premises, the Lease 291 Premises, or the Lease 293 Premises (such claims, as defined in this Section 2, collectively, the "Released Claims"). The Released Claims do not include any claims that may arise under Lease 309 and/or the Operating Agreement.

3. The Lessee for itself and on behalf of its shareholders, officers, directors, employees, representatives, agents, successors, and assigns, covenants and agrees not to assert any Released Claims against the PA Released Parties, either directly or indirectly, by way of summons, complaint, counterclaim, interpleading or any other proceeding, or derivatively, in any court or forum whatsoever. The Lessee further agrees that this Release shall be a complete bar to all Released Claims, or any suits or actions of any kind or nature arising out of, relating to, or in connection with any of the Released Claims. In addition, the Lessee further covenants and agrees to forever refrain from participating in, initiating, filing or prosecuting any action of any kind or nature, past, present or future, in connection with the Released Claims, and agree not to make any voluntary statement, oral or written, to any person or entity of any kind or nature, against the PA Released Parties with respect to any of the Released Claims.

4. This Release and any and all claims, controversies or disputes arising out of or relating to this Release shall be governed by, and construed in accordance with, the laws of the State of New Jersey without regard to conflict of law principles. The parties irrevocably and unconditionally consent and submit to the exclusive jurisdiction and venue of the state and federal courts in the State of New Jersey.

5. This Release may be amended, modified, superseded or canceled only by a written instrument executed by the parties hereto.

6. The parties have participated jointly in the negotiation and drafting of this Release. Consequently, in the event an ambiguity or question of intent or interpretation arises, this Release shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Release. The deletion of language from this Release prior to its mutual execution shall not be construed to have any particular meaning or to raise any presumption,

canon of construction or implication, including, without limitation, any implication that the parties intended thereby to state the converse or opposite of the deleted language.

7. This Release, Lease 309, the Surrender Agreement, and the Operating Agreement, dated October 1, 2010, constitute the entire understanding of the parties regarding the surrender of the Surrendered Premises, the termination of Lease 293, the letting of the Lease 309 Premises and the Terminal Space, and the entry into Lease 309 and the Operating Agreement. Any oral representations, undertakings or agreements, other than the aforementioned agreements, dated October 1, 2010, regarding the surrender of the Surrendered Premises, the termination of Lease 293, the letting of the Lease 309 Premises and the Terminal Space, and the entry into Lease 309 and the Operating Agreement, are expressly merged herein. The Lessee agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing.

8. No Commissioner, officer, director, employee, representative, agent, successor, or assign of the Port Authority, nor any shareholder, officer, director, employee, representative, agent, successor, or assign of the Lessee, shall be held personally liable to the other parties under any term or provision of this Release or because of its execution or attempted execution or because of any breach or alleged breach thereof.

9. The Lessee shall reimburse the Port Authority for all costs, losses and expenses (including all reasonable legal, consultant and expert fees and the cost to the Port Authority for its own "in-house" legal services, and all other Port Authority professional staff services), incurred by the Port Authority, if the Port Authority takes legal action to enforce this Release.

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

11. The waiver of a breach of any provision of this Release by either party shall not operate or be construed as a waiver of or breach of any other provision of this Release or consent to any subsequent breach.

Signatures on Following Page

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals or have caused their corporate seals to be hereunto affixed and these presents to be signed and attested by their proper officers thereunto duly authorized, the day and year first above written.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

ATTEST:

SECRETARY

By: _____

Name: RICHARD M. LARRABEE
DIRECTOR, PORT COMMERCE DEPT.

Title: _____

WITNESS:

FAPS, INC.,
A New Jersey corporation

By _____

Name Gary LoBue

(Title) President

APPROVED:
FORM | TERMS

(Port Authority Acknowledgment)

STATE OF)
)ss.
COUNTY OF)

On the ___ day of _____, in the year 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard M. Larrabee, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity as Director, Port Commerce Dept. for the **PORT AUTHORITY OF NEW YORK AND NEW JERSEY,** and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
(notarial seal and stamp)

Marie M. Edwards
Notary Public, State of New York
No. 01ED4959693
Qualified in Kings County
Commission Expires 2/09/2012

(FAPS Acknowledgment)

STATE OF NEW JERSEY)
: ss. :
COUNTY OF _____)

On the 30 day of Sept, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Gary LoBue, President of **FAPS, INC.**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me the executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

MARIA ELIZABETH SOARES
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 12, 2012

Lease No. LPN-309

AGREEMENT OF LEASE

Between

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

and

FAPS, INC.

Dated as of: October 1, 2010

CONFORMED COPY

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THIS AGREEMENT OF LEASE (this "Agreement" or "Lease"), made as of October 1, 2010, 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 **FAPS, INC.**, a New Jersey corporation (hereinafter called "the Lessee") with an office and place of business at 371 Craneway Street, Port Newark, Newark, New Jersey 07114, whose representative is Gary LoBue, President, or such authorized person as may be designated by the Lessee to the Port Authority.

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. Background

(a) Effective as of June 1, 2009, the Port Authority and the Lessee entered into that certain Agreement of Lease L-PN-293 ("Lease 293)", which Lease 293 terminated and replaced three prior leases, Agreement Number L-PN-265, dated December 1, 2000 ("Lease 265"), Agreement Number L-PN-266, dated December 1, 2000 ("Lease 266"), and Agreement Number L-PN-291, dated February 15, 2009 ("Lease 291"), for certain premises (the "Lease 293 Premises") located at Port Newark (hereinafter called the "Facility"), on the north side of the Port Newark Channel ("Port Newark North") and on the south side of the Port Newark Channel ("Port Newark South").

(b) Pursuant to a Surrender and Termination Agreement (the "Surrender Agreement") of even date herewith, the Port Authority and the Lessee have agreed to: (i) the termination of Lease 293, and (ii) the surrender of certain portions of the Lease 293 Premises. The parties have further agreed that those portions of the Lease 293 Premises that were not surrendered in accordance with the Surrender Agreement shall be the premises that are the subject of this Lease as more particularly set forth on "Exhibit A," attached hereto and made a part hereof (the "Premises"), and the terminal space that is the subject of the Operating Agreement (as hereinafter defined), also as more particularly set forth on "Exhibit A" attached hereto.

(e) Simultaneously with the execution of this Lease and pursuant to the Surrender Agreement, the Lessee is surrendering the following space located in the Lease 293 Premises: approximately 96.84 acres shown on "Exhibit A" attached hereto and as such term is defined in the Surrender Agreement (the "Surrendered Premises").

(f) As set forth on "Exhibit A", the Premises, the Lessee will retain the following space: (i) Parcel 5 (also known as FAPS Lots E & L), consisting of approximately 75.04 acres and including the two (2) eastern sections of Building 263 and its surrounding open area; (ii) Parcel 8 (also known as FAPS Lot D), consisting of approximately 15.09 acres; (iii) the eastern half of Parcel 4 (also known as FAPS Lot S), consisting of approximately 13.61 acres; and (iv) Building 371, with the associated open area, consisting of approximately 10,514 square feet, said premises being more particularly defined in Section 1A, subsection (a) below.

(g) Simultaneously with the execution of this Lease, the Port Authority and the Lessee have agreed to enter into a Railroad Operating Agreement governing the use of certain railroad tracks and related terminal area shown on "Exhibit A" (the "Operating Agreement").

Section 1A. Letting

(a) Subject to and in accordance with the terms and conditions of this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark, in the City of Newark, in the County of Essex and the State of New Jersey, the following: One Hundred Three and Ninety-Eight/One Hundredths (103.98) acres as marked in checkered hatching on "Exhibit A", 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, and buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter collectively called "the Premises". The parties agree that the Premises constitute non-residential property.

(b) Nothing contained in this Agreement 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, including the installation

and operation of information technology communications and security systems), or more than twenty (20) feet above the present ground level of any open area included in the Premises (except to the extent required for the installation and operation of information technology communications and security systems).

Section 2. Term; Lease Commencement Date

The term of the letting under this Agreement shall commence at 12:01 o'clock A.M. as of October 1, 2010 (the "Lease Commencement Date") and shall expire if not sooner terminated, at 11:59 o'clock P.M on December 31, 2019 (the "Term").

Section 3. Basic Rental

(a) Beginning on the Lease Commencement Date, the Lessee shall pay a basic rental to the Port Authority at the annual rate of Six Million One Hundred Fifty Nine Thousand Nine Hundred Forty Two and 00/100 Dollars ($6,159,942.00) for the entire Premises, payable in advance on the first day of each calendar month in equal monthly installments of Five Hundred Thirteen Thousand Three Hundred Twenty Eight and 00/100 Dollars ($513,328.00), representing a rate of One Dollar and Thirty Six Cents ($1.36) per square foot (the "Basic Rental"). Commencing January 11, 2012, the Basic Rental set forth in this Section shall be adjusted during the Term under this Agreement only in accordance with the provisions of paragraph (b) of Section 4 hereof.

(b) This Lease is a triple net lease, and, except as expressly provided to the contrary in this Lease, the Lessee shall pay any and all costs, charges, and other expenses of every character and nature, foreseen or unforeseen, whether currently in existence or enacted at a future date, for the payment of which the Port Authority or the Lessee is or shall become liable by reason of its respective estate, right, title or interest in the Premises, or which are connected with or arise out of the possession, use, occupancy, maintenance, addition to, repair of or construction on the Premises, including, without limitation, those specifically referred to in this Lease; provided, however, that Lessee shall not be liable for the repair, maintenance or upgrade of any underground utilities.

(c) The Lessee further agrees to pay promptly upon demand as Basic Rental any user fees and/or security fees imposed by the Port Authority pursuant to the Rules and Regulations (as

hereinafter defined) and/or the Tariff (as hereinafter defined); provided, however, that such fees must be simultaneously imposed upon all users of public berths.

Section 4. Basic Rental Escalation

(a) *Definitions.* As used in this Section:

(i) "Adjustment Period" shall mean, as the context requires, the calendar month of November 2011 and the same calendar month in each calendar year thereafter during the Term.

(ii) "Anniversary Date" shall mean, as the context requires, January 1, 2012 (the "First Anniversary Date") and each anniversary of such date occurring during the Term.

(iii) "Annual Index Increase" shall mean the percentage of increase in the Index on each Anniversary Date, equal to: (x) with respect to the First Anniversary Date, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the Base Period, and the denominator shall be the Index for the Base Period, and (y) with respect to each Anniversary Date thereafter, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the next preceding Adjustment Period, and the denominator shall be the Index for such next preceding Adjustment Period. For example, the Annual Index Increase for the Anniversary Date that is January 1, 2012 would be a fraction of which the numerator is the Index for November 2011 less the Index for November 2010 and the denominator is the Index for November 2010. As a further example, the Annual Index Increase for the Anniversary Date that is January 1, 2013 would be a fraction of which the numerator is the Index for November 2012 less the Index for November 2011 and the denominator is the Index for November 2011.

(iv) "Base Period" shall mean the calendar month of November 2010.

(v) "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.

(vi) "Percentage Increase" shall mean, with respect to each Anniversary Date, a percentage equal to the Annual Index Increase for that Anniversary Date, unless (x) such Annual Index Increase is less than three percent (3%), in which case the Percentage Increase shall be three percent (3%) or (y) such Annual Index Increase is more than four and one half percent (4 1/2%), in which case the Percentage Increase shall be four and one half percent (4 1/2%).

(b) *Annual Increases.* Commencing on the First Anniversary Date and for the period commencing with each Anniversary Date and continuing through to the day preceding the next Anniversary Date for each year thereafter, or the expiration date of the Term under this Agreement, as the case may be, the Lessee shall pay a Basic Rental at a rate per annum equal to the sum of: (x) the Basic Rental theretofore payable and (y) the product obtained by multiplying such theretofore payable Basic Rental by one hundred percent (100%) of the Percentage Increase for such Anniversary Date.

(c) All Basic Rentals shall be paid in advance on the first day of each calendar month in equal monthly installments.

(d) *Adjustments.*

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

latest adjustment as the Port Authority may in its discretion determine.

(ii) If, after 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.

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

Section 5. Annual Vehicle Throughput Rental

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

"Calendar Year" shall mean each twelve-month period commencing on January 1 and terminating on December 31 and each Calendar Year thereafter and continuing throughout the Term of the letting under this Agreement.

"FAPS Vehicle" shall mean (i) an automobile, truck, sports utility vehicle, trailer, motorcycle, or other such vehicle as is commonly processed or otherwise handled as part of a privately-owned vehicle stevedoring operation, whether such vehicle is rolled on or off a vessel or railcar independently or on a flat-bed trailer, or is moved by container crane, which vehicle is handled by the Lessee at the Premises or at any of

the Port Authority's marine terminal facilities, whether domestic, import or export vehicles; and (ii) "Heavy Cargo," as defined in the next sentence, which Heavy Cargo is handled by the Lessee at the Premises or at any of the Port Authority's marine terminal facilities. "Heavy Cargo" shall mean boats, aircraft, buses, farm and construction equipment, cranes, machinery, and any other heavy item requiring utilization of wheeled equipment in order to be discharged from or loaded onto a vessel or railcar. For purposes of the calculation of the "Annual Vehicle Throughput Rental," as defined in Paragraph (b) of this Section 5, each boat, aircraft, bus or other item of Heavy Cargo shall be deemed equivalent to three (3) FAPS Vehicles.

Further, each FAPS Vehicle that arrives at or ships from any of the Port Authority's marine terminal facilities in a container shall be counted as one (1) FAPS Vehicle for the purpose of calculating the Annual Vehicle Throughput Rental (as hereinafter defined).

(b) In addition to all other rentals payable under this Agreement, commencing on January 1, 2011, Lessee shall pay, as additional Basic Rental under this Lease, a FAPS Vehicle/Heavy Cargo throughput rental (hereinafter called the "Annual Vehicle Throughput Rental") for each Calendar Year running from January 1, 2011 through the expiration of the Term of this Lease as follows: during each Calendar Year, the Lessee shall pay the Port Authority, in accordance with subsection (c) below, an Annual Vehicle Throughput Rental by multiplying (i) the amount of Three and 50/100 Dollars ($3.50) per FAPS Vehicle (the "Pre-Change Rate") up to the Two Hundred Thousandth (200,000th) FAPS Vehicle handled by the Lessee during that Calendar Year (the "Vehicle Charge Change Threshold"), with the amount adjusting downwards to Two and 50/100 Dollars ($2.50) (the "Post-Change Rate") for each FAPS Vehicle handled by the Lessee in excess of the Two Hundred Seventy Five Thousandth (275,000th) FAPS Vehicle during that Calendar Year (the "Excess Vehicle Charge Threshold"), for the remainder of such Calendar Year (the "FAPS Vehicle Charge") by (ii) the actual number of FAPS Vehicles entering the leasehold Premises or loaded onto or discharged from vessels berthing or railcars stopping at any of the Port Authority's marine terminal facilities handled by the Lessee during such Calendar Year; provided, however, that no FAPS Vehicle Charge shall be due on any FAPS Vehicles handled by the Lessee during such Calendar Year that fall between the Vehicle Charge Change Threshold and the Excess Vehicle Charge Threshold.

The Annual Vehicle Throughput Rental is not subject to the Basic Rental Escalation as set forth in Section 4.

(c) The Annual Vehicle Throughput Rental shall be reported and payable as set forth below in this paragraph, based on the number of FAPS Vehicles and/or Heavy Cargo loaded onto or discharged from vessels berthing at or railcars stopping at any of the Port Authority's marine terminal facilities handled by the Lessee, per Calendar Year:

(1) On or before February 20, 2011, and on the twentieth (20th) day of each and every month thereafter occurring during the Term of the letting hereunder, including the month following the end of the Term of this Lease, the Lessee shall render to the Port Authority a statement (a "FAPS Waterborne Vehicles Monthly Report") certified by a responsible officer of the Lessee showing (i) the names of vessels berthing at any of the Port Authority's marine terminal facilities during the preceding month, date of entry/arrival and duration of stay of each such vessel or railcars from which FAPS Vehicles are discharged or onto which FAPS Vehicles are loaded, (ii) the total number of FAPS Vehicles loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities or from railcars at any of the Port Authority's marine terminal facilities, (iii) the number of those FAPS Vehicles received or shipped in containers; and (iv) the cumulative number of FAPS Vehicles loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities or railcars arriving at any of the Port Authority's marine terminal facilities, from the date of the commencement of the Calendar Year for which the FAPS Waterborne Vehicle Monthly Report is made through the last day of the preceding month.

(2) As Annual Vehicle Throughput Rental the Lessee will be billed the guaranteed minimum amount of Seven Hundred Thousand Dollars ($700,000.00) (the "Guaranteed Minimum Throughput Rental"), payable on the first day of each calendar month in equal monthly installments of Fifty Eight Thousand Three Hundred Thirty Three and 33/100 Dollars ($58,333.33), which amount represents the guaranteed minimum required number of FAPS Vehicles equal to one-twelfth ($1/12^{th}$) of the Vehicle Charge Change Threshold multiplied by the Pre-Change Rate per FAPS Vehicle, plus any additional amounts payable in accordance with subsection (3) below.

(3) The Lessee shall render to the Port Authority on the 20th day of each January of each Calendar Year, the FAPS Waterborne Vehicle Annual Report (the "Final Annual Waterborne Monthly Report") which shall include a reconciliation of the amount of the Annual Vehicle Throughput Rental payable for the preceding Calendar Year. In the event that the Final Annual Waterborne Monthly Report indicates that the actual numbers of FAPS Vehicles handled by the Lessee during such Calendar Year exceeded the Excess Vehicle Charge Threshold, the Port Authority will bill the Lessee the difference between the Guaranteed Minimum Throughput Rental already paid and the amount of Annual Vehicle Throughput Rental actually due (calculated by subtracting the Excess Vehicle Charge Threshold from the actual number of FAPS Vehicles handled by the Lessee, and multiplying the result by the Post-Change Rate), and the Lessee's payment of such difference shall be due and payable within thirty (30) days of the date of the Port Authority's bill. It being understood and agreed by Lessee that Lessee shall be responsible for payment of the Guaranteed Minimum Throughput Rental of $700,000 per annum (equating to 200,000 vehicles X $3.50), payable at $58,333.33 per month on the first day of each month during the Term commencing on January 1, 2011, regardless of whether less than 200,000 vehicles are throughput by Lessee during a Calendar Year.

(e) The computation of the Annual Vehicle Throughput Rental for each Calendar Year, or a portion of a Calendar Year, shall be individual to such Calendar Year, or such portion of a Calendar Year, and without relation to any other Calendar Year, or any other portion of any Calendar Year; provided, however, that for each such Calendar Year, the Port Authority shall receive for Annual Vehicle Throughput Rental, at a minimum, the Guaranteed Minimum Throughput Rental.

(f) Upon any termination of the letting (even if stated to have the same effect as expiration), no later than the twentieth (20th) day of the month following the month in which the effective date of termination occurs, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee setting forth the total actual number of FAPS Vehicles handled on the Premises or loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities or from railcars stopping at any of the Port Authority's marine terminal facilities from the

commencement of the Calendar Year through the effective date of termination, the names of vessels berthing at any of the Port Authority's marine terminal facilities during such Calendar Year, the date of arrival/entry and of stay of each such vessel or railcars from which FAPS Vehicles are discharged or onto which FAPS Vehicles are loaded. The statement shall also set forth the number obtained by (a) multiplying (i) a fraction, the numerator of which shall be the Excess Vehicle Charge Threshold, and the denominator of which shall be 365 by (ii) the number of days from the commencement of the Calendar Year 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 FAPS Vehicles"). Then, the Projected Number of FAPS Vehicles, rounded to the nearest whole number, shall be subtracted from the actual number of FAPS Vehicles handled during the partial Calendar Year. In the event that the result is positive, the result shall be multiplied by the Post-Change Rate, and the Lessee shall pay this amount to the Port Authority as Annual Vehicle Throughput Rental, with the Port Authority to bill the Lessee for such amount, and the Lessee to remit payment within thirty (30) days of the date of the Port Authority's invoice.

As an example, in the event that the Agreement is terminated 180 days into the Calendar Year of 2011, and the Lessee has handled 150,000 FAPS Vehicles at that time, the calculation shall be (275,000/365) x 180 = 135,616.44 (the Projected Number of FAPS Vehicles). Then, the equation shall be reflected as follows: 150,000-135,616= 14,384. As the Lessee has paid the Annual Vehicle Throughput Rental for up to 135,616 FAPS Vehicles at this point, but handled 150,000 Vehicles, the Lessee will pay to the Port Authority the amount of 14,384 x $2.50=$35,960.00.

(g) Subject to Section 6 herein, the Lessee shall be required to handle and process vehicles that are substantially waterborne.

Section 6. Non-Waterborne Vehicle Wharfage Rate

(a) Up to and including twenty five percent (25%) of the FAPS Vehicles handled at the Premises in a Calendar Year may be non-waterborne to the Port Authority's marine terminal facilities, or not intended to be waterborne therefrom ("Non-Waterborne Vehicle"). In the event that the total number of Non-Waterborne Vehicles in a Calendar Year exceeds twenty five percent (25%) of the total FAPS Vehicles handled at the Premises

during such Calendar Year (the "Non-Waterborne Vehicle Threshold"), on a one-time basis, within twenty (20) days after the end of the applicable Calendar Year, the Lessee shall pay to the Port Authority as additional Basic Rental an amount equal to the product obtained by multiplying each such Non-Waterborne Vehicle in excess of the Non-Waterborne Vehicle Threshold by the "Non-Waterborne Vehicle Wharfage Rate" as hereinafter defined (the "Non-Waterborne Vehicle Wharfage Rental"). The "Non-Waterborne Vehicle Wharfage Rate" shall be Seven Dollars and Fifty Cents ($7.50) and shall be adjusted during the Term of this Lease proportionately to such adjustments as may be made from time to time in the per ton wharfage charge for unboxed automobiles discharged at public berths located at the Port Authority's marine terminal facilities, as set forth in the Tariff, during the Term.

(b) On or before October 20, 2010, and or before the 20th day of each and every month occurring thereafter during the Term of the letting of this Agreement, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of FAPS Vehicles released from the Port Authority's marine terminal facilities during the preceding month (a "Non-Waterborne Vehicle Monthly Report"). The Non-Waterborne Vehicle Monthly Report made on the 20th day of each January of each Calendar Year (the "Final Annual Non-Waterborne Monthly Report") shall include the total number of Non-Waterborne Vehicles handled by the Lessee during the preceding Calendar Year, the total number of FAPS Vehicles actually handled by the Lessee during the preceding Calendar Year, and the percentage of such FAPS Vehicles that were Non-Waterborne Vehicles (such percentage calculated by dividing the number of Non-Waterborne Vehicles by the total number of FAPS Vehicles handled by the Lessee and multiplying the result by 100).

(c) No penalties, incentives or credits for the dwell time of Non-Waterborne Vehicles will be assessed or granted.

Section 7. Abatement

(a) If at any time during the Term, the Lessee shall become entitled to an abatement of Basic Rental, pursuant to the terms of this Agreement, such abatement shall be computed as follows: for the period from October 1, 2010 to December 31, 2011 both dates inclusive, for each square foot of usable area, the use of which is denied the Lessee, at the annual rate of One Dollar and Thirty Six Cents ($1.36), the rate thereafter to be adjusted during the Term proportionately to the adjustment in

Basic Rental in accordance with the provisions of paragraph (b) of Section 4 hereof. Notwithstanding the foregoing, no rent abatement shall be allowed in connection with any areas of the Premises that are currently or are in the future encumbered by jersey barriers.

(b) Except as provided in this Section and in Section 19(d), no abatement of Basic Rental or Additional Rental (as hereinafter defined) shall be claimed by or allowed to the Lessee.

Section 8. Rights of User

The Lessee shall use the Premises for the following purposes and in full compliance with all applicable laws, rules and regulations: (i) receipt, preparation, storage incidental to distribution, and distribution of FAPS Vehicles and Heavy Cargo substantially waterborne to or from the Facility or the Elizabeth Port Authority Marine Terminal, for the benefit of third parties and (ii) uses incidental to the foregoing (i), including without limitation uses and operations relating to the security of the Premises and, as necessary, the Facility. Any other use not specifically authorized in this Section 8 shall require the prior written consent of the Port Authority, in its sole and absolute discretion. Nothing herein shall prevent Lessee from allowing the use of the Premises by security personnel or federal or state law enforcement in fulfilling their law enforcement responsibilities; provided, however, that any Sublease (as defined herein in Section 18) shall require the prior consent of the Port Authority.

Section 9. Ingress and Egress

The Lessee 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 (See Section 11 for Rules and Regulations). 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; provided, that, a reasonably equivalent means of ingress and egress remains available. 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 10. Governmental and Other Requirements

(a) Prior to or contemporaneous with the commencement of its operations under this Agreement, at its sole cost and expense, the Lessee shall procure from all governmental authorities having jurisdiction over the operations of the Lessee hereunder, all licenses, certificates, permits and other authorizations which may be necessary for the conduct of such operations and, upon the request of the Port Authority, shall provide copies of all such items to the Port Authority. Lessee covenants that it shall ensure that all such licenses, certificates, permits and other authorizations shall remain in full force and effect through the Term.

(b) The Lessee shall promptly observe, comply with and execute all laws and ordinances and governmental rules, regulations, requirements, orders and similar items now or at any time during the occupancy of the Premises by the Lessee which as a matter of law are applicable to or which affect (i) the Premises, (ii) the operations of the Lessee at the Premises or the Facility, (iii) the use and occupancy of the Premises and/or (iv) any Hazardous Substance on, at or migrating from the Premises, in accordance with Section 50 hereof. The Lessee, at its sole cost and expense, shall make any and all structural and non-structural improvements, repairs or alterations of the Premises and perform all remediation work and clean up of Hazardous Substances required in order to fully satisfy the compliance obligations set forth in this Agreement, subject to the provisions of Section 20(q) hereof.

(c) The Lessee shall, for the Port Authority's information, deliver to the Port Authority promptly after receipt any notice, warning, summons or other legal process for the enforcement of any enactment, ordinance, resolution or regulation of a governmental authority of competent jurisdiction that may reasonably have a material effect on the Premises, the

Facility, the Port Authority or the Lessee (collectively, a "Notice").

(d) 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. Notwithstanding the foregoing in this Section 10, the Lessee shall not be deemed in breach or violation of its obligations hereunder and to the Port Authority for not complying with any license, certificate, permit, or other authorization, so long as (i) the Lessee is pursuing a good faith challenge or amendment to such license, certificate, permit, or other authorization; (ii) such non-compliance does not result in criminal liability; (iii) such non-compliance does not cause a lien to be incurred on the Premises or the Facility; (iv) such non-compliance will not adversely affect any other tenant at the Facility; (v) will not cause the Port Authority to breach any agreement; and (vi) that such non-compliance does not pose a potential or actual danger to person or property in the discretion of the Port Authority. The Port Authority shall have no liability or obligation with regard to such matters.

Section 11. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees, guests, invitees, agents, representatives, and others on the Premises with its consent to observe and obey) the Rules and Regulations of the Port Authority now or hereafter in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the governance 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, security, health, or preservation of property, or for the maintenance of the good and orderly appearance of the Premises, or for the safe and 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, and every proposed change or amendment as provided for by Section IX of the Port Authority's By-Laws, but at least five (5) days before the Lessee shall be required to comply therewith.

(b) Intentionally Deleted

(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.

Section 12. Operational Obligations of the Lessee

(a) In the performance of its obligations hereunder and in the use of the Premises, the Lessee shall conduct its operations in an orderly, lawful and proper manner, so as not to annoy, disturb or be offensive to others near the Premises or at the Facility.

(b) The Lessee shall control the conduct, demeanor and appearance of its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and those doing business with it. As soon as reasonably possible the Lessee shall remove the cause of any objection made by the Port Authority relative to the demeanor, conduct or appearance of any of the employees of the Lessee or of any such others on the Premises with the consent of the Lessee.

(c) 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 in a concealed location, 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 in its sole discretion; provided, however, that such garbage shall be collected and removed from the Premises a minimum of three (3) times weekly.

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

(e) The Lessee shall permit the use of and provide reasonable access to the Premises from time to time for the installation, maintenance and operation of such navigation lights, as the same may be required by the United States Coast Guard or other governmental authority having jurisdiction; provided, however, that reasonable prior written notice shall be afforded to the Lessee.

(f) From time to time and as often as reasonably required by the Port Authority and upon prior notice to 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, without cost to the Port Authority. 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 the appropriate number of its employees in the use of all such equipment (with such employees to participate in periodic training drills).

(g) Intentionally Deleted.

Section 13. 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, electrical system, 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. Notwithstanding the foregoing, such services may be temporarily interrupted for the purposes of repairing or upgrading same, if approved by the Port Authority and undertaken by the Lessee in accordance with Section 20(q) hereof.

(b) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of existing and future utilities systems or portions thereof on the Premises or elsewhere at the Facility, including without limitation, systems for the supply of heat, hot and cold water, gas, electricity and fuel, and for the furnishing of air-conditioning, telephone, telegraph, teleregister, internet,

fiber optic cable, and intercommunications services including any lines, pipes, mains, wire, conduits and equipment connected with or appurtenant to all such systems. Notwithstanding the foregoing, such services may be temporarily interrupted for the purposes of repairing or upgrading same, if approved by the Port Authority and undertaken by the Lessee in accordance with Section 20(q) hereof.

(c) 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.

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

(e) The Lessee shall not dispose of nor permit any one to dispose of any industrial/Hazardous waste material 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, and in compliance with all applicable statutes, ordinances, laws, rules, and regulations.

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

(g) Except as set forth in paragraphs (g)(1)-(2) of this Section, the Lessee shall not install, maintain or operate, or permit the installation, maintenance or operation on the Premises of any vending machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind whether or not included in the above categories, or of any restaurant, cafeteria, kitchen, stand or other establishment of any type for the preparation or dispensing of food, beverages, tobacco, tobacco products, or merchandise of any kind whether or not included in the above categories, or of any equipment or devices for the furnishing to the public of service of any kind including therein, without limitation thereto, telephone pay stations.

(1) Subject to the provisions of paragraph (g)(2) of this Section, the Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the Premises for the sale of merchandise of all types or for the rendering of services. The Lessee shall have the right to receive and retain the revenues from all coin-operated or other vending machines or devices which it may install on the Premises pursuant to the provisions of paragraph (g)(2) of this Section.

(2) Subject to all of the terms and provisions of this Agreement, the Lessee may install vending machines or devices designed to dispense or sell food, beverages, tobacco or tobacco products, subject to the Port Authority's approval of the type and method of installation thereof. The Lessee may use an independent contractor, operator or supplier for such machines selected by the Lessee unless the Port Authority determines, in its reasonable discretion, that said contractor, operator or supplier will adversely affect or interfere with operations of the Facility or will cause or contribute to the causing of labor problems or disturbances thereat. Such machines shall be installed and operated solely for use by the Lessee's officers, employees, members, contractors, customers, guests and invitees. The Lessee's agreement with any contractor, operator or supplier of vending machines shall permit cancellation by the Lessee on short term notice in the event that the Port Authority notifies the Lessee that such contractor, operator or supplier fails to meet the standards set forth in this paragraph (g)(2). The Lessee shall be fully responsible for insuring that its contractor, operator or supplier shall comply with all of the applicable provisions of this Agreement and all acts and omissions of such contractor, operator or supplier shall be deemed acts or omissions of the Lessee, and the Lessee and the contractor, operator or supplier shall be jointly and severally responsible therefor to the Port Authority only.

(h) The Lessee shall not place a load upon any floor or paved area of the Premises that exceeds one hundred (100) pounds per square foot in any office area, or five hundred (500) pounds per square foot for any other portion of the Premises, and shall repair any floor, including supporting members, and any paved

area damaged by overloading. Nothing in this paragraph (h) 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. The Lessee shall also not overload any roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such roof, land surface, bulkhead, pavement, landing, pier or wharf, including but not limited to supporting members, damaged by overloading. Any repair, replacement or rebuilding required under this Section shall be conducted in accordance with the provisions of Section 20(q) hereof.

(i) The Lessee shall not fuel or defuel its vehicles or equipment in the enclosed portions of the Premises without the prior approval of the Manager of the Facility (as hereinafter defined).

(j) The Lessee shall not keep or store in the Premises, explosives, inflammable liquids or solids or oxidized materials or use any cleaning materials having a harmful corrosive effect on any part of the Premises, except for those materials normally used in the operations permitted at the Premises pursuant to Section 8 hereof and stored in a structure normally used for the storage of such materials and made safe for the storage thereof.

(k) The Lessee shall not use or permit the use of any truss or structural supporting member of a building or roof or any part thereof at the Facility 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.

(l) 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.

(m) The Lessee shall not do or permit to be done any act or thing on the Premises or at the Facility which (i) will invalidate or conflict with any fire insurance policies covering the Premises or any part thereof, or the Facility, or any part thereof, or (ii) which, in the opinion of the Port Authority, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations permitted by this Agreement or (iii) which will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon. The Lessee shall promptly observe, comply with and

execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the Insurance Services Office of New Jersey, the National Fire Protection Association ("NFPA"), 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; provided, however, that the Lessee shall not be obligated to make such improvements, alterations or repairs involving underground utilities. If by reason of any failure on the part of the Lessee to comply with the provisions of this paragraph or by reason of any act by Lessee, 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 act, violation or failure by the Lessee.

(n) 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.

(o) The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance (as defined in Section 50) on or from the Premises, and shall not dispose of, release or discharge or permit anyone subject to its control or authority to dispose of, release or discharge any Hazardous Substance at the Facility. Any Hazardous Substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on or from the Premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of Section 50 hereof, be completely removed, cleaned up and/or remediated by the Lessee. The obligations of the Lessee pursuant to this paragraph shall survive the expiration or termination of this Agreement.

(p) The Lessee may store wooden pallets on the open areas of the Premises strictly in accordance with the requirements and restrictions of the Port Authority which are disclosed to Lessee. These requirements and restrictions include but are not limited to: (i) pallets shall be stacked no greater than eight

(8) feet in height; (ii) pallets shall be sheltered from public view; and (iii) pallets shall be removed from the Premises not less than on a weekly basis.

(q) The Lessee shall use good faith efforts to prevent staging outside of its leasehold Premises exclusive of the public berths and point of first rest.

Section 14. Signs

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

(b) Upon demand by the Port Authority, the Lessee shall remove 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 or paint out each and every such piece of advertising, sign, poster or device and so to restore the Premises and the Facility after receipt of written notice from the Port Authority, the Port Authority may perform the necessary work and the Lessee shall pay the costs thereof to the Port Authority on demand.

Section 15. 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, customers, vendors, or representatives, contractors, subcontractors or their employees, or by others on the Premises with the consent or invitation of any of the foregoing persons, or out of any other acts or omissions of the Lessee, its officers, agents and employees on the Premises or elsewhere at the Facility, excepting only claims and demands which result solely from the intentional tortious acts or gross negligence of the Port Authority.

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

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

(1) Commercial General Liability Insurance including but not limited to coverage for premises operations and Products Liability-Completed Operations, with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000 per occurrence, no general aggregate. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards. If the Lessee's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(2) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with its operations hereunder with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000 per occurrence, no general aggregate.

(d) Each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured and/or loss payee, as applicable (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 and/or loss payee, as applicable.

(e) The Lessee shall also maintain and pay the premiums on a Garagekeepers Legal Liability policy in limits not less than $2,000,000.

(f) 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 on or before the Lease Commencement Date, and on each anniversary date thereafter. In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance or as to coverages or minimum limits, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain one or more new and satisfactory policies in replacement. A policy shall be deemed satisfactory to the Port Authority if it (i) meets all the terms and conditions of this Agreement, and (ii) has an AM Best (or its successors' and/or assigns' or its

industry equivalent's) rating of A-:VII or better. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

Section 16. 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, and shall comply with all applicable governmental statutes, rules and regulations as required by Section 10 hereof. Without limiting the generality of the immediately preceding sentence or any obligations of the Lessee with respect to the Premises, the Lessee agrees that upon the commencement of the letting and during the Term it shall place and keep the Premises in good operating condition. Notwithstanding anything appearing to the contrary in this Section 16, the Lessee shall be under no obligation to upgrade any systems or items at the Premises, but shall be obligated only to maintain, repair and replace the systems or other items as applicable at the Premises.

(b) The Lessee shall repair, replace, rebuild and paint all or any part of the Premises 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. Any repair, replacement or rebuilding required under this Section shall be conducted pursuant to the terms and conditions set forth in Section 20(q).

(c) Subject to the provisions of paragraphs (e) and (f) of this Section and Section 20(q) of this Agreement, throughout the Term, the Lessee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the Premises, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing, the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the Premises, all utilities related to the Premises (except as provided below), and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said Premises or the Lessee's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of the following items: (1) sprinkler systems (provided, however, that (i) the Lessee shall be

required to maintain in full force and effect throughout the Term of this Lease a valid contract with a licensed contractor to maintain the fire protection systems, including without limitation, the sprinkler systems and the alarm systems, and shall promptly replace such contractor with a similar licensed contractor in the event that the current contractor is terminated during the Term of this Agreement, based on similar contractual terms and provisions, and (ii) provided, further, that the Lessee shall provide the Port Authority with (x) monthly reports certifying that the fire alarm systems are inspected, tested and have met NFPA standards and (y) on an annual basis, certified documentation from a licensed contractor that all buildings on the Premises comply with NFPA standards); (2) gas and electric from the meter (utility companies are responsible up to the meter); (3) the electrical system, equipment and fixtures, including, without limitation, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and all relamping and fuse replacement; (4) the plumbing system, fixtures and equipment, and all finished plumbing; (5) buildings and all parts thereof; (6) signs; (7) fire extinguishers; (8) all painting; (9) any security measures (including without limitation fencing, guard booths, crash gates, and/or jersey barriers) implemented on the Premises; (10) catch basins and storm sewer system drains, which are to be kept fully functional, clear of obstruction and free of damage at all times; and (11) any paving required on the Premises; provided, however, that the Lessee shall not be responsible for the maintenance of any underground utilities. The Lessee shall maintain all improvements, utilities, fixtures, machinery and equipment set forth above at all times in good condition, and shall perform all necessary preventive maintenance during the Term.

In the event that the Port Authority reenters, regains or resumes possession of the Premises in accordance with the provisions of this Agreement, or upon the expiration or earlier termination of this Agreement, except in connection with the termination of this Agreement based upon an Event of Default of Lessee (as defined in Section 24 hereof), the following procedure will be undertaken: The Port Authority, its agent, representative or the like, will conduct an inspection of the Premises (including without limitation of the then current state of cleaning, maintenance and repairs, janitorial services, painting, structural and nonstructural conditions, lighting of buildings and open areas, the condition of utilities and utilities systems, fire-fighting and fire protection equipment and systems, communications and communications systems,

antipollution systems and devices, fuel facilities and systems, and fixtures, equipment and personal property of the Lessee) ("Condition Survey") and, to the extent the Lessee is in possession of the Premises, the Port Authority's agent or representative shall have all rights of entry to the Premises during all reasonable times as appropriate or required to perform the Condition Survey. The Condition Survey shall be conducted no less than six (6) months and no more than twelve (12) months after the effective date of such termination, except in the event that the Port Authority re-lets all or a portion of the Premises, in which case the Condition Survey shall be completed as to the re-let portion of the Premises prior to such re-letting. The Port Authority will provide the Lessee with a list of all items that demonstrate Lessee's failure to maintain the Premises in accordance with the obligations of this Section 16 (a "Condition Survey Report," and the date upon which such list is provided to Lessee being hereinafter known as the "Report Date"). All obligations relating to the items identified by the Condition Survey Report arising out of Lessee's failure to maintain, repair, replace or rebuild, shall survive such termination or cancellation, reentry, regaining or resumption of possession. The Condition Survey Report shall solely address the Lessee's obligation with respect to the maintenance and repair of the Premises pursuant to this Section 16. In no event shall any other obligation under this Lease be affected by the Condition Survey Report, including, but in no event, limited to any environmental conditions with respect to the Premises. At the Port Authority's sole option, within ninety (90) days after the Report Date, the Port Authority shall have the following options, (i) require Lessee to commence or cause to be commenced all required or recommended items and actions contained in such Condition Survey Report that are necessary or required to meet Lessee's maintenance, repair or other obligations, duties or responsibilities under this Agreement and the Lessee shall diligently continue the same or cause the same to be continued to completion; provided, however, that the Lessee shall promptly commence or cause to be commenced any and all items, actions or work related to, affecting or involving fire safety, health, structural integrity, life safety, security or emergency response or (ii) draw against the letter of credit maintained by Lessee pursuant to Section 42 hereof to remedy such conditions. To the extent the amount of security is insufficient to cover the costs set forth on the Condition Survey Report, Lessee shall be responsible for and shall, within five (5) days of demand of the Port Authority, remit the shortfall to the Port Authority or, (iii) direct the Lessee to make direct payment to the Port Authority in an amount

equal to the cost of the items set forth on the Condition Survey Report and Lessee shall be responsible for and shall, within five (5) days of demand of the Port Authority make payment to the Port Authority.

For example, if the Condition Survey Report identifies a failure on Lessee's part to maintain the roof, all such repairs and/or replacements shall be the sole and absolute responsibility of Lessee and shall either, in the sole discretion of the Port Authority (i) be commenced or caused to be commenced within ninety (90) days of the Report Date by the Lessee or (ii) be paid for by either a draw against the Lessee's security deposit or a direct payment by the Lessee to the Port Authority.

In no event shall the Condition Survey procedure be applicable in the event of a termination based on an Event of Default by Lessee under this Agreement.

Upon the expiration of this Lease, the Premises must be in as good condition as at the time of the installation or construction thereof, except for reasonable wear and tear. The Lessee shall make periodic inspections of the Premises and subject to Section 20(q) of this Agreement shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacement. All repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship.

(d) Without limiting the obligations of the Lessee stated elsewhere in this Agreement, the Lessee shall be solely responsible to the Port Authority for any damage caused by Lessee, its employees, agents or representatives to any and all personal property, equipment and fixtures belonging to the Port Authority located or to be located in or on the Premises and shall promptly replace or repair the same within twenty (20) days after such damage (except that if any such repair requires activity over a period of time, then the Lessee shall commence to perform such repair within such twenty (20) day period and shall diligently proceed therewith without interruption). The Lessee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the letting under this Agreement in the same condition as at the commencement of the letting, reasonable wear and tear excepted.

(e) The Port Authority shall have no responsibility with respect to any repairs or replacements which are required because of any casualty whether or not insured or insurable, except as expressly provided in Section 16 of this Agreement. The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents, and representatives, from and against all claims and demands, including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, of any third persons whatsoever, including, but not limited to, the Lessee's officers, employees, agents, and representatives which may arise from the condition of the Premises or any part thereof, or from the failure of the Lessee to make timely corrections of dangerous or potentially dangerous conditions in or on the Premises; provided, however, that the Lessee's obligation hereunder to indemnify and hold the Port Authority harmless shall not apply to any claims or demands resulting from the intentional tortious acts or gross negligence of the Port Authority. Except as set forth above, the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, employees, agents and representatives from any liability for damages to the Lessee, consequential or otherwise, in connection with any of the provisions of this paragraph concerning repairs or replacements to any portion of the Premises, and including without limitation thereto any act or omission of the Port Authority, its officers, agents, employees, contractors or their employees, connected with the performance of such repairs or replacements.

(f) Notwithstanding anything in this Section 16 or this Lease to the contrary, the Lessee shall not be obligated, responsible, or liable for any repairs or maintenance to underground utilities on, under, or near the Premises or the Facility, including storm water underground utilities; provided, however, that the Lessee shall be responsible for the maintenance, repair and damage to traps, grates (manhole covers), frames, inlet boxes, catch basins, drains and the lateral service line connection up through the first valve or the main line, and shall also be responsible to keep the forgoing free and clean of clutter and debris and shall conduct regular inspections of same. The Port Authority shall be responsible for maintenance and repair to all other portions of such storm water utilities, except as expressly provided in the preceding sentence, which items shall be the Lessee's responsibility. Further, notwithstanding anything in this Agreement, the maintenance and repair obligations of the Lessee with regard to railroad tracks 3 and 4 located on the Premises

and set forth on "Exhibit J," annexed hereto and made a part hereof, shall be governed by the Operating Agreement between the Port Authority and Lessee of even date herewith. The Lessee shall not be responsible for the maintenance and repair of tracks 1 and 2 as shown as Exhibit J, except Lessee shall be responsible for the switches located on track 2, all as more particularly described in the Operating Agreement.

Section 17. 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 in accordance with the procedures set forth in Section 20(q) hereof. Without in any way limiting the obligations of the Lessee set forth in the first sentence of this paragraph, with respect to all portions of the Premises, the Lessee shall secure and maintain in its own name as insured and shall pay the premiums on the following policy of insurance in the limit set forth below, which policy shall be effective during the Term:

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

(2) Unless otherwise directed by the Port Authority, the property damage insurance policy required by this

paragraph shall name the Port Authority and the Lessee (with insurance clauses consistent with the provisions of this Agreement) as the insureds, as their respective interests may appear, and shall provide that the Port Authority shall be the loss payee. The policy shall be endorsed to include losses adjusted with and payable to the Port Authority. As to any insurance required by this paragraph, a certificate of insurance, or binders, shall be delivered by the Lessee to the Port Authority on or before the Lease Commencement Date and annually thereafter. In the event any binder is delivered, it shall be replaced within thirty (30) days by a certificate of insurance. Each such policy shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving at least thirty (30) days' written advance notice thereto to the Port Authority and an endorsement to the effect that the insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the Lessee or any other insured. Each policy of insurance shall have attached thereto an endorsement that the Port Authority will be given at least thirty (30) days' prior written notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period hereof. If at any time the policy required by this paragraph shall be or become unsatisfactory to the Port Authority as to form or substance, or if the carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new satisfactory policy in replacement. A policy shall be deemed satisfactory to the Port Authority if it (i) meets all the terms and conditions of this Agreement, and (ii) has an AM Best (or its successors' and/or assigns' or its industry equivalent's) rating of A-:VII or better.

The proceeds of insurance from coverages secured in accordance with this paragraph shall be made available to the Lessee and shall be applied by the Lessee to the repair, replacement, or rebuilding of the Premises as provided in this Agreement. The Lessee shall not be entitled to any abatement of the rentals payable hereunder at any time by reason of such casualty.

(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 within such thirty (30) day period, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit at Lessee's sole cost and expense, 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; provided, however, that such indemnity obligation shall not apply to claims or demands arising from the intentional tortious acts or gross negligence of the Port Authority.

Section 18. Assignment and Sublease

(a) The following terms shall have the respective meanings set forth below:

"Assignment" shall mean any sale, conveyance, transfer, exchange, mortgage, assignment or other disposition of any or all portion of the Lessee's interest in this Lease or the leasehold estate created hereby, whether by operation of law or otherwise, and shall include any arrangement whereby all or substantially all of the Lessee's operations hereunder are managed or performed by another Person.

"Control" (including the terms "controlling," "controlled by" and "under common control with") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or membership interests, by contract or otherwise.

"Person" shall mean a natural person, corporation, limited liability company, or other legal entity, and also two or more natural persons, corporations or other legal entities acting jointly as a firm, general or limited partnership, unincorporated association, consortium, joint venture or otherwise.

"Sublease" shall mean any sublease (including a sub-sublease or any further level of subletting) and any occupancy, license, franchise, or concession agreement applicable to the Premises or any portion thereof, and shall include any arrangement whereby a substantial portion of the Lessee's operations hereunder are managed or performed by another Person.

"Transfer" shall mean the transfer, sale, assignment, pledge, hypothecation or other disposition of any interest in the Lessee or in any direct or indirect constituent entity of the Lessee, where such disposition (whether by itself or cumulatively with other transactions) produces any change in the Control (as hereinafter defined) of the Lessee, and shall include, without limitation, (1) the sale, assignment, redemption or transfer of outstanding stock of or membership interests in, respectively, in any corporation or limited liability company that is the Lessee; (2) the issuance of additional stock or membership interests in, respectively, any corporation or limited liability company that is the Lessee or that is the general partner of any partnership that is the Lessee, and (3) the sale, assignment, redemption or transfer of any general or limited partner's interest in, or the admission of a new partner to, a partnership that is the Lessee, or that a general or limited partner of any partnership that is the Lessee.

(b) The Lessee shall not effect or permit any Assignment, Transfer or Sublease without the prior written consent of the Port Authority, which consent may be given or withheld by the Port Authority in its sole and absolute discretion. The Lessee shall not enter into any management agreement, services agreement or similar type of agreement governing the operations or management of the Premises without the prior written consent

of the Port Authority, which consent can be withheld by the Port Authority in its sole and absolute discretion.

(c) Any Sublease, Assignment or Transfer, including without limitation any sale, assignment, transfer, mortgage, pledge, hypothecation, encumbrance or disposition of the Premises or of the rents, revenues or any other income from the Premises, or this Agreement or any part hereof, or any license or other interest of the Lessee herein in not made in accordance with the provisions of this Agreement shall be null and void *ab initio* and of no force or effect.

(d) If without the prior written consent of the Port Authority, the Lessee effects or permits any Assignment, Transfer or Sublease, or if the Premises are occupied by any person, firm or corporation other than the Lessee, the Port Authority may collect rent from any assignee, sublessee, or anyone who claims a right to this Agreement or to the letting or who occupies the Premises, and shall apply the net amount collected to the Rental herein reserved; but no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section, nor an acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as tenant, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained in this Agreement.

(e) Any consent granted by the Port Authority to any Assignment, Transfer or Sublease pursuant to the provisions hereof shall not be construed or deemed to release, relieve or discharge the Lessee or any other Person claiming any right, title or interest in this Agreement from the requirement of obtaining the prior written consent of the Port Authority with respect to any other Assignment, Transfer or Sublease.

(f) The Lessee further covenants and agrees that it will not use or permit any Person whatsoever to use the Premises or any portion thereof for any purpose other than in accordance with Section 8 of this Agreement. Except as provided in this Agreement or otherwise permitted in writing by the Port Authority, the Lessee shall not permit the Premises to be used or occupied by any Person other than its own officers, employees, contractors and representatives.

(g) Notwithstanding anything in this Agreement to the contrary, the Lessee shall be permitted to license certain limited portions of the Premises as office space to its clients (and/or such clients' service providers) as may be deemed

necessary or desirable to facilitate the processing of waterborne cargo at the Premises. The Provisions of this Section 18 shall not be applicable to such licensed space. Lessee shall not permit such license to rise to the level of a Sublease, as determined in the Port Authority's reasonable discretion.

(h) Notwithstanding that the disposition of any interest in the Lessee not producing any change in Control of the Lessee does not constitute a Transfer hereunder and accordingly does not require the consent of the Port Authority, the Lessee covenants to provide the Port Authority with notice of any such disposition not later than fourteen (14) days thereafter.

Section 19. Condemnation

(a) In any action or other proceeding by any governmental agency or agencies superior to the Port Authority 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; provided, however, that this paragraph shall not be construed to prevent the Lessee from making a possible claim against the condemning party for an award for moving or relocation expenses, for trade fixtures and for other fixtures and improvements owned by the Lessee to the extent that such fixtures and improvements are owned by the Lessee and have been paid for by the Lessee, if such claims are then permitted by law and if such award is made separately from the award which the Port Authority will be entitled to in the condemnation proceeding, and will not reduce the amount thereof, but this provision shall not be deemed a recognition by the Port Authority of the validity of any such claims.

(b) In the event that the Port Authority exercises its powers to acquire Lessee's interest hereunder by condemnation, as authorized by specific legislation enactment, codified at N.J.S.A. 32:2-10, the Port Authority may by notice given to the

Lessee, in compliance with N.J.S.A. 32:2-11, 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. If the Port Authority exercises this option, the Lessee shall have the same rights and remedies provided in subparagraph (a) above. 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 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; provided, however, that in the event the Port Authority terminates this Agreement pursuant to this Section 19, Lessee's obligations with respect to the Premises (or such portion(s) of the Premises so taken) shall cease as of the date of such termination. Further, the Port Authority's right to condemnation hereunder shall in no way be limited or restricted by the provisions of Section 25 hereof.

(c) Subject to the provisions of paragraphs (a) and (b) above, 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 terminate in the same manner and with the same effect as if the said date were the original date of expiration hereof.

(d) Subject to the provisions of paragraphs (a) and (b) above, in the event that the taking or conveyance covers less than fifty percent (50%) of the total useable area 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 terminate in the same manner and with the same effect as if the Term had on that date expired, and Basic Rental and Additional Rental (as hereinafter defined) shall be abated as provided in Section 7 hereof.

(e) Subject to the provisions of paragraphs (a) and (b) above, 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 covers fifty percent (50%) or more of the total usable area of the Premises, then the Lessee and the Port Authority shall each have an option exercisable by notice given within ten (10) 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.

Section 20. Construction by the Lessee

(a) Any construction work performed by Lessee pursuant to this Lease is hereinafter called "the Lessee's Construction Work". The Lessee's Construction Work shall be performed at the Lessee's sole cost and expense.

(b) With respect to the Lessee's Construction Work the Lessee shall procure insurance in favor of the Port Authority, and its Commissioners, officers, agents and employees against the following risks, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from intentional tortious acts or grossly negligent acts done by the Port Authority subsequent to commencement of the work:

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

(2) The risk of death, injury or damage, direct or consequential, to the Port Authority, and its Commissioners, officers, agents and employees, and to its or their property, arising out of or in connection with the performance of the work. The Lessee shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, for all such injuries and damages (including without limitation, direct or consequential damages), and for all loss suffered by reason thereof;

(3) The risk of claims and demands, just or unjust, by third persons against the Port Authority, and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the work. The

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

(c) Prior to the commencement of any of the Lessee's Construction Work, the Lessee shall submit to the Port Authority for its approval a Construction Application in the form supplied by the Port Authority pursuant to TAA requirements, and containing such terms and conditions as the Port Authority may include (the "Construction Application"), setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each of the items constituting the Lessee's Construction Work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's complete Construction Application and complete plans and specifications, within a reasonable period but no later than ninety (90) days following submittal of all required information, plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each

such contractor or subcontractor, and the contract such contractor is operating under, have been approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Construction Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in paragraphs (j) and (k) of this Section 20 and such performance bonds as the Port Authority may specify. All of the Lessee's Construction Work shall be performed by the Lessee in accordance with the 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 final completion of all of the Lessee's Construction Work the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this paragraph certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement, and the Lessee shall supply the Port Authority with as-built drawings of the Lessee's Construction Work in such form and number requested by the Port Authority. The Lessee shall keep said drawings current during the Term under this Agreement. No changes or modifications to such work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, within a reasonable period but no later than ninety (90) days following submittal thereof, the Port Authority shall inspect the work and, unless such certification is not correct, or the Port Authority determines that the premises are unsuitable for occupancy and use by the Lessee, a certificate of final completion shall be delivered to the Lessee by the Port Authority.

(d) Except as set forth in paragraph (e) of this Section 20, the Lessee shall not commence any portion of the Lessee's Construction Work until the Construction Application and plans and specifications covering such work, referred to in paragraph (c) of this Section, have been finally approved by the Port Authority, and the insurance required pursuant to paragraphs (j) and (k) of this Section procured.

(e) If the Lessee desires to commence construction of portions of the Lessee's Construction Work prior to the approval

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

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

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

(3) Each item of Partial Approval Work shall be performed in accordance with and subject to the terms and provisions of this Agreement covering the Lessee's Construction Work and in accordance with the approved Construction Application covering such item of Partial Approval Work and in accordance with the approved Partial Approval Work Plans constituting a part of such Construction Application, and subject to any requirements, stipulations, and provisions which the Port Authority may impose in its approval of the performance of such item of Partial Approval Work.

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

(5) The Lessee specifically understands that neither the Port Authority's approval of any Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work nor the performance by the Lessee of any item of Partial Approval Work pursuant to such approval shall obligate the Port Authority to approve the Construction Application and plans and specifications submitted by the Lessee for the balance of the Lessee's Construction Work or shall create or be deemed to create any obligation on the part of the Port Authority to permit subsequent Partial Approval Work to be performed. Without limiting the generality of the provisions of this paragraph, it is specifically understood that the Port Authority may withhold its approval of a Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work if the Port Authority determines that review of subsequent items of Partial Approval Work is required before the Port Authority can approve, reject, or comment upon such Partial Approval Work Plans.

(6) In the event that in the opinion of the Port Authority the Lessee: (i) fails to comply with all of the provisions of this Agreement with respect to such work; (ii) fails to comply with the provisions of the Construction Application covering such work and the plans and specifications forming a part thereof; (iii) fails to comply with any requirements, stipulations, or provisions reasonably imposed by the Port Authority in its approval of the performance of such item of Partial Approval Work; (iv) shall be in breach of any of the provisions of this Agreement covering such work; (v) shall be in breach of any of the provisions of the Construction Application and plans and specifications covering the performance of such work; or (vi) shall be in breach of any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the work, the Port Authority shall have the right to cause the Lessee to cease the work that is being performed in violation of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval. Upon written direction from the Port Authority, the Lessee shall promptly cease performance of the portion of the Partial Approval Work specified. The Lessee shall thereupon submit to the Port Authority for its written approval of the Lessee's proposal for making modifications, corrections or changes in or to the item of Partial Approval Work that has been or is to be performed so that the same will comply with the provisions of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval covering such work. The Lessee shall not commence construction of the portion of the Partial Approval Work that has been halted until it has received written approval of the proposed modifications, corrections or changes.

(7) It is hereby expressly understood and agreed that the Port Authority has no duty or obligation of any kind whatsoever to inspect or police the performance of any Partial Approval Work by the Lessee and the rights granted to the Port Authority hereunder shall not create or be deemed to create such a duty or obligation. Accordingly, the fact that the Port Authority has not exercised its right to require the Lessee to cease performance of all or any part of the Partial Approval Work shall not be, or be deemed to be, an agreement or acknowledgment on the part of the Port Authority that the Lessee has in fact performed such work in accordance with the terms of this Agreement,

the Construction Application and plans and specifications covering such work, or the conditions of the Port Authority's approval of such work. Nor shall such fact be or be deemed to be a waiver by the Port Authority of any of the requirements of this Agreement with respect to such work, or any of the requirements of the Construction Application and plans and specifications covering such work, or any of the conditions of the Port Authority's approval of such work.

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

(g) Without limiting the generality of paragraph (c) of this Section, 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 the improvements, fixtures, and equipment 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 Lessee's Construction Work or for the contracts for the performance thereof entered into by the Lessee. Any warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of the Port Authority as well as the Lessee. The Lessee shall not conduct any business at the Premises with respect to any improvements, fixtures or equipment constituting the Lessee's Construction Work until the Port Authority shall have notified the Lessee in writing that the Lessee's Construction Work has been completed or substantially completed to its satisfaction pursuant to paragraph (c) of this Section 20 and which shall be given in a reasonable period, but not later than ninety (90)

days. In the event of any inconsistency between the provisions of this Agreement and those of the Construction Application referred to in paragraph (c) of this Section the provisions of this Agreement shall control; provided, however, that the Lessee shall be obligated to pay any tenant construction review fee or other review fee charged by the Port Authority for its costs of administrating the Construction Application process.

(h) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the Premises by the Lessee and all other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee in the Premises and shall do preventive maintenance and make such repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear which does not adversely affect the efficient or proper utilization of any part of the Premises.

(i) The Lessee shall pay all claims lawfully made against it by its contractors, subcontractors, materialmen and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the work, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them. Nothing herein contained shall be deemed to constitute consent to the creation of any lien or claim against the Premises or any part thereof, nor to prevent the Lessee from contesting claims in good faith.

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

(1) Commercial General Liability Insurance including but not limited to Independent Contractor coverage and coverage for Premises Operations and Completed-Operations and for Broad Form Property Damage, with a contractual liability endorsement covering the obligations assumed by the Lessee under paragraph (b) of this Section, and which are customarily insured under such a policy, with a minimum

combined single limit coverage for bodily injury and property damage of $10,000,000 per occurrence, no general aggregate. The policy will also include x,c,u coverage

(2) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage for bodily injury and property damage of $10,000,000 per occurrence, no general aggregate.

(k) With the exception of the Commercial Automobile Liability, Workers' Compensation and Employers' Liability Insurance policies each policy of insurance described in paragraph (j) of this Section shall include the Port Authority as an additional insured, in its coverages including, without limitation, coverage for Premises- operations and completed operations, and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured, or the coverage under the contractual liability endorsement described in subdivision (1) of paragraph (j) of this Agreement. The certificates of 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 and/or loss payee, as applicable. Such insurance shall contain a provision that the insurer shall not, without obtaining express written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. The requirements of the certificate of insurance evidencing these coverages shall be the same as specified in Section 15 (f), except that, instead of the certificate being delivered to the Port Authority on or before the Lease Commencement Date, the certificate must be delivered to The Port Authority before any work is to take place.

(l) Title to all improvements and fixtures placed, constructed or installed in or on the Premises as the Lessee's Construction Work shall vest immediately in the Port Authority upon placement, construction or installation thereof and title to any and all equipment and trade fixtures removable without substantial injury to the Premises placed in or installed upon the Premises as part of the Lessee's Construction Work shall remain with the Lessee. No such equipment or trade fixtures shall be removed by the Lessee prior to the termination of this Lease unless replaced with identical property of equal or greater value. Without limiting any other term of the Lease and notwithstanding the foregoing provisions, upon written notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the letting of the Premises under this Agreement the Lessee shall remove from the Premises any improvements, fixtures, trade fixtures, or equipment as the Port Authority may specify in its notice, and shall repair any damage to the Premises caused by such removal.

(m) In the performance of the Lessee's Construction Work, and otherwise during the Term of this Lease, to the extent within its reasonable control, the Lessee will not permit any situation or condition to arise or continue that causes any labor troubles at, or emanating from, the Lessee's Premises which interferes in any material respect with the operations (including any construction work) at the Lessee's Premises. Upon written notice from the Port Authority (and provided the Port Authority has obtained a corresponding understanding and agreement from the New York Shipping Association with respect to the actions requested in such notice), the Lessee will (or will cause its contractor to, as applicable) take such actions as are within its control and commercially reasonable under the circumstances to rectify any condition causing or contributing to labor troubles as specified in such notice. In the event of failure by the Lessee (or any of its contractors, as applicable) to timely comply with the requirements of this paragraph, the Port Authority, after consultation with, and approval by, the New York Shipping Association, will have the right, by notice from the Port Authority to the Lessee, to require the Lessee to: (a) suspend the Port Authority's permission to the Lessee to proceed with the applicable portion of each specific construction project of the Lessee's Construction Work being performed by or on behalf of the Lessee (i.e. the portion to which the underlying labor trouble relates, or suspend the Port Authority's permission to the Lessee to continue such other specific operations as reasonably necessary to immediately terminate such labor troubles, and the Lessee will thereupon

immediately cease the same, and/or (b) take such other actions, supported by the New York Shipping Association, as reasonably necessary to terminate such labor troubles. When labor troubles will be so settled that such interference no longer exists and the danger thereof has been substantially mitigated, the Port Authority by notice to the Lessee will (i) reinstate the permission to the Lessee to perform the subject specific construction project of the Lessee's Construction Work on all the same terms and conditions as before the suspension and/or (ii) permit the Lessee to resume such other suspended activities at the Lessee's Premises or the Facility. "Labor troubles" will mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, disputes or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any, which materially interferes with operations or construction within the Facility.

(n) No contractor or third party shall, or shall be deemed to, have acquired any rights against the Port Authority by virtue of the execution of this Agreement and nothing contained herein shall operate or give to any such contractor or third party any claim or right of action against the Port Authority and its Commissioners, officers, agents and employees.

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

require that its contractors and subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions of this paragraph and Schedule E to effectuate the goals of affirmative action, MBE, and WBE programs. The obligations imposed on the Lessee under this paragraph and Schedule E shall not be construed to impose any greater requirements on the Lessee than those which may be imposed on the Lessee under applicable law.

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

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

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

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

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

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

(q) Prior to the commencement of any demolitions, repairs, replacements or alterations to be performed by the Lessee during the Term, other than the Lessee's Construction Work (as defined in paragraph (a) of this Section 20), the Lessee shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include (an "Alteration Application"), setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each anticipated repair or alteration, and shall describe in detail any systems, improvements, fixtures and equipment to be installed by the Lessee. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's complete Alteration Application and complete plans and specifications, no later than ten (10) business days following submittal of all required information, plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority

may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been reasonably approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Alteration Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in paragraphs (j) and (k) of this Section 20 and such performance bonds as the Port Authority may specify. All of the Lessee's repairs, replacements, or alterations shall be performed by the Lessee in accordance with the Alteration Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. The Lessee shall be obligated to pay a three percent (3%) tenant alteration review fee or other review fee charged by the Port Authority for its costs of administrating the Tenant Alteration Application Process.

(r) The Lessee agrees that in the performance of any work that is subject to this Section 20, including without limitation the Lessee's Construction Work, it will comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

(s) Notwithstanding anything to the contrary in this Section 20 or this Agreement, the Port Authority shall give its written approval or rejection, or shall request such revisions or modifications as the Port Authority deems necessary, no later than ten (10) calendar days following the Lessee's submittal of any Construction Application or Alteration Application relating to security on the Premises, including without limitation installation of fencing, jersey barriers, or other related similar improvements within or bordering the Premises. In the event the Port Authority requests revisions or modifications to any Construction Application or Alteration Application relating to security, the Port Authority shall give its written approval or rejection thereof within ten (10) days of its receipt of such revisions or modifications.

Section 21. 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 (the "Additional Rental," and, when taken together with the Basic Rental, the "Rental"). No payment made by the Lessee to the Port Authority under this Section shall be or be deemed a waiver by the Lessee of any right to contest its making of such payment.

(b) Should the Port Authority elect to use its operating and maintenance staff in performing any work and to charge the Lessee with the cost thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall be prima facie evidence against the Lessee that the amount of such charge was necessary.

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

Section 22. Rights of Entry Reserved

(a) The Port Authority, by its officers, employees, agents, representatives and contractors shall have the right, upon reasonable advance notice, to enter upon the Premises for the purpose of inspecting the same at all reasonable times, 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; provided, however, that in the exercise of such rights of access, the Port Authority shall not materially interfere with the use and occupancy of the Premises by the Lessee.

(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, upon reasonable advance notice, to enter upon the Premises 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, the Port Authority shall not materially interfere with the use and occupancy of the Premises by the Lessee.

(c) 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.

(d) Except as described in Section 16(e) hereof, 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 intentional tortious acts or gross negligence of the Port Authority).

(e) 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.

(f) 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.

(g) 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 23. 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, and 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 with appropriate jurisdiction.

(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.

Section 24. Termination

(a) Each of the following events shall be an "Event of Default" or a "default" hereunder:

(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 (i) the Lessee is a corporation, by any of its stockholders, or, (ii) if the Lessee is a limited liability company, by any of its members, or (iii) if the Lessee is a general or limited partnership, by any of its general partners, 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 ninety (90) days after the filing thereof; or

(4) Except as permitted under Section 18 hereof, 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, partnership, corporation, or other business entity; or

(5) The Lessee, without the prior approval of the Port Authority, merges, consolidates, dissolves or experiences a change in Control as defined herein; or

(6) 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

(7) The Lessee shall voluntarily abandon, desert or vacate all or substantially all of the Premises or discontinue its operations at the Premises for over sixty (60) days (except in connection with a casualty, in accordance with Section 16 hereof) or, after exhausting or abandoning any right of further appeal, the Lessee shall be prevented for a period of sixty (60) days by action of any governmental agency from conducting its operations on the Premises, regardless of the fault of the Lessee; or

(8) 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

(9) 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, and such failure shall not be corrected within fifteen (15) days of the due date of any such payment; or

(10) The Lessee shall fail to (i) obtain any insurance policy required under this Lease, or, (ii) following the lapse, termination or expiration of any such insurance policy, fail to replace the same with a policy complying with the terms and conditions set forth in this Lease, and Lessee fails to correct this lapse within thirty (30) days following such lapse, termination or expiration; or

(11) The Lessee shall fail to perform its repair and maintenance obligations under this Lease with regard to any of the leasehold Premises and fails to commence such repairs within thirty (30) days after receipt of notice thereof from the Port Authority, or, if such repairs cannot be completed within thirty (30) days, to commence such repairs during the thirty (30) day period and continue to perform such repairs in a diligent and timely manner until completed; or

(12) The Lessee shall fail to keep, perform and observe any 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 diligently continues such performance without interruption to completion.

Upon the occurrence of any such Event of Default or at any time thereafter during the continuance thereof, the Port Authority may by 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, which date shall not be less than five (5) days after the giving of such notice.

(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 forty eight (48) 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 as a consequence of 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 25. Additional Termination Rights

(a) Beginning on the Commencement Date of this Lease and continuing throughout the Term of this Lease, the Port Authority

shall have the right, on ninety (90) days' notice, to recapture an aggregate of three (3) acres of the Premises in any sixty (60) month period of the Term for the purpose of facilitating the efficient movement of vehicles and cargo in and around the Facility, for the purpose of enhancing ingress and egress to adjacent leaseholds and public berths, for the purpose of complying with any United States Coast Guard, Department of Homeland Security, Port Authority, or any other governmental requirements for the safety of the Facility, as determined in the sole discretion of the Port Authority or other governmental agency, or for the purpose of installation of utilities; provided, however, that the Port Authority shall provide a proportionate adjustment of the Rental. The Port Authority shall be responsible for those costs associated with redefining the Premises under this provision such as security requirements, but such costs shall not include costs expended in the Lessee's ordinary course of business operations, labor costs or any diminution in value.

Beginning on the Commencement Date of this Lease and continuing throughout the Term of this Lease, the Lessee shall also have the right, on ninety (90) days' notice to surrender an aggregate of three (3) acres of the Premises in any sixty (60) month period of the Term for any purpose; provided, however, that any notice given by the Lessee in accordance with the provisions of this Section 25 shall not be effective if the Lessee has been delivered a notice of default from the Port Authority as to which any applicable period to cure has passed, or has been delivered a notice of termination from the Port Authority. Lessee shall be responsible for those costs associated with redefining the Premises under this provision such as security requirements, but such costs shall not include costs expended in the Port Authority's ordinary course of business operations, labor costs or any diminution in value.

Termination under the provisions of this Section 25 shall have the same effect as if the effective date of termination stated in the notice delivered hereunder were the date of expiration of the Term of the letting of this Lease with regard to the specific portion of the Premises to which the termination applies.

(b) The parties may mutually agree to terminate or surrender any other acreage during the Term of the Lease.

Section 26. Right of Re-entry Upon Termination

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 24 of this Agreement, have the right to re-enter the Premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or other legal proceedings, or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the surviving obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 27. 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 28. Survival of the Obligations of the Lessee Upon Termination

(a) In the event that (i) the letting shall have been terminated in accordance with a notice of termination as provided in Section 24 of this Agreement, or (ii) the Port Authority has re-entered, regained or resumed possession of the Premises in accordance with the provisions of Section 26 of this Agreement, then all of the obligations under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession, including repair and maintenance obligations, provided, however, that any obligation of the Lessee hereunder relating to the Lessee's Construction Work shall only survive to the extent that such Lessee's Construction Work has been fully approved and has commenced, in accordance with Section 20 hereof. Upon such termination, 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, subject to the Port Authority's right as provided in the next sentence to accelerate the amounts due and recover the full amount for the entire unexpired Term. 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, and, notwithstanding anything appearing in this Section to the contrary, the Port Authority does not waive any rights it may have against Lessee under any performance bonds or any other agreements.

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

(1) the amount of all unfulfilled monetary obligations of the Lessee under this Agreement, including, without limitation thereto, all sums constituting Additional Rental under Section 21 of this Agreement, and all sums constituting the Basic Rental under Sections 3 - 6 of this Agreement, accrued prior to the effective date of termination, and the cost to and expenses of the Port Authority for fulfilling all other obligations of the Lessee which would have accrued or matured during the balance of the Term or on the expiration date originally fixed or within a stated time after expiration or termination; and

(2) an amount equal to all reasonable costs and expenses incurred by the Port Authority in connection with such termination, cancellation, regaining or resumption of possession, collection of all amounts due to the Port Authority, the restoration of the Premises (on failure of the Lessee to have restored), the releting 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 outside counsel), 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 29. Releting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 24 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 26 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 releting may be of a part of the Premises or of the entire Premises, and may be for any period of time (whether the same as

or different from the amount remaining in the Term hereunder), 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 24 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 26 of this Agreement, have the right to repair and to make structural or other changes in the Premises, including changes which alter the character of the Premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the Premises (or portion thereof) during the balance of the Term as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the Premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender. The Port Authority acknowledges that it has an obligation to mitigate its damages in accordance with applicable law.

Section 29A. Remedies Under Bankruptcy and Insolvency Codes

If an order for relief is entered or if any stay of proceeding or other act becomes effective in favor of Lessee the Port Authority's interest in this Lease in any proceeding commenced by or against Lessee under the present or any future United States Bankruptcy Code or in a proceeding which is commenced by or against Lessee seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future applicable federal, state or other bankruptcy or insolvency statute or law, the Port Authority shall be entitled to invoke any and all rights and remedies available under such bankruptcy or insolvency code, statute or law or under this Agreement including such rights and remedies as may be necessary to adequately protect the Port Authority 's right, title and interest in and to the Premises or any part thereof and adequately assure the complete and continuous future

performance of Lessee's obligations under this Agreement. Adequate protection of the Port Authority's right, title and interest in and to the Premises, and adequate assurance of the complete and continuous future performance of Lessee's obligations under this Agreement, shall include all of the following requirements:

(a) that Lessee shall comply with all of its obligations under this Agreement;

(b) that Lessee shall continue to use the Premises only in the manner permitted by this Agreement; and

(c) that if Lessee's trustee, Lessee or Lessee as debtor-in-possession assumes this Agreement and proposes to assign it (pursuant to Title 11 U.S.C. Section 365, as it may be amended) to any person who has made a bona fide offer therefor, the notice of such proposed assignment, giving (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided the Port Authority to assure such person's future performance under this Agreement, including the assurances referred to or intended by Title 11 U.S.C. Section 365, as it may be amended, and such other assurances as the Port Authority may reasonably require, shall be given to the Port Authority by the trustee, Lessee or Lessee as debtor-in-possession of such offer, not later than twenty (20) days before the date that the trustee, Lessee or Lessee as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment, and Port Authority shall thereupon have the prior right and option, to be exercised by notice to the trustee, Lessee and Lessee as debtor-in-possession, given at any time before the effective date of such proposed assignment, to accept an assignment of this Agreement upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person (including any higher or better offers made that may be made in such proceedings), less any brokerage fees, finders' fees, procuring fees, or commissions, or any similar fees or commissions which may be payable out of the consideration to be paid by such person for the assignment of this Agreement ("Brokerage Commissions"). The Port Authority shall have no obligation to pay any such Brokerage Commissions. If Lessee attempts to arrange such an assignment of this Lease, then as an element of the required adequate assurance to the Port Authority, and as a further condition to Lessee's right to make such an assignment, Lessee's agreement(s) with brokers shall, to the Port Authority's reasonable satisfaction, provide

that the Port Authority shall have no obligation to pay such Brokerage Commissions if the Port Authority exercises the Port Authority's rights under this Section 29 A.

Section 30. 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 31. 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 16(c) hereof regarding the condition of the Premises at the expiration or termination of the letting hereunder.

(b) The Lessee shall have the right at any time during the letting to remove from the Premises, all its equipment, removable fixtures and other personal property, 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, provided, however, that the Port Authority shall have given the Lessee twenty (20) days' written notice of the Port Authority's intent to sell such property 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 (or the Port Authority shall have recourse to the letter of credit provided pursuant to this Agreement). 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. Notwithstanding the foregoing, Lessee shall not indemnify nor hold harmless the Port Authority, its Commissioners, officers, agents, employees or contractors for their respective intentional tortious acts or gross negligence.

Section 32. Acceptance of Surrender of Lease

No agreement of surrender or purported acceptance of 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 33. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an officer or representative at their office during regular business hours; or (iii) if directed to the Lessee, delivered to the Premises at any time to the attention of the President; or (iv) forwarded to such party, officer or representative at the office by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar reputable overnight courier service. 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 the first page of this Agreement, as their respective offices where notices and requests may be served.

(b) If any notice is mailed or delivered, the giving of such notice shall be complete upon receipt or, in the event of a

refusal by the addressee, upon the first tender of the notice to the addressee or at the permitted address.

Section 34. 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; or

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

(5) None of the provisions of this paragraph (a) shall be taken to alter, amend or diminish any obligation of the Lessee assumed in relation to its invitees, business visitors, agents, representatives, contractors, customers, guests, or other persons, firms or corporations doing business with it or using or on or at the Premises with its consent.

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

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

(d) The Lessee's representative, hereinbefore specified in this Agreement (or such substitute as the Lessee may hereafter

designate in writing), shall have full authority to act for the Lessee in connection with this Agreement and any things done or to be done hereunder, and to execute on the Lessee's behalf any amendments or supplements to this Agreement or any extension thereof.

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

(f) All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority at P. O. Box 95000, Philadelphia, Pennsylvania 19195-1517 or via wire transfer to TD Bank, Bank ABA Number: 031201360, Account Number: 5950011618, or to such other address as may be substituted therefor.

(g) This Agreement does not render the Lessee the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is hereby created.

(h) As used in Sections 13 and 16 hereof, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, catch basins, storm grates, storm drains, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment. The phrase "utility, mechanical, electrical and other systems" shall specifically exclude any underground utilities, including storm water underground utilities in accordance with Section 16(f).

(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, "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 or her duly designated representative or representatives.

(k) 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.

(l) 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, without disturbance 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 obligations hereunder shall continue only so long as it remains the owner of the Premises.

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

(n) Intentionally Deleted.

(o) Intentionally Deleted.

(p) The Lessee is not acquiring an ownership interest in the Premises under this Agreement. Capital expenditures in connection with the Premises have been, or are expected to be made, in whole or in part by the Port Authority from "exempt facility bonds" (within the meaning of Section 142(a) of the Internal Revenue Code of 1986, as amended) issued by the Port

Authority from time to time (such capital expenditures are hereinafter called "the Property"). The Lessee hereby irrevocably elects not to claim for purposes of federal, state or local taxation of income any depreciation or investment credits, for which it may be eligible with respect to the Property. The Lessee further agrees that this irrevocable election shall be binding upon its successors in interest, if any, under this Agreement, and as a condition of any permitted sale or assignment of the interest of the Lessee under this Agreement, every successor in interest shall furnish an executed irrevocable election in the form of the immediately preceding sentence to the Port Authority. The foregoing shall not grant or be deemed to grant to the Lessee the right to sell or assign, in any manner, its interest under this Agreement.

(q) Neither this Agreement nor a Memorandum of Lease may be recorded of record.

(r) It is understood that the election set forth in paragraph (p) of this Section 34 shall not apply to any personal property of the Lessee (including equipment and trade fixtures) removable without material damage to the Premises leased to the Lessee pursuant to this Agreement which are installed by the Lessee in or on the Premises leased to the Lessee pursuant to this Agreement and which shall be deemed to be and remain the property of the Lessee.

(s) Unless otherwise specified, whenever in this Agreement the consent of the Port Authority is required to be obtained, the giving of the consent shall be in the sole discretion of the Port Authority.

(t) This Agreement shall be governed by the laws of the State of New Jersey without regard to conflict of law principles. The parties irrevocably and unconditionally consent and submit to the exclusive jurisdiction and venue of the state and federal courts in the State of New Jersey (in the District in which the Facility is located).

(u) The Port Authority shall not be deemed to have modified or waived any of its rights or remedies hereunder unless such modification or waiver is in writing and signed by the Port Authority, and then only to the extent specifically set forth therein. A waiver in one specific event shall not be deemed to apply either as a waiver or bar to any right or remedy stemming from a subsequent event.

(v) The Lessee shall be responsible for the provision of parking facilities for all of Lessee's employees working in office buildings, processing buildings and yards located at the Facility; provided, however, that the Lessee shall not be responsible for providing parking facilities for ILA workers discharging or loading vessels or draying vehicles.

(w) Except as provided in subsection (x) below, the parties agree and acknowledge that the Port Authority will be under absolutely no obligation whatsoever to supply any additional property at the Facility to the Lessee during the Term of this Lease, and that no further discussions between the Port Authority and Lessee regarding consolidation will be entered into with the Lessee during the Term of this Lease.

(x) Notwithstanding subsection (w) above, should the Port Authority relocate the existing tenant at the premises set forth below during the Term of this Lease, which decision to relocate shall be in the sole and absolute discretion of the Port Authority, it being understood that the Port Authority has absolutely no obligation to relocate such existing tenant, Sections C and D of Building 263 and the associated open area (the "Building 263 Area"), and the open area yard located on Parcel 4 (also known as Lot S) (the "Open Area Property", and, when taken together with the "Building 263 Area," the "Potential Relocation Parcel"), shall be added to and integrated into the Premises under this Lease by execution of a spreader agreement. In the event the Potential Relocation Parcel becomes available, Lessee shall accept said Potential Relocation Parcel in "AS IS"/broom clean condition, it being agreed that the Port Authority shall have absolutely no obligations whatsoever to undertake any work to remove or replace any structures (including without limitation, offices, bathrooms, supply rooms, fencing, etc), equipment or infrastructure, fixed or unfixed, at the Potential Relocation Parcel. Upon integration of the Potential Relocation Parcel into the Premises, and into this Lease, the Basic Rental shall be adjusted as follows: Lessee shall pay for the entire footprint area of the Potential Relocation Parcel at the then-current open area rates being charged by the Port Authority, which rate shall be subject to adjustment in accordance with Section 4 herein, beginning on the first (1st) day of January in the calendar year following the integration of such Potential Relocation Parcel into the leasehold under this Lease, and using as the Base Period for such calculation the month in which the Potential Relocation Parcel was integrated into the leasehold hereunder (unless such Potential Relocation Parcel is integrated into the leasehold

hereunder in the month of December, in which case the Base Period shall be the November of the calendar year in which the Potential Relocation Parcel was integrated into the leasehold under this Lease and the adjustment shall not occur until January 1 in the calendar year following the first annual anniversary date of the integration of the Potential Relocation Parcel into the leasehold).

(y) The parties agree and acknowledge that at the time of the surrender and termination of Lease 293, Lessee was and continues to be in arrears in its Rental payments under Lease 293 in the amount of Three Million Four Hundred Thousand and 00/100 Dollars ($3,400,000.00) (the "Rental Arrears"). The parties further agree and acknowledge that, pursuant to the Surrender Agreement, the Lessee has agreed to pay a surrender fee to the Port Authority in the amount of One Million and 00/100 Dollars ($1,000,000.00) in connection with the termination of Lease 293 and the surrender of the Surrendered Premises (the "Surrender Fee"). Lessee acknowledges that the Rental Arrears and the Surrender Fee are currently due and owing to the Port Authority. Repayment of the Rental Arrears and the Surrender Fee has been taken into consideration in the calculation of the Annual Vehicle Throughput Rental payable in accordance with Section 5 of this Agreement. In the event that this Agreement is terminated for any reason prior to the expiration of the full Term set forth in Section 2 of this Agreement, in addition to all other rights and remedies set forth herein, the Port Authority shall have the right to recover the Rental Arrears and the Surrender Fee, to the extent unpaid at the time of such termination, as Additional Rental.

Section 35. Premises

(a) (i) The Port Authority shall deliver the Premises to the Lessee in its presently existing "as is" condition and the Lessee agrees to and shall take the Premises in its "as is" "where is" condition, without any representations or warranties of any kind whatsoever, and the Port Authority shall have no obligations under this Agreement for finishing work or preparation of any portion of the Premises for the Lessee's use. The Lessee acknowledges that pursuant to Lease 265, Lease 266 Lease 291 and Lease 293, it has been in continuous occupancy of all of the Premises prior to the commencement of this Lease and is fully familiar with the Premises.

Notwithstanding the foregoing, the Port Authority represents that at the time of entering into Lease 293 with Lessee, in June, 2009, the fire protection systems and sprinkler

systems in all buildings existing on the premises that were the subject of Lease 293, were in working condition and compliant with all applicable codes and regulations.

(ii) Notwithstanding Section 35(a)(i) above, as to former Building 291 specifically, the Port Authority shall grade the open area created by the demolition of Building 291 so that the resulting open area tapers down over fifty (50) feet to a twelve percent (12%) grade). The foundation of Building 291 will remain. All fencing and other related work shall be at the sole cost and expense of the Lessee.

(b) 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 a likelihood 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.

(c) 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, ice, 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. Notwithstanding the foregoing, the Port Authority shall at all times remain liable for its intentional tortious acts and/or gross negligence.

Section 36. Force Majeure

(a) Neither the Port Authority nor the Lessee shall be liable for any failure, delay or interruption in performing its respective obligations hereunder due to causes or conditions beyond its control, including, without limitation thereto,

subject to the provisions of paragraph (m) of Section 20, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type (whether affecting the Port Authority, the Lessee or their respective contractors or subcontractors), embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior or applicable governmental authority, weather conditions, tides, riots, rebellion, sabotage or any other circumstances for which it is not responsible and which are not within its control. 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; provided, however, that the provisions of this paragraph shall not apply to failures by the Lessee to pay the Rental specified hereunder, and shall not apply to any other charges or money payments.

(b) The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency.

(c) No abatement, diminution 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 37. Brokerage

The Lessee represents and warrants that no broker has been engaged, hired or contracted 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 the Port Authority harmless of and from any and every claim for commission or brokerage made by any and all persons, firms or corporations whatsoever who allege to have acted for the Lessee for services in connection with the negotiation and execution of this Agreement.

Section 38. Non-Liability of Individuals

No Commissioner, director, officer, agent or employee of either party to this Agreement shall be held personally liable to the other party under any term or provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach thereof.

Section 39. 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, internet, telegraph, cable, or electrical guard or watch service.

(b) The Lessee shall promptly pay all utility bills covering its own consumption. Payment of water bills shall include any factor which may have been included by the appropriate governmental agency as a sewer-rent or other charge for the use of a sewer system. In the event that any such utility bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of Additional Rental, payable to the Port Authority on demand. Where sewage is contained in tanks periodically cleaned by a contractor paid by the Port Authority, the Lessee shall pay such portion of the contract charge as may be reasonably determined by the Port Authority, on demand.

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

(d) If during the Term of this Agreement, 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 and/or used by the Lessee at the Premises or the structures or buildings, which, or a portion or portions of which, are included in the Premises, then 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 (collectively, an "Interruption") in any water or gas service, whether 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 constructed to be an eviction of the Lessee, or shall constitute grounds for any diminution or abatement of the Rental payable under this Agreement, or grounds for any claim by the Lessee for damages, consequential or otherwise.

(f) Without in any way 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), whether master meters or not, are located at or on the Premises.

Section 40. Right of Termination - Ownership and Control

(a) The Lessee hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that it is a corporation incorporated and existing under the laws of the State of New Jersey, and that the requisite corporate consents to enter into this Agreement have been obtained. The Lessee hereby represents that all of the common stock and other securities of the Lessee is owned by Gary LoBue and August LoBue.

(b) The Lessee recognizes the fact that a change in Control (as defined in Section 18 hereof), Transfer of securities in the Lessee or of a substantial part thereof, entry into any management, services agreement or similar type of

agreement for operations on the Premises, or any other act or transaction involving or resulting in a change in the ownership or distribution of Lessee's securities or with respect to the identity of the parties in Control of the Lessee or the Premises, or the degree thereof (except as provided in Section 18), is for practical purposes a Transfer or disposition of the rights obtained by the Lessee through this Agreement. The Lessee further recognizes that because of the nature of the obligations of the Lessee hereunder, the qualifications and identity of the Lessee and its security holders are of particular concern to the Port Authority. The Lessee also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Agreement and, in doing so, is willing to accept and rely on the Lessee for the faithful performance of all obligations and covenants hereunder. Therefore, the Lessee represents and agrees for itself, its present owners and any successor in interest thereof, respectively, that without the prior written approval of the Port Authority, there shall be no Transfer of any securities in the Lessee by its present owners to any other Person; nor shall the present owners suffer any transfer of such securities to be made; nor shall there be or be suffered to be made by the Lessee or by any owner of securities therein, any other change in the ownership of such securities or in the relative distribution thereof, or with respect to the identity of the parties in Control of the Lessee or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional new securities or classification of securities or otherwise; and the Lessee further represents and agrees for itself and its present owners, and any successor in interest thereof, respectively, that the direct ownership and Control of the Lessee shall be and remain as represented in paragraph (a) of this Section.

(c) The Lessee acknowledges the Lessee's assurance of faithful performance of these provisions is a special inducement for the Port Authority to enter into this Agreement. Noncompliance on the part of the Lessee with the provisions contained in this Section shall be and be deemed an Event of Default under Section 24 of this Agreement, and the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of said Section 24 hereof.

(d) The foregoing right of termination shall be in addition to all other rights of termination the Port Authority

has under this Agreement and the failure of the Port Authority to exercise its right of termination under this Section at any time in which it may have such right shall not affect, waive or limit its right to exercise said right of termination at any subsequent time.

(e) The phrase "direct or indirect beneficial ownership" shall include without limiting the generality thereof the direct or indirect power through contract, arrangement, understanding, relationship or otherwise to dispose of or to direct the disposal of, or to vote or to direct the voting of, any voting security of an entity.

(f) The term "security" shall include any stock, any limited liability company interest, any bond which carries voting rights, or rights or options to subscribe to, purchase, convert or transfer into or otherwise acquire equity securities, or any other obligation of an entity the holder of which has any voting rights including but not limited to the right to vote for the election of members of the board of directors or board of managers of said entity and shall include any security convertible into a voting security and any right, option or warrant to purchase a voting security.

(g) The Lessee shall promptly advise the Port Authority of any change in the representations made in this Section 40 not later than fourteen (14) days thereafter.

Section 41. Condition Precedent.

The Lessee and the Port Authority acknowledge that, simultaneously with the execution of this Agreement, the Lessee and the Port Authority shall execute and deliver the Surrender Agreement, which execution and delivery shall constitute a condition precedent to the execution and delivery of this Agreement. The Lessee and the Port Authority further acknowledge that, simultaneously with the execution of this Agreement, the Lessee shall execute and deliver a General Release and Covenant Not To Sue, in a form acceptable to the Port Authority General Counsel, which execution and delivery shall constitute a condition precedent to the execution and delivery of this Agreement.

Section 42. Security

(a) Upon the execution of this Agreement by the Lessee and delivery hereof to the Port Authority, the Lessee shall have delivered to the Port Authority, as security for the Lessee's

full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, a clean irrevocable letter of credit issued by a banking institution reasonably satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of $2,400,000.00, allowing for partial and complete draws upon presentation of a site draft.

(b) The letter of credit shall be replaced with a replacement or amended letter of credit in an adjusted amount each time the parties execute any supplements, amendments or spreaders to this Lease that add to or surrender portions of the Premises, which adjusted amount shall increase upon addition of property and decrease upon surrender of property.

(c) 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 and until the completion of a final inspection to be conducted by the Port Authority of the Premises, which inspection shall be not less than six (6) months and not more than twelve (12) months following the expiration or termination of this Agreement (the "Inspection"), and provision of a letter from the Port Authority directly to the banking institution requesting the continuation of the letter of credit (such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter of credit), provided, however, that in the event any portion of the Premises are re-let by the Port Authority to another tenant, the Inspection shall be conducted as to that portion of the Premises prior to such re-letting. Subsequent to such Inspection, the Port Authority agrees to provide a punch list of those certain objectionable items with respect to the Inspection of each portion of the Premises. Following the Inspection, the Port Authority agrees to release the letter of credit less the aggregate cost (whose determination shall be in the opinion of the Port Authority) of the objectionable items on the punch list and less any other due costs due the Port Authority under this Agreement. Notwithstanding the foregoing, in the event of a termination based upon an Event of Default under this Agreement, all of the Port Authority's rights and remedies in accordance with this Agreement with respect to such Default shall control. Upon notice of cancellation of a letter of credit, the Lessee agrees that unless, by a date not less than twenty (20) days prior to the scheduled expiry thereof, the letter of credit is replaced by another letter of credit reasonably satisfactory to the Port

Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security under this Agreement.

(d) Failure to provide such a letter of credit at any time during the Term, 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, on demand of the Port Authority and within five (5) business days thereafter, shall bring the letter of credit back up to its full amount. In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to draw upon the letter of credit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Lessee arising out of or with respect to the Lessee's obligations under this Agreement. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the letter of credit itself shall cure any default or breach of this Agreement on the part of the Lessee. After the expiration or earlier termination of the letting under this Agreement (as it may have been amended or extended or both), and upon condition that no default under this Agreement (as it may have been amended or extended or both), shall have occurred and upon written request therefor by the Lessee, the Port Authority will return the letter of credit to the Lessee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Lessee of this Agreement or any part thereof.

(e) For purposes of the provisions set forth in this Agreement, the Lessee hereby certifies that its I.R.S. Employer Identification No. is

Section 43. 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 herein below 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 (0.8%) of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be and become Additional Rental, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the Rental 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 Section 24 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 44. Intentionally Deleted.

Section 45. Port Authority Costs Following Termination

Notwithstanding anything appearing to the contrary in this Agreement, in the event the Port Authority exercises its right of termination under the provisions of Section 24 of 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, the collection of all amounts due to the Port Authority, the restoration of the Premises (on failure of the Lessee to have it restored), the

preparation of the Premises for use and occupancy by a succeeding lessee, the care and maintenance of the Premises during any period of nonuse of the Premises; the foregoing shall include, without limitation, personnel costs and reasonable legal fees and expenses (including but not limited to the cost to the Port Authority of the legal services of outside counsel), repairing and altering the Premises and putting the Premises in working order.

Section 46. Holdover Rent

Unless otherwise notified by the Port Authority in writing at least ninety (90) days prior to the expiration or earlier termination of the Term of this Lease, in the event that the Lessee remains in possession of the Premises after the expiration or earlier termination of the Term of the Lease, the Lessee shall be deemed a "holdover tenant" and upon notice from the Port Authority shall be obligated to pay holdover rental in the amount of 200% of the last due Rental all as in accordance with law as a result of the Lessee's status as a holdover tenant. Nothing herein contained will be deemed to give the Lessee any right to remain in possession of the Premises after the expiration or earlier termination of the Term of the Lease.

Section 47. Audit Fee

In the event that upon conducting an examination and audit under the provisions of the Lease (and as it may be hereinafter amended), the Port Authority determines that unpaid amounts are due to the Port Authority by the Lessee (the "Audit Findings"), the Lessee will be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge will be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) will be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Lessee under the Lease or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge will be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of the Lease with respect to such unpaid amount. Each such service charge will be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the Rentals to be paid. Nothing in this section is intended to, or will be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under the Lease,

including, without limitation, the Port Authority's rights to terminate the Lease or (ii) any obligations of the Lessee under the Lease. This provision shall not apply to security matters.

Section 48. Waiver of Jury Trial

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

Section 49. Counterparts

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

Section 50. Environmental Responsibilities

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

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about, under or migrating from the Premises of any Hazardous Substance (a) whose presence occurred during the "Term" which definition of "Term" shall for purposes of this Section include periods prior to the letting under this Agreement during which the Lessee was in occupancy of the Premises under Lease 265, Lease 266, Lease 291, or Lease 293 (as applicable) or (b) resulting from any act or omission of the Lessee or Lessee's Representative (as defined herein) during the Term, and/or (ii) the disposal, release or threatened release of any Hazardous Substance on, about, under or migrating from the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Lessee's use and occupancy of the Premises or a migration of a Hazardous Substance from the Premises during the Term or thereafter

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

(2) "Environmental Requirement" and "Environmental Requirements" shall mean all applicable present and future laws, statutes, enactments, resolutions, regulations, rules, treaties, ordinances, codes, licenses, appropriate and applicable guidance documents, permits, orders, approvals, plans, authorizations, concessions, franchises, requirements, and similar items of all Governmental Authorities and all applicable judicial, administrative and regulatory decrees, common law standards, 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 surface or subsurface strata, the sewer or septic system, or relating to the manufacture, processing, distribution, generation, use, treatment, storage, disposal, transport or handling of Hazardous Substances;

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

(iii) All requirements pertaining to the protection of natural resources, species or ecological amenities.

(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, special nuclear byproduct material, asbestos in any form, asbestos containing material, any chemicals, materials, waste or other substance that are listed, designated,

classified, determined to be or defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "pollutants," "contaminants," "toxic substances," "toxic pollutants," "hazardous constituents," or words of similar import, under or pursuant to any Environmental Requirement and inclusive of any mixture or solution thereof, urea formaldehyde foam insulation, polychlorinated byphenyls ("PCBs"), chemicals known to cause cancer or reproductive toxicity, petroleum, petroleum products and petroleum based derivatives, 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. When an Environmental Requirement defines any of the foregoing terms more broadly than another, the broader definition shall apply.

(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. Governmental Authorities shall also include with respect to any remediation hereunder a Licensed Site Remediation Professional ("LSRP") acting in such capacity, pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. ("SRRA").

(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, any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the Premises from and after the commencement of the Term, including without limitation all Environmental Requirements and all Environmental Damages. Except for Environmental Damages arising from the sole gross negligence or intentional tortious 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 losses, damages, judgments, fines, penalties, payments in lieu of penalties, settlements, LSRP expenses, and legal expenses incurred by the Port Authority in connection therewith). If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such suit 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. Lessee shall not be liable for the condition of the Premises under this Section existing or created prior to the commencement of the Term, unless the Lessee exacerbates such condition as further described in paragraph (e) of this Section 50.

(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, upon notice from the Port Authority, promptly take all actions to completely remove and remediate: (1) any Hazardous Substance present on, about, under or migrating from the Premises whose presence occurred during the Term or resulted from any act or omission of the Lessee or Lessee's Representative (as defined herein) during the Term, (2) any Hazardous Substance disposed of or released on the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and (3) any Hazardous Substance present on, about or under other property at the Facility or elsewhere whose presence resulted from the Lessee's use and occupancy of the Premises or which migrated from the Premises to such other property during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Governmental Authority and Port Authority are necessary to mitigate Environmental Damages (which determination in the case of the Port Authority shall not be made in an arbitrary or capricious manner). Such removal and remediation shall include, but not be 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. Any soil remediation may be to applicable limited restricted and/or restricted (nonresidential-industrial) soil standards set forth in the applicable Environmental Requirements, and may utilize institutional and engineering controls, provided that none of the foregoing controls would either prohibit nor limit the use of the Premises or the Facility for the purposes set forth in Section 8 hereof now or in the future. Lessee further agrees to execute any declaration of environmental restrictions, deed notice, remedial action, permit application, or other document necessary to effectuate the implementation or recordation of institutional or engineering controls, as applicable, and, in the event institutional or engineering controls are placed on the Premises, Lessee shall be fully responsible for and shall (i) maintain such controls, (ii) conduct any compliance monitoring as required under all applicable Environmental Requirements, (iii) obtain any permits in connection with such controls required by applicable Environmental Requirements, (iv) establish all required funding sources in connection with the maintenance of such institutional or engineering controls, and any permits associated therewith, and (v) file with applicable Governmental Agencies all applicable certifications and reports. The Lessee agrees that with respect to any of its obligations set forth above in this paragraph it will not make any claim against the Port Authority and/or the City of Newark and/or the State of New Jersey for contribution under any Environmental Requirement. Notwithstanding the foregoing, the Lessee shall not be responsible for any Hazardous Substance that migrates onto, about, or under the Premises from off-Premises, except as provided in paragraph (e) of this Section. 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. Upon the completion of any such remediation, the Lessee shall provide to the Port Authority a copy of either a No Further Action letter, Response Action Outcome issued by an LSRP, or such similar or equivalent final remediation document.

(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. Prior to retaining or dismissing any consultant or LSRP in connection with remediation of the Premises, the Lessee shall give notice of such retention or dismissal to the Port Authority. The Lessee shall comply with any and all timeframes set forth in any Environmental Requirements in connection with the filing of remediation documents and/or completion of remediation. The Lessee agrees that any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Lessee and at the Lessee's cost and expense in the event Lessee fails to sign and file same, after reasonable notice to Lessee and Lessee's failure to cure. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a Governmental Authority at the same time such are provided to a Governmental Authority and by a Governmental Authority to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

(e) Notwithstanding any other provision of this Section 50, Lessee shall be responsible for all Environmental Damage involving any Hazardous Substance whose presence on, about, under or migrating from the Premises occurred prior to the commencement of the Term 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 (which shall not be arbitrary or capricious) regarding any Hazardous Substance on, about or under the Premises, including specifically those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities (which agreements have been provided by the Port Authority to the

Lessee or are subsequently provided to Lessee in the future), or construction guidelines, all of the foregoing which have been or may be established by the Port Authority for the Facility and/or the Premises and submitted to the Lessee, and/or are subsequently provided to Lessee in the future, and/or (2) any grossly negligent act or omission by the Lessee or the Lessee's Representative with respect to such Hazardous Substance. For purposes of this Section 50, "Lessee's Representative" shall mean its officers, employees, shareholders, members, 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, or are on the Premises without Lessee's consent but due to Lessee's failure to undertake adequate security measures.

(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 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 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 all of its costs thereof.

(g) Notwithstanding any other provision of this Section, and without limiting the generality of subparagraph (e) of this Section, the Lessee's obligations, undertakings and responsibilities under this Section 50 shall not apply to any Environmental Damage involving any Hazardous Substance which migrated or shall migrate onto the Premises prior to or during the Term (hereinafter called the "Migrated Hazardous Substance"), except that Lessee shall be responsible for such Migrated Hazardous Substance if any clean-up, remediation or other response action, or indemnification or other action under this Section 50 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; (2) the failure by the Lessee or the Lessee's Representative (which shall not be arbitrary or capricious) to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous

Substance on, about or under the Premises, including specifically those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities (which agreements have been provided by the Port Authority to the Lessee or are subsequently provided to Lessee in the future), or construction guidelines, all of the foregoing which have been or may be established by the Port Authority for the Facility and submitted to the Lessee; and/or (3) 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, under or migrating from the Premises occurred prior or subsequent to the commencement of the Term; (2) whether any Hazardous Substance disposed of or released from the Premises or which migrated from the Premises came to be present on, about or under the Premises prior or subsequent to the commencement of the Term; and (3) whether the Lessee exacerbated any pre-existing environmental condition so as to cause a Hazardous Substance to first become regulated during the Term. For purposes of this 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 paragraph shall survive the expiration or termination of this Agreement.

Section 51. Record-Keeping Obligations

(a) The Lessee will, for the Term of this Agreement and for three (3) years thereafter: (i) maintain books, records and accounts with respect to the business and operations of the Lessee on a separate stand-alone basis from any other business operations of the principals of Lessee and any other direct or indirect subsidiaries thereof, in accordance with good business practice and applicable law; and (ii) make available to the Port Authority, during normal business hours upon the Port Authority's reasonable prior notice to the Lessee, at the office of the Lessee or one of its agents or advisors solely for review

by the Port Authority and its agents at such location and without taking any copies, that portion of such books, records and accounts relating to operations and exclusive of security matters, at the Premises leased under the Lease or as may reasonably be required for the Port Authority to verify calculations relating to throughput rentals and reimbursement requests made from time to time. In no event shall this provision be deemed to constitute a statute of limitations or a restriction on the Port Authority's right to commence suit against the Lessee in connection with this Agreement, and the loss or destruction of documents by Lessee or its agents or representatives shall not constitute a defense to any such suit.

(b) The Port Authority agrees that (i) all information delivered pursuant to this paragraph (b), including, without limitation, the documents delivered pursuant to clause (a) above, and (ii) all notes, reports and analyses prepared by the Port Authority, its representatives or its advisors in connection with their review of materials provided or made available pursuant to this section, including, without limitation, the books and records and other materials provided or made available pursuant to paragraph (a) above, will, to the fullest extent permitted by applicable law, be treated confidentially and protected from disclosure by the Port Authority, including, without limitation, pursuant to any available exceptions or exemptions under the Port Authority's "Freedom of Information Policy and Procedure". If the Port Authority receives any request to disclose any of the information provided hereunder, the Port Authority agrees to provide the Lessee with prior notice of such requirement so that the Lessee may seek a protective order or other appropriate remedy, and/or waive compliance with the terms of this provision. If such protective order or other remedy is not obtained, or if the Lessee waives compliance with the provisions hereof, the Port Authority agrees to disclose only that portion of the information that it is advised by counsel is legally required and it will exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to such information.

Section 52. Entire Agreement

Except as otherwise provided herein, this Agreement, together with all schedules and exhibits hereto, constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and shall supersede and replace Lease 293 in its entirety. This Agreement 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.

Section 53. OFAC Representations

(a) Lessee to the best of its knowledge, hereby represents and warrants to the Port Authority that the Lessee (i) is not, and shall not become, a person or entity with whom the Port Authority is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order or other regulation relating to national security or foreign policy (including, but not limited to, the Executive Order 13224 of September 23, 2001, *Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism*), or other governmental action, such persons being referred to herein as "Blocked Persons" and such regulations, statutes, executive orders and governmental actions being referred to herein as "Blocked Persons Laws", and (ii) is not engaging in any dealings or transactions with Blocked Persons in violation of any Blocked Persons Laws. Lessee acknowledges that the Port Authority is entering into this Agreement in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing the Port Authority to enter into and execute this Agreement.

(b) Lessee covenants that (i) during the Term of this Agreement it shall not become a Blocked Person, and shall not knowingly engage in any dealings or transactions with Blocked Persons in violation of any Blocked Persons Laws. In the event of any breach of the aforesaid covenant by Lessee, the same shall constitute an event of default, and, accordingly, a basis for termination of this Agreement in accordance with Section 24 hereof, in addition to any and all other remedies provided under this Agreement or at law or in equity, which does not constitute an acknowledgement by the Port Authority that such breach is capable of being cured.

(c) The Lessee shall indemnify and hold harmless the Port Authority and its Commissioners, officers, employees, agents and representatives from and against any and all claims, damages, losses, risks, liabilities and expenses (including without limitation, attorney's fees and disbursements) arising out of,

relating to, or in connection with the Lessee's breach of any of its covenants, representations and warranties made under this Section 53. Upon the request of the Port Authority, the Lessee shall at its own expense defend any suit based on any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent) and in handing 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 provision of any statutes respects suits against the Port Authority.

(d) The provisions of this Section 53 shall survive the expiration or earlier termination of the Term of this Agreement.

Section 54. Estoppel Certificate.

Lessee agrees to periodically furnish within ten (10) days after so requested by the Port Authority a certificate signed by Lessee certifying (a) that this Lease is in full force and effect and unmodified (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (b) as to the Lease Commencement Date and the date through which Base Rental and Additional Rental have been paid, (c) that Lessee has accepted possession of the Premises, (d) that except as stated in the certificate no Rental has been paid more than thirty (30) days in advance of its due date, (e) that the address for notices to be sent to Lessee is as set forth in this Lease (or has been changed by notice duly given and is as set forth in the certificate), (f) that except as stated in the certificate, Lessee, as of the date of such certificate, has no charge, lien, or claim of offset against rent due or to become due, (g) that except as stated in the certificate, the Port Authority is not then in default under this Lease, (h) that there are no renewal or extension options in favor of Lessee, and (i) as to such other matters as may be reasonably requested by the Port Authority.

Section 55. Termination of Lease 293; Survival of Obligations.

(a) Pursuant to the Surrender Agreement, Lease 293 is hereby terminated, as if the expiration date of Lease 293 is the date of this Lease. The Lessee hereby surrenders the Surrendered Premises (as defined in the Surrender Agreement) to the Port Authority. The Port Authority and the Lessee

acknowledge that the remainder of the Lease 293 Premises are the subject of and are incorporated into the Premises created by this Lease and the terminal space created by the Operating Agreement, and are subject to, and governed by, this Lease and the Operating Agreement, respectively.

(b) Any and all obligations, claims, liabilities, damages, losses, causes of action, suits, demands and expenses arising out of the Condition Survey pursuant to the Surrender Agreement, and any environmental matters relating to the Lease 265 Premises, the Lease 266 Premises the Lease 291 Premises, and/or the Lease 293 Premises (including without limitation, environmental matters governed by Special Endorsement 17 of Lease 265, Special Endorsement 12 of Lease 266, Special Endorsement 13 of Lease 291, and/or Section 50 of Lease 293, as the same may have been supplemented and amended) shall survive the termination of Lease 265, Lease 266, Lease 291 and Lease 293, and shall not be deemed released hereunder and the Lessee shall remain responsible therefor. All other obligations and rights of the Port Authority and the Lessee set forth in Lease 293 have been terminated, are null and void and of no further force and effect with the execution of this Lease and the Operating Agreement.

(c) Notwithstanding the provisions of paragraph (b) of this Section 55, any lease provisions or obligations that would have survived the expiration date of Lease 293 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 293 Premises.

Section 56. Release; Covenant Not to Sue.

(a) The Lessee and the Port Authority confirm that the Basic Rental, the Annual Vehicle Throughput Rental, and the Non-Waterborne Vehicle Wharfage Rental provided for in this Agreement during the Term (the "Agreed Rental Rates") were determined by the parties in arms-length negotiations on the basis of the unique circumstances of the transactions contemplated in this Agreement, including, without limitation, the surrender of the Surrendered Premises.

(b) Lessee acknowledges and agrees that Lessee will derive substantial benefits from the Port Authority's agreement to enter into this Agreement, that the terms hereof represent significant and costly concessions by the Port Authority, and that without the release, agreements and acknowledgements set forth in this Section, the Port Authority likely would not have obtained the

approval of its Board to enter into this Agreement. Lessee acknowledges and agrees that were it to violate the terms of this Section it would be depriving the Port Authority of a material benefit of the bargain to which Lessee and the Port Authority have agreed.

(c) In accepting the concessions and benefits it is receiving hereunder Lessee believes and expressly agrees that the Agreed Rental Rates are fair and not unreasonably or unduly discriminatory or preferential, and that any differences between the Agreed Rental Rates and the rental or throughput charges in the terms of other publicly-available leases with other tenants at marine terminals owned and/or operated by the Port Authority are justified by legitimate transportation considerations, policy objectives and reasonable business judgments.

(d) In consideration of the foregoing, Lessee for itself and on behalf of its shareholders, officers, directors, employees, representatives, agents, successors, and assigns, hereby releases and forever discharges the Port Authority and its Commissioners, officers, directors, employees, representatives, agents, successors, and assigns solely from any and all actions, causes of action and claims arising from or relating to any attempt to challenge or otherwise invalidate the Agreed Rental Rates pursuant to the Shipping Act of 1984, as amended (the "Shipping Act") or any other applicable statute and any regulations thereunder or legal theory, on the ground that such Agreed Rental Rates result in any undue or unreasonable prejudice or disadvantage to Lessee when compared with the rental and throughput charges payable to the Port Authority by other marine terminal tenants in the New York/New Jersey harbor.

(e) In agreeing to the release set forth in this Section, the Lessee hereby covenants and agrees not to sue the Port Authority on any legal theory challenging the Agreed Rental Rates, including without limitation, the theory that such Agreed Rental Rates constitute an alleged violation of the Shipping Act or any other applicable statute and any regulations thereunder.

Section 57. Negotiated Agreement.

This Lease has been negotiated by the parties and their respective counsel, and the parties agree that no presumption against the drafter can be applied against either party.

Signatures appear on following page

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

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

(Seal)

ATTEST:

FAPS, INC.

By _____
Gary LoBue

(Title) President

(Corporate Seal)

APPROVED:
FORM TERMS

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

On the 1st day of June, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Richard M. Larrabee, Director, Port Commerce Dept. of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, 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 instruments, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Notary Public, State of New York
No. 01ED4959693 Qualified in Kings County
Commission Expires 3/31/2014

STATE OF NEW JERSEY)
: ss.
COUNTY OF ESSEX)

On the 30 day of Sept, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Gary LoBue, President of FAPS, INC., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me the executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

MARIA ELIZABETH SOARES
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 12, 2012

SURRENDER and TERMINATION AGREEMENT

THIS SURRENDER and TERMINATION AGREEMENT ("Agreement"), dated as of October 1, 2010, made by and between **THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY** (hereinafter referred to as the "Port Authority") and **FAPS, INC.** (hereinafter referred to as the "Lessee").

WITNESSETH, that:

WHEREAS, effective as of June 1, 2009, the Port Authority and the Lessee entered into that certain Agreement of Lease Number L-PN-293 ("Lease 293"), for certain premises located at Port Newark (hereinafter called the "Facility"), on the north side of the Port Newark Channel ("Port Newark North") and on the south side of the Port Newark Channel ("Port Newark South"), comprised of portions of the premises previously leased to the Lessee pursuant to Agreement Number L-PN-265, dated December 1, 2000 ("Lease 265") at the Facility ("Lease 265 Premises"), portion of the premises previously leased to the Lessee pursuant to Agreement Number L-PN-266, dated December 1, 2000 ("Lease 266") at the Facility ("Lease 266 Premises"), and portions of the premises previously leased to the Lessee pursuant to Agreement Number L-PN-291, dated February 15, 2009 ("Lease 291") at the Facility (the "Lease 293 Premises"), such premises being hereinafter known as the "Lease 293 Premises", and pursuant to Lease 293 and to a related Surrender and Termination Agreement entered into on even date therewith (the "Lease 293 Surrender Agreement"), Lease 265, Lease 266 and Lease 291 were terminated;

WHEREAS, the Port Authority and the Lessee have agreed to the termination of Lease 293 and the surrender of certain portions of the Lease 293 Premises to the Port Authority by the Lessee, and to the contemporaneous entering into of Agreement Number L-PN-309 ("Lease 309"), for certain premises located at the Facility comprised of those portions of the Lease 293 Premises not surrendered to the Port Authority, as demised pursuant to and described more specifically in said Lease 309 (the "Lease 309 Premises") and in a Railroad Operating Agreement for railroad tracks and terminal area at the Facility (the "Operating Agreement"); and

NOW, THEREFORE, for and in consideration of the covenants and mutual agreements herein contained, the Port Authority and the Lessee hereby agree as follows:

1. Upon execution of this Agreement, Lease 293 is hereby terminated, shall have no further force or effect, shall be deemed null and void, and simultaneously with the execution of this Agreement, the Lessee is surrendering the following space located in the Lease 293 Premises: approximately 96.84 acres shown on "Exhibit A" (the "Surrendered Premises"). The remainder of the Lease 293 Premises shall become the subject of and incorporated into Lease 309 and the Operating Agreement.

2. The parties acknowledge and agree that the letter of credit ("Letter of Credit") currently being held by the Port Authority as security for Lease 293 shall continue to be held by the Port Authority pursuant to, and as security for, Lease 309 and the Operating Agreement.

3. The parties agree and acknowledge that the Port Authority shall conduct an inspection of the Surrendered Premises ("Condition Survey"). The Condition

CONFORMED COPY

Survey shall be conducted no later than ninety (90) days from the date hereof, except in the event that the Port Authority re-lets all or a portion of the Surrendered Premises, in which case the Condition Survey shall be completed as set forth in Section 4 below. The Port Authority will provide the Lessee with a list of all items that demonstrate Lessee's failure to maintain the Surrendered Premises in accordance with the obligations of Lease 293 (a "Condition Survey Report") and the date upon which such list is provided to Lessee being hereinafter known as the "Report Date"). Within ten (10) days of the Report Date, the Lessee shall remit to the Port Authority the aggregate cost (which determination shall be in the opinion of the Port Authority) of the objectionable items revealed by the Condition Survey Report.

Prior to surrendering the Surrendered Premises to the Port Authority, the Lessee shall, at the Lessee's sole cost and expense (i) remove all closed-circuit television systems and related equipment from the Surrendered Premises; (ii) remove all jersey barriers from the Surrendered Premises within ten (10) days after the Port Authority's inspection of the Surrendered Premises (in the event that the Lessee fails to remove all jersey barriers prior to delivering the Surrendered Premises to the Port Authority, effective as of the date that the Surrendered Premises is formally surrendered, all right, title and interest in and to any such jersey barriers then remaining on the Surrendered Premises shall automatically vest in the Port Authority, without the need for the parties to execute a bill of sale or enter into any other transfer document to evidence such ownership in the Port Authority); and (iii) in the event that the Lessee elects to remove existing "crash gates" from the Surrendered Premises, then the Lessee shall replace the "crash gates" with swing gates, which swing gates shall be commercially reasonable and acceptable to the Port Authority in its sole and absolute discretion.

4. In the event the Port Authority desires to re-let, re-enter, use, or license any portion of the Surrendered Premises, the Port Authority agrees, prior to its re-letting, re-entry, use or license, to conduct its Condition Survey of that portion of the Surrendered Premises that it intends to re-let, re-enter, use or license, pursuant to the procedure set forth above.

5. (a) The parties hereby agree and acknowledge that the Third Party Leaseholds, as such term is defined in Lease 293 (the "Third Party Leaseholds"), shall not be incorporated into the Premises demised under Lease 309 and that the Consolidation, as such term is defined in Lease 293 (the "Consolidation"), shall no longer occur and shall be null and void and of no force and effect. Further, the parties agree that the Port Authority will be under no obligation whatsoever to deliver the Third Party Leaseholds to the Lessee, nor to demolish any buildings in connection therewith. The Port Authority shall have the unrestricted right, in its sole and absolute discretion, to enter into new leases and extend existing leases with any third parties on Port Newark North and Port Newark South. The Port Authority will be under absolutely no obligation whatsoever to supply any additional property at the Facility during the Term of Lease 309, and no further discussions regarding consolidation will be entered into with the Lessee by the

Port Authority during the Term of Lease 309; provided, however, that solely upon the terms and conditions set forth in Lease 309, in the event that the Port Authority, in its sole and absolution discretion (it being understood that the Port Authority has absolutely no obligation to relocate the Port Authority's existing tenant at the premises set forth below), elects to relocate the Port Authority's existing tenant at such premises, the Port Authority shall incorporate Sections C and D of Building 263 and the associated open area (the "Building 263 Area") and the open area yard located on Parcel 4 (also known as FAPS Lot S) (the "Open Area Property," and, when taken together with the Building 263 Area, the "Potential Relocation Parcel") into the Lease 309 Premises, and the Lessee shall accept the Potential Relocation Parcel in "as is" condition at the then-current open area rates for the entire footprint of the Potential Relocation Parcel.

(b) The parties further agree and acknowledge that the Road Closures, as such term is defined in Lease 293 (the "Road Closures"), shall no longer occur, and the Port Authority shall be under no obligation whatsoever to deliver the Road Closure Open Area, as defined in Lease 293 (the "Road Closure Open Area"), to the Lessee for incorporation into the leasehold Premises created pursuant to Lease 309. Further, the Port Authority shall not be obligated to pave, grade or fence the Road Closure Open Area.

(c) The parties agree and acknowledge that with regard to the Lease 309 Premises, the Vehicle Storage Facility, as such term is defined in and contemplated by Lease 293 (the "Vehicle Storage Facility"), will not be constructed and that the Lessee is under no obligation whatsoever to commence construction on the Vehicle Storage Facility, and that the Port Authority shall be under no obligation whatsoever to either provide access to or deliver the Third Party Leaseholds in connection with the Vehicle Storage Facility.

(d) The parties further agree and acknowledge that with regard to the Lease 309 Premises, the Lessee shall be under no obligation whatsoever to conduct the Leasehold Demolitions, as such term is defined in Lease 293 (the "Leasehold Demolitions"), and that the Port Authority shall be under no obligation whatsoever to provide or disburse the Demolition Allowance in the amount of Four Million Two Hundred Fifty Thousand Dollars ($4,250,000), as such term is defined in Lease 293 (the "Demolition Allowance"). The Port Authority shall be entitled to retain the Demolition Allowance, and the Lessee shall receive no credit therefor.

(e) It being understood and agreed that all of the foregoing obligations and rights of the Port Authority and the Lessee and any other obligations or rights of the Port Authority and Lessee under Lease 293 that are not set forth herein to survive are terminated, null and void and of no further force and effect with the execution of this Agreement.

6. The Lessee has delivered a separate Release and Covenant not to Sue (the "Release") in connection with the surrender of the Surrendered Premises and the termination of Lease 293, in substantially the form annexed hereto as Schedule A.

7. The following provisions under Lease 293 shall survive the termination of Lease 293: any and all obligations, claims, liabilities, damages, losses, causes of action, suits, demands and expenses arising out of the Condition Survey, any environmental matters relating to the Lease 265 Premises, the Lease 266 Premises, the Lease 291 Premises or the Lease 293 Premises (including without limitation, environmental matters governed by Special Endorsement 17 of Lease 265, Special Endorsement 12 of Lease 266, Special Endorsement 13 of Lease 291 and/or Section 50 of Lease 293, as the same may have been supplemented and amended) shall survive the termination of Lease 265, Lease 266, Lease 291 and Lease 293, and further provided that:

(a) any lease provisions or obligations that would have survived the expiration date of Lease 265 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 265 Premises.

(b) any lease provisions or obligations that would have survived the expiration date of Lease 266 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 266 Premises.

(c) any lease provisions or obligations that would have survived the expiration date of Lease 291 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 291 Premises.

(d) any lease provisions or obligations that would have survived the expiration date of Lease 293 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 293 Premises.

8. In connection with the termination of Lease 293 and surrender of the Surrendered Premises, the Lessee hereby agrees to pay to the Port Authority a termination fee in the amount of One Million and 00/100 Dollars ($1,000,000.00), which payment is being made in accordance with the terms and conditions set forth in Lease 309 by and between the Lessee and the Port Authority.

9. The Lessee hereby covenants on behalf of itself, its successors and assigns that (i) it has not done or suffered, and will not do or suffer, anything whereby the Surrendered Premises or the Lessee's leasehold interest therein, has been or shall be encumbered as of the date of this Agreement (ii) the Surrendered Premises are free and clear of all liens and encumbrances of whatsoever nature, and (iii) the Lessee has full right and power to make this Agreement.

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

11. The within Agreement constitutes the entire agreement between the Port Authority and the Lessee, 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.

12. The Lessee hereby waives its right to trial by jury in any summary proceeding or action that may hereafter be instituted by the Port Authority against the Lessee in respect of this Agreement and/or in any action that may be brought by the Port Authority to recover fees, damages, or other sums due and owing under this Agreement.

13. This Agreement and any and all claims, controversies or disputes arising out of or relating to this Agreement shall be governed by, and construed in accordance with, the laws of the State of New Jersey without regard to conflict of law principles. The parties irrevocably and unconditionally consent and submit to the exclusive jurisdiction and venue of the state and federal courts in the State of New Jersey.

IN WITNESS WHEREOF, the Port Authority and the Lessee have caused these presents to be executed.

WITNESS:

_____

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

Name RICHARD M. LARRABEE

DIRECTOR, PORT COMMERCE DEPT.

(Title) _____

WITNESS:

_____

FAPS, INC.,
A New Jersey corporation

By _____

Name Gary LoBue

(Title) President

APPROVED:
FORM | TERMS

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

On the 1st day of April, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared

Richard M. Larrabee, Director, Port Commerce Dept.

of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, 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 instruments, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Notary Public, State of New York
No. 01ED4359693
Qualified in Nassau County
Commission Expires

STATE OF NEW JERSEY)
: ss. :
COUNTY OF Essex)

On the 6th day of April, 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Gary LoBue, President of FAPS, INC., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me the executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

MARIA ELIZABETH [illegible]
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 12, 2012

Exhibit A

Form of Release

See Attached

Agreement No. MNS333

RAILROAD OPERATING AGREEMENT

Between

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

and

FAPS, INC.

Dated as of: October 1, 2010

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THIS RAILROAD OPERATING AGREEMENT (this "Agreement"), made as of October 1, 2010, 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 **FAPS, INC.**, a New Jersey corporation (hereinafter called "the Operator") with an office and place of business at 371 Craneway Street, Port Newark, Newark, New Jersey 07114, whose representative is Gary LoBue, President, or such authorized person as may be designated by the Operator to the Port Authority.

WITNESSETH, THAT:

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

Section 1. Background

(a) Effective as of June 1, 2009, the Port Authority and the Operator entered into that certain Agreement of Lease L-PN-293 ("Lease 293)", which Lease 293 terminated and replaced three prior leases, Agreement Number L-PN-265, dated December 1, 2000 ("Lease 265"), Agreement Number L-PN-266, dated December 1, 2000 ("Lease 266 "), and Agreement Number L-PN-291, dated February 15, 2009 ("Lease 291"), for certain premises (the "Lease 293 Premises") located at Port Newark (hereinafter called the "Facility"), on the north side of the Port Newark Channel ("Port Newark North") and on the south side of the Port Newark Channel ("Port Newark South").

(b) Pursuant to a Surrender and Termination Agreement (the "Surrender Agreement") dated as of October 1, 2010, the Port Authority and the Operator have agreed to: (i) the termination of Lease 293, and (ii) the surrender of certain portions of the Lease 293 Premises. The parties have further agreed that those portions of the Lease 293 Premises that were not surrendered in accordance with the Surrender Agreement shall be the premises that are the subject of that certain Agreement of Lease L-PN-309 by and between the Port Authority and Operator dated as of October 1, 2010, ("Lease 309") (as such premises is more

particularly defined in Lease 309), and this Agreement, as set forth below.

(c) Pursuant to the Surrender Agreement, the Operator has surrendered approximately 96.84 acres located in the Lease 293 Premises, the Surrendered Premises, as such term is defined in the Surrender Agreement (the "Surrendered Premises").

(d) As set forth on "Exhibit A", attached hereto and made a part hereof, the Operator will retain the following space: certain terminal area also known as Parcel 8, FAPS Lots B and C and certain railroad tracks, said premises being more particularly defined in Section 1A, subsection (a) below, and the parties are entering into this Agreement to govern the occupancy and use by Operator of those certain railroad tracks and related terminal area.

Section 1A. Letting

(a) Subject to and in accordance with the terms and conditions of this Agreement, the Port Authority hereby lets to the Operator and the Operator hereby hires and takes from the Port Authority, at Port Newark, in the City of Newark, in the County of Essex and the State of New Jersey, the following: Fourteen and 83/100ths (14.83) acres as marked in cross-hatching on "Exhibit A" (also known as Parcel 8, FAPS Lots B and C), together with the buildings, structures, fixtures, improvements, terminal area ("Terminal"), railroad tracks 3 and 4 located thereon (the "Terminal Railroad Tracks"), and other property, if any, of the Port Authority located or to be located or constructed therein or thereon, and buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter collectively called "the Terminal Space"; provided, however, that while portions of railroad tracks 1 and 2 (the "Non-Terminal Railroad Tracks") are located on the Terminal Space, they shall not constitute a part of the Terminal Space for purposes of this Agreement, except that the Operator shall be obligated to provide free access to the Non-Terminal Railroad Tracks to third parties, and shall not in any way obstruct access or the use of the Non-Terminal Railroad Tracks by third parties. The parties agree that the Terminal Space constitutes non-residential property.

(b) Nothing contained in this Agreement shall grant to the Operator 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 Terminal Space (except to the extent required in either case for the performance of any of

the obligations of the Operator hereunder, including the installation and operation of information technology communications and security systems), or more than twenty (20) feet above the present ground level of any open area included in the Terminal Space (except to the extent required for the installation and operation of information technology communications and security systems).

Section 2. Term; Commencement Date

(a) The term of the letting under this Agreement shall commence at 12:01 o'clock A.M. as of October 1, 2010 (the "Commencement Date") and shall expire if not sooner terminated, at 11:59 o'clock P.M on December 31, 2019 (the "Term").

Section 3. Operating Fee/Rental

All operating fee/rental due and payable to the Port Authority under this Agreement (the "Rental") shall include the following items:

(a) The Intermodal Rental (as defined in Section 4 of this Agreement), escalated in accordance with Section 5 of this Agreement;

(b) Additional Rental (as defined in Section 21 of this Agreement);

(c) This Agreement is a triple net operating agreement, and, except as expressly provided to the contrary in this Agreement, the Operator shall pay any and all costs, charges, and other expenses of every character and nature, foreseen or unforeseen, whether currently in existence or enacted at a future date, for the payment of which the Port Authority or the Operator is or shall become liable by reason of its respective estate, right, title or interest in the Terminal Space, or which are connected with or arise out of the possession, use, occupancy, maintenance, addition to, repair of or construction on the Terminal Space, including, without limitation, those specifically referred to in this Agreement; provided, however, that Operator shall not be liable for the repair, maintenance, replacement or upgrade of underground utilities; and

(d) The Operator further agrees to pay promptly upon demand as Rental (as hereinafter defined) any user fees and/or security fees imposed by the Port Authority pursuant to the Rules and Regulations (as hereinafter defined) and/or the Tariff

(as hereinafter defined); provided, however, that such fees must be simultaneously imposed upon all users of public berths.

Section 4. Intermodal Rental

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

"Calendar Year" shall mean each twelve-month period commencing on January 1 and terminating on December 31 and each Calendar Year thereafter and continuing throughout the Term of this Agreement.

"FAPS Vehicle" shall mean (i) an automobile, truck, sports utility vehicle, trailer, motorcycle, or other such vehicle as is commonly processed or otherwise handled, as part of a privately-owned vehicle handling operation, which vehicle is either imported or exported via railcars at the Terminal Space, and (ii) "Heavy Cargo" as defined in the next sentence, which Heavy cargo is imported or exported via railcars or otherwise handled at the Terminal Space. "Heavy Cargo" shall mean boats, aircraft, buses, farm and construction equipment, cranes, machinery, and any other heavy item requiring utilization of wheeled equipment in order to be imported or exported via a railcar at the Terminal Space. For purposes of the calculation of the "Annual Intermodal Rental" as defined in Paragraph (b) of this Section 4, each boat, aircraft, bus or other item or Heavy Cargo shall be deemed equivalent to three (3) FAPS Vehicles. The calculations of the Annual Intermodal Rental (as defined below) shall not include a vehicle that is solely stored on the Terminal Space and provided said vehicle does not fall within the definition of a "FAPS Vehicle" under this Section 4.

"Guaranteed Minimum FAPS Vehicles" shall mean Twenty Thousand (20,000) FAPS Vehicles per year.

(b) Commencing on October 1, 2010, Operator shall pay, as Rental under this Agreement, a FAPS Vehicle/Heavy Cargo intermodal rental (hereinafter called the "Annual Intermodal Rental") for each Calendar Year running from October 1, 2010 through the expiration of the Term of this Agreement as follows: during each Calendar Year, the Operator shall pay the Port Authority, in accordance with subsection (c) below, an Annual Intermodal Rental calculated by multiplying (i) the amount of Seven and 50/100 Dollars ($7.50) per FAPS Vehicle (the "Vehicle Intermodal Charge") imported or exported via railcars at the

Terminal Space during that Calendar Year by (ii) the actual number of FAPS Vehicles entering the Terminal Space imported or exported via railcars at the Terminal Space during such Calendar Year.

(c) The Annual Intermodal Rental shall be reported and payable as set forth below in this paragraph, based on the number of FAPS Vehicles and/or Heavy Cargo imported or exported via railcars at the Terminal Space, per Calendar Year:

(1) On or before October 20, 2010, and on the twentieth (20th) day of each and every month thereafter occurring during the Term of the letting hereunder, including the month following the end of the Term of this Agreement, the Operator shall render to the Port Authority a statement (a "FAPS Vehicles Railroad Monthly Report") certified by a responsible officer of the Operator showing (i) the number of railcars arriving at the Terminal Space during the preceding month, date of arrival and duration of stay of each such railcar onto which FAPS Vehicles are imported or exported at the Terminal Space, (ii) the total number of FAPS Vehicles, imported or exported via railcars, at the Terminal Space, and (iii) the cumulative number of FAPS Vehicles imported or exported via railcars arriving at the Terminal Space, from the date of the commencement of the Calendar Year for which the FAPS Vehicle Railroad Monthly Report is made through the last day of the preceding month.

(2) As Annual Intermodal Rental the Operator will be billed the guaranteed minimum amount of One Hundred Fifty Thousand and 00/100 Dollars ($150,000.00) (the "Guaranteed Minimum Intermodal Rental"), payable on the first day of each calendar month in equal monthly installments of Twelve Thousand Five Hundred and 00/100 Dollars ($12,500.00), which amount represents an amount equal to one-twelfth (1/12th) of the Guaranteed Minimum FAPS Vehicles, multiplied by the Vehicle Intermodal Charge per FAPS Vehicle, plus any additional amounts payable in accordance with subsection (3) below; provided, however, that for the partial Calendar Year of 2010, the Guaranteed Minimum Intermodal Rental shall be a total of Thirty Seven Thousand and 00/100 Dollars ($37,000), payable in equal monthly installments of Twelve Thousand Five Hundred and 00/100 Dollars ($12,500.00), beginning on October 1, 2010, and continuing on the first (1st) day of each subsequent month for the remainder of the Calendar Year of 2010.

(3) The Operator shall render to the Port Authority on the 20th day of each January of each Calendar Year, the FAPS Intermodal Vehicle Annual Report (the "Final FAPS Vehicle Intermodal Monthly Report") which shall include a reconciliation of the amount of the Annual Intermodal Rental payable for the preceding Calendar Year. In the event that the Final FAPS Vehicle Intermodal Monthly Report indicates that the actual numbers of FAPS Vehicles imported or exported via railcars at the Terminal Space during such Calendar Year exceeded the Guaranteed Minimum FAPS Vehicles, the Port Authority will bill the Operator the difference between the Guaranteed Minimum Intermodal Rental already paid and the amount of Annual Intermodal Rental actually due (calculated by subtracting the Guaranteed Minimum FAPS Vehicles from the actual number of FAPS Vehicles imported or exported via railcars at the Terminal Space, and multiplying the result by the Vehicle Intermodal Charge), and the Operator's payment of such difference shall be due and payable within thirty (30) days of the date of the Port Authority's bill. It being understood and agreed by Operator that, except as provided herein with regard to the partial Calendar Year of 2010, Operator shall be responsible for payment of the Guaranteed Minimum Intermodal Rental of $150,000 per annum (equating to 20,000 vehicles X $7.50), payable at $12,500.00 per month on the first day of each month during the Term commencing on October 1, 2010, regardless of whether less than 20,000 vehicles are throughput by Operator during a Calendar Year.

(e) The computation of the Annual Intermodal Rental for each Calendar Year, or a portion of a Calendar Year, shall be individual to such Calendar Year, or such portion of a Calendar Year, and without relation to any other Calendar Year, or any other portion of any Calendar Year; provided, however, that for each such Calendar Year, the Port Authority shall receive for Annual Intermodal Rental, at a minimum, Guaranteed Minimum Intermodal Rental or, for partial Calendar Years, the pro-rated Guaranteed Minimum Intermodal Rental.

(f) Upon any termination of the letting (even if stated to have the same effect as expiration), no later than the twentieth (20th) day of the month following the month in which the effective date of termination occurs, the Operator shall render to the Port Authority a statement certified by a responsible officer of the Operator setting forth the total actual number of FAPS Vehicles imported or exported via railcars at the Terminal

Space from the commencement of the Calendar Year through the effective date of termination, such Calendar Year, and the date of arrival/entry of each such railcar by which FAPS Vehicles are imported or exported. The statement shall also set forth the number obtained by (a) multiplying (i) a fraction, the numerator of which shall be the Guaranteed Minimum FAPS Vehicles, and the denominator of which shall be 365 by (ii) the number of days from the commencement of the Calendar Year 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 FAPS Vehicles"). Then, the Projected Number of FAPS Vehicles, rounded to the nearest whole number, shall be subtracted from the actual number of FAPS Vehicles imported or exported via railcars at the Terminal Space during the partial Calendar Year. In the event that the result is positive, the result shall be multiplied by the Vehicle Intermodal Charge, and the Operator shall pay this amount to the Port Authority as Annual Intermodal Rental, with the Port Authority to bill the Operator for such amount, and the Operator to remit payment within thirty (30) days of the date of the Port Authority's invoice.

As an example, in the event that the Agreement is terminated 180 days into the Calendar Year of 2011, and the Operator has handled 15,000 FAPS Vehicles at that time, the calculation shall be (20,000/365) x 180 = 9,863.01 (the Projected Number of FAPS Vehicles). Then, the equation shall be reflected as follows: 15,000-9,863= 5,137. As the Operator has paid the Annual Intermodal Rental for up to 9,863 FAPS Vehicles at this point, but handled 15,000 Vehicles, the Operator will pay to the Port Authority the amount of 5,137 x $7.50=$38,527.50.

Section 5. Annual Intermodal Rental Escalation

(a) *Definitions.* As used in this Section:

(i) "Adjustment Period" shall mean, as the context requires, the calendar month of November 2011 and the same calendar month in each calendar year thereafter during the Term.

(ii) "Anniversary Date" shall mean, as the context requires, January 1, 2012 (the "First Anniversary Date") and each anniversary of such date occurring during the Term.

(iii) "Annual Index Increase" shall mean the percentage of increase in the Index on each Anniversary Date,

equal to: (x) with respect to the First Anniversary Date, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the Base Period, and the denominator shall be the Index for the Base Period, and (y) with respect to each Anniversary Date thereafter, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the next preceding Adjustment Period, and the denominator shall be the Index for such next preceding Adjustment Period. For example, the Annual Index Increase for the Anniversary Date that is January 1, 2012 would be a fraction of which the numerator is the Index for November 2011 less the Index for November 2010 and the denominator is the Index for November 2010. As a further example, the Annual Index Increase for the Anniversary Date that is January 1, 2013 would be a fraction of which the numerator is the Index for November 2012 less the Index for November 2011 and the denominator is the Index for November 2011.

(iv) "Base Period" shall mean the calendar month of November 2010.

(v) "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.

(vi) "Percentage Increase" shall mean, with respect to each Anniversary Date, a percentage equal to the Annual Index Increase for that Anniversary Date, unless (x) such Annual Index Increase is less than three percent (3%), in which case the Percentage Increase shall be three percent (3%) or (y) such Annual Index Increase is more than four and one half percent (4 1/2%), in which case the Percentage Increase shall be four and one half percent (4 1/2%).

(b) *Annual Increases.* Commencing on the First Anniversary Date and for the period commencing with each Anniversary Date and continuing through to the day preceding the next Anniversary Date for each year thereafter, or the expiration date of the Term under this Agreement, as the case may be, the Operator shall pay an Intermodal Rental at a rate per annum equal to the sum of: (x) the Intermodal Rental theretofore payable and (y) the product obtained by multiplying such theretofore payable Intermodal Rental by one hundred percent (100%) of the Percentage Increase for such Anniversary Date.

(c) All Intermodal Rentals shall be paid in advance on the first day of each calendar month in equal monthly installments.

(d) *Adjustments.*

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

(ii) If, after the Intermodal 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 Operator shall make payments based upon the recomputed rental and upon demand shall pay any excess in the Intermodal Rental due for such period as recomputed, over amounts theretofore actually paid on account of the Intermodal Rental for such period. If such change or adjustment results in a reduction in the Intermodal Rental due for any period prior to notification, the Port Authority will credit the Operator with the difference between the Intermodal Rental as recomputed for that period and amounts of Intermodal Rental actually paid.

(iii) If any adjustment in Intermodal Rental referred to in paragraph (b) of this Section is effective on a day other than the first day of a calendar month, there shall be

payable in advance on the effective date of rental adjustment an installment of Intermodal Rental equal to 1/12th of the increment of annual Intermodal Rental as adjusted, multiplied by a fraction, of which the numerator shall be the number of days from the effective date of the rental adjustment to the end of the calendar month in which the rental adjustment was effective and the denominator of which shall be the number of days in that calendar month.

Section 6. Railroad Terminal Operations.

(a) In connection with the operation of the Terminal Space, the Operator shall be responsible for and shall maintain the interchange gate complex located on the Terminal Space (the "Gate") and provide access to and accept railcar traffic by the users of the Terminal, including various railroads and/or shippers, on a twenty four (24) hour per day, seven (7) day per week basis.

(b) The Non-Terminal Railroad Tracks shall be open and accessible to all railroads and outside shippers for the pass-through of rail cars on such Non-Terminal Railroad Tracks, the import and export of cargo, and the Operator, except as set forth in (h) below, is required to provide such access through the Terminal Space to the Non-Terminal Railroad Tracks located on the Terminal Space to all customers without a fee for such pass-through; provided, however, that the third parties utilizing the Non-Terminal Railroad Tracks shall not be permitted to load or unload cargo on the Terminal Space. The Operator shall be responsible for the maintenance of the Gate, in accordance with Section 16 hereof.

(c) The parties agree and acknowledge that a principal purpose of the Port Authority in granting the permission under this Agreement is to have available for users of the Facility the access which the Operator is required to permit hereunder, all for the better accommodation and convenience of such entities and in fulfillment of the Port Authority's obligation to operate facilities for the use and benefit of the public.

(d) Operator will furnish all fixtures, equipment (including without limitation, computer systems and software), personnel (including without limitation, licensed personnel as necessary), supplies, materials and other facilities necessary and proper for the operation and management of the Terminal. The Operator shall furnish all services hereunder on a fair, equal and non-discriminatory basis and shall operate the

Terminal as a first class operation. Without limiting the provisions of the immediately preceding sentence, the Operator shall operate the Gate so as to allow access to the Terminal Space on a fair, equal and non-discriminatory basis.

(e) Intentionally Deleted

(f) Without limiting the generality of any provision of this Agreement, the Operator shall be responsible, at its sole cost and expense, for providing all necessary security for the protection and safeguarding of the Terminal Space and persons and property at or on the Terminal Space, including but not limited to the maintenance of security guards at the Gate and at guard booths at other appropriate locations on the Terminal Space and such other measures as may be prescribed by the Port Authority.

(g) Notwithstanding the provisions of this Section 6, it is understood and agreed that Operator's obligations with respect to the Non-Terminal Railroad Tracks located at the Terminal Space shall be limited to (i) providing pass-through access to and accepting railcar traffic by the users of the Terminal, including various railroads and/or shippers and (ii) maintaining and repairing the switch that controls access to the Terminal Railroad Tracks.

(h) Notwithstanding the provisions of subparagraph (b) above, the prohibition on Operator charging a fee for use of/access to the Gate and/or Terminal Space shall not apply to those customers of Operator that have entered into a service agreement with Operator that provides for a handling fee to be charged by the Operator.

Section 7. Abatement of Rental

(a) If during the Term of the Agreement, the Port Authority shall take any action that prevents the Operator from loading or unloading FAPS Vehicles from railcars arriving at or departing from the Terminal Space, subject to the satisfaction of the conditions set forth below, the Operator shall be entitled to an abatement of Rental as follows: for the period during which the Operator is prevented from loading or unloading FAPS Vehicles, from railcars at the Terminal Space, the Annual Intermodal Rental shall be abated, and the Guaranteed Minimum Intermodal Rental for the Calendar Year shall be pro-rated accordingly, provided, however, the foregoing solely applies if:

(i) FAPS does less than 20,000 vehicles for the Calendar Year in issue; and

(ii) the burden of proof shall be on FAPS to demonstrate that the Port Authority was responsible for any action that prevented FAPS from operating.

(b) Except as provided in this Section, no abatement of Rental or Additional Rental (as hereinafter defined) shall be claimed by or allowed to the Operator.

Section 8. Rights of User

(a) The Operator shall use the Terminal Space for the following purposes and in full compliance with all applicable laws, rules and regulations: (i) operation and management of a intermodal railroad terminal as a public, multi-user rail interchange terminal; (ii) the ingress and egress of railroad cars and locomotives to and from areas adjacent to the Terminal Space; and (iii) the receipt and delivery of FAPS Vehicles which have arrived or will be departing through the Facility, to and from such railroad cars. Any other use not specifically authorized in this Section 8 shall require the prior written consent of the Port Authority, in its sole and absolute discretion. Nothing herein shall prevent Operator from allowing the use of the Terminal Space by security personnel or federal or state law enforcement in fulfilling their law enforcement responsibilities; provided, however, that any Sublease (as defined herein in Section 18) shall require the prior consent of the Port Authority.

Section 9. Ingress and Egress

The Operator shall have the right of ingress and egress between the Terminal Space 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 (See Section 11 for Rules and Regulations). 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 Operator. The

Operator 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 Operator 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; provided, that, a reasonably equivalent means of ingress and egress remains available. The Operator 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 Terminal Space or in, along, across or through any streets, ways and walks near the Terminal Space.

Section 10. Governmental and Other Requirements

(a) Prior to or contemporaneous with the commencement of its operations under this Agreement, at its sole cost and expense, the Operator shall procure from all governmental authorities having jurisdiction over the operations of the Operator hereunder, all licenses, certificates, permits and other authorizations which may be necessary for the conduct of such operations and, upon the request of the Port Authority, shall provide copies of all such items to the Port Authority. Operator covenants that it shall ensure that all such licenses, certificates, permits and other authorizations shall remain in full force and effect through the Term.

(b) The Operator shall promptly observe, comply with and execute all laws and ordinances and governmental rules, regulations, requirements, orders and similar items now or at any time during the occupancy of the Terminal Space by the Operator which as a matter of law are applicable to or which affect (i) the Terminal Space, (ii) the operations of the Operator at the Terminal Space or the Facility, (iii) the use and occupancy of the Terminal Space and/or (iv) any Hazardous Substance on, at or migrating from the Terminal Space, in accordance with Section 50 hereof. The Operator, at its sole cost and expense, shall make any and all structural and non-structural improvements, repairs or alterations of the Terminal Space and perform all remediation work and clean up of Hazardous Substances required in order to fully satisfy the compliance obligations set forth in this Agreement, subject to the provisions of Section 20(o) hereof.

(c) The Operator shall, for the Port Authority's information, deliver to the Port Authority promptly after receipt any notice, warning, summons or other legal process for the enforcement of any enactment, ordinance, resolution or

regulation of a governmental authority of competent jurisdiction that may reasonably have a material effect on the Terminal Space, the Facility, the Port Authority or the Operator (collectively, a "Notice").

(d) The obligation of the Operator 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 Operator. Notwithstanding the foregoing in this Section 10, the Operator shall not be deemed in breach or violation of its obligations hereunder and to the Port Authority for not complying with any license, certificate, permit, or other authorization, so long as (i) the Operator is pursuing a good faith challenge or amendment to such license, certificate, permit, or other authorization; (ii) such non-compliance does not result in criminal liability; (iii) such non-compliance does not cause a lien to be incurred on the Terminal Space or the Facility; (iv) such non-compliance will not adversely affect any other tenant at the Facility; (v) will not cause the Port Authority to breach any agreement; and (vi) that such non-compliance does not pose a potential or actual danger to person or property in the discretion of the Port Authority. The Port Authority shall have no liability or obligation with regard to such matters.

Section 11. Rules and Regulations

(a) The Operator covenants and agrees to observe and obey (and to compel its officers, employees, guests, invitees, agents, representatives, and others on the Terminal Space with its consent to observe and obey) the Rules and Regulations of the Port Authority now or hereafter in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the governance of the conduct and operations of the Operator as may from time to time, during the letting, be promulgated by the Port Authority for reasons of safety, security, health, or preservation of property, or for the maintenance of the good and orderly appearance of the Terminal Space, or for the safe and efficient operation of the Facility. The Port Authority agrees that, except in cases of emergency, it will give notice to the Operator of every such further rule or regulation, and every proposed change or amendment as provided for by Section IX of the Port Authority's By-Laws, but at least five (5) days before the Operator shall be required to comply therewith.

(b) Intentionally Deleted

(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.

Section 12. Operational Obligations of the Operator

(a) In the performance of its obligations hereunder and in the use of the Terminal Space, the Operator shall conduct its operations in an orderly, lawful and proper manner, so as not to annoy, disturb or be offensive to others near the Terminal Space or at the Facility.

(b) The Operator shall control the conduct, demeanor and appearance of its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and those doing business with it. As soon as reasonably possible the Operator 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 Operator or of any such others on the Terminal Space with the consent of the Operator.

(c) The Operator shall not allow any garbage, debris or other waste materials (whether solid or liquid) to collect or accumulate on the Terminal Space and the Operator shall remove from the Terminal Space 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 in a concealed location, 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 Operator therein. Said receptacles shall be provided and maintained by the Operator and shall be kept covered except when being filled or emptied. The Operator 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 in its sole discretion; provided, however, that such garbage shall be collected and removed from the Terminal Space a minimum of weekly.

(d) The Operator shall take all reasonable measures to eliminate vibrations tending to damage the Terminal Space or the Facility or any part thereof, taking into account the normal operations of a locomotive on the Terminal Space.

(e) The Operator shall permit the use of and provide reasonable access to the Terminal Space from time to time for the installation, maintenance and operation of such navigation lights, as the same may be required by the United States Coast Guard or other governmental authority having jurisdiction; provided, however, that reasonable prior written notice shall be afforded to the Operator.

(f) From time to time and as often as reasonably required by the Port Authority and upon prior notice to the Port Authority, the Operator shall conduct pressure, water-flow and other appropriate tests of the fire-extinguishing system and fire-fighting equipment on the Terminal Space, to the extent such equipment exists on the Terminal Space, whether furnished by the Port Authority or by the Operator, without cost to the Port Authority. To the extent such equipment exists on the Terminal Space, the Operator 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 the appropriate number of its employees in the use of all such equipment (with such employees to participate in periodic training drills).

(g) Intentionally Deleted.

Section 13. Prohibited Acts

(a) The Operator 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, electrical system, fire-protection system, sprinkler system, alarm system, fire hydrants and hoses and other systems, if any, installed or located on, under, or in the Terminal Space. Notwithstanding the foregoing, such services may be temporarily interrupted for the purposes of repairing or upgrading same, if approved by the Port Authority and undertaken by the Operator in accordance with Section 20(o) hereof.

(b) The Operator shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of existing and future utilities systems or portions thereof on the Terminal Space, if any, or elsewhere at the Facility, including

without limitation, systems for the supply of heat, hot and cold water, gas, electricity and fuel, and for the furnishing of air-conditioning, telephone, telegraph, teleregister, internet, fiber optic cable, and intercommunications services including any lines, pipes, mains, wire, conduits and equipment connected with or appurtenant to all such systems. Notwithstanding the foregoing, such services may be temporarily interrupted for the purposes of repairing or upgrading same, if approved by the Port Authority and undertaken by the Operator in accordance with Section 20(o) hereof.

(c) The Operator shall not commit any nuisance or permit its employees or others on the Terminal Space with its consent to commit or create or continue or tend to create any nuisance in or near the Facility.

(d) The Operator shall not cause or permit to be caused, created or produced upon the Terminal Space, to permeate the same or to emanate therefrom, any unusual, noxious or objectionable smokes, gases, vapors or odors, taking into account the use of diesel locomotives on the Terminal Space.

(e) The Operator shall not dispose of nor permit any one to dispose of any industrial/Hazardous waste material by means of the toilets, manholes, sanitary sewers or storm sewers in the Terminal Space or on the Facility except after treatment in installations or equipment included in plans and specifications submitted to and approved by the Port Authority, and in compliance with all applicable statutes, ordinances, laws, rules, and regulations.

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

(g) Except as set forth in paragraphs (g)(1)-(2) of this Section, the Operator shall not install, maintain or operate, or permit the installation, maintenance or operation on the Terminal Space of any vending machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind whether or not included in the above categories, or of any restaurant, cafeteria, kitchen, stand or other establishment of any type for the preparation or dispensing of food, beverages, tobacco, tobacco products, or merchandise of any kind whether or not included in the above

categories, or of any equipment or devices for the furnishing to the public of service of any kind including therein, without limitation thereto, telephone pay stations.

(1) Subject to the provisions of paragraph (g)(2) of this Section, the Port Authority, by itself or by contractors, Operators or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the Terminal Space for the sale of merchandise of all types or for the rendering of services. The Operator shall have the right to receive and retain the revenues from all coin-operated or other vending machines or devices which it may install on the Terminal Space pursuant to the provisions of paragraph (g)(2) of this Section.

(2) Subject to all of the terms and provisions of this Agreement, the Operator may install vending machines or devices designed to dispense or sell food, beverages, tobacco or tobacco products, subject to the Port Authority's approval of the type and method of installation thereof. The Operator may use an independent contractor, operator or supplier for such machines selected by the Operator unless the Port Authority determines, in its reasonable discretion, that said contractor, operator or supplier will adversely affect or interfere with operations of the Facility or will cause or contribute to the causing of labor problems or disturbances thereat. Such machines shall be installed and operated solely for use by the Operator's officers, employees, members, contractors, customers, guests and invitees. The Operator's agreement with any contractor, operator or supplier of vending machines shall permit cancellation by the Operator on short term notice in the event that the Port Authority notifies the Operator that such contractor, operator or supplier fails to meet the standards set forth in this paragraph (g)(2). The Operator shall be fully responsible for insuring that its contractor, operator or supplier shall comply with all of the applicable provisions of this Agreement and all acts and omissions of such contractor, operator or supplier shall be deemed acts or omissions of the Operator, and the Operator and the contractor, operator or supplier shall be jointly and severally responsible therefor to the Port Authority only.

(h) The Operator shall not place a load upon any floor or paved area of the Terminal Space that exceeds one hundred (100)

pounds per square foot in any office area, if any, located on the Terminal Space, or five hundred (500) pounds per square foot for any other portion of the Terminal Space, and shall repair any floor, including supporting members, and any paved area damaged by overloading. Nothing in this paragraph (h) 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. The Operator shall also not overload any roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such roof, land surface, bulkhead, pavement, landing, pier or wharf, including but not limited to supporting members, damaged by overloading. Any repair, replacement or rebuilding required under this Section shall be conducted in accordance with the provisions of Section 20(o) hereof.

(i) The Operator shall not fuel or defuel its vehicles or equipment in the enclosed portions of the Terminal Space, if any, without the prior approval of the Manager of the Facility (as hereinafter defined).

(j) The Operator shall not keep or store in the Terminal Space, explosives, inflammable liquids or solids or oxidized materials or use any cleaning materials having a harmful corrosive effect on any part of the Terminal Space, except for those materials normally used in the operations permitted at the Terminal Space pursuant to Section 8 hereof and stored in a structure normally used for the storage of such materials and made safe for the storage thereof.

(k) The Operator shall not use or permit the use of any truss or structural supporting member of a building or roof or any part thereof at the Facility 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.

(l) The Operator 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.

(m) The Operator shall not do or permit to be done any act or thing on the Terminal Space or at the Facility which (i) will invalidate or conflict with any fire insurance policies covering the Terminal Space 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 Operator shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the Insurance Services Office of New Jersey, the National Fire Protection Association ("NFPA"), or of any other board or organization exercising or which may exercise similar functions, which may pertain or apply to the operations of the Operator on the Terminal Space, and the Operator shall, subject to and in accordance with the provisions of this Agreement relating to construction by the Operator, make all improvements, alterations and repairs of the Terminal Space that may be required at any time hereafter by any such present or future rule, regulation, requirement, order or direction; provided, however, that the Operator shall not be obligated to make such improvements, alterations or repairs to (i) the portion of the Non-Terminal Railroad Tracks located on the Terminal Space, other than the switch that controls access to the Terminal Railroad Tracks, or (ii) underground utilities. If by reason of any failure on the part of the Operator to comply with the provisions of this paragraph or by reason of any act by Operator, any rate for fire insurance, extended coverage or rental insurance on the Terminal Space 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 Operator shall pay to the Port Authority that part of all premiums paid by the Port Authority which shall have been charged because of such act, violation or failure by the Operator.

(n) The Operator 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.

(o) The Operator shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance (as defined in Section 50) on or from the Terminal Space, 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 Operator (or permitted by the Operator to be disposed of, released or discharged) on or from the Terminal Space or at the Facility, shall upon notice by the Port

Authority to the Operator and subject to the provisions of Section 50 hereof, be completely removed, cleaned up and/or remediated by the Operator. The obligations of the Operator pursuant to this paragraph shall survive the expiration or termination of this Agreement.

(p) The Operator may store wooden pallets on the open areas of the Terminal Space strictly in accordance with the requirements and restrictions of the Port Authority which are disclosed to Operator. These requirements and restrictions include but are not limited to: (i) pallets shall be stacked no greater than eight (8) feet in height; (ii) pallets shall be sheltered from public view; and (iii) pallets shall be removed from the Terminal Space not less than on a weekly basis.

Section 14. Signs

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

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

Section 15. Indemnity and Liability Insurance

(a) The Operator 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 Terminal Space by the Operator or by its officers, agents, employees, customers, vendors, or representatives, contractors, subcontractors or their employees, or by others on the Terminal

Space with the consent or invitation of any of the foregoing persons, or out of any other acts or omissions of the Operator, its officers, agents and employees on the Terminal Space or elsewhere at the Facility, excepting only (i) claims and demands which result solely from the intentional tortious acts or gross negligence of the Port Authority, and (ii) claims and demands relating solely to, resulting solely from, or arising solely out of accidents including, but not limited to derailments, caused by the operation of railcars or trains on the Non-Terminal Tracks by the Port Authority or third parties, provided, that such accidents are not caused, in whole or in part, by the acts or omissions of the Operator.

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

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

(1) Commercial General Liability Insurance including but not limited to coverage for premises operations and Products Liability-Completed Operations, with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000 per occurrence, no general aggregate. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards. If the Operator's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Operator shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(2) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with its operations hereunder with a minimum

combined single limit coverage for bodily injury and property damage of $5,000,000 per occurrence, no general aggregate.

(d) Each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured and/or loss payee, as applicable (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 Operator 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 Operator thereunder with respect to any claim or action against the Operator by a third party shall pertain and apply with like effect with respect to any claim or action against the Operator by the Port Authority and against the Port Authority by the Operator, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured and/or loss payee, as applicable.

(e) The Operator shall also maintain and pay the premiums on a Garagekeepers Legal Liability policy in limits not less than $2,000,000.

(f) 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 on or before the Commencement Date, and on each anniversary date thereafter. In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least

fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance or as to coverages or minimum limits, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Operator shall promptly obtain one or more new and satisfactory policies in replacement. A policy shall be deemed satisfactory to the Port Authority if it (i) meets all the terms and conditions of this Agreement, and (ii) has an AM Best (or its successors' and/or assigns' or its industry equivalent's) rating of A-:VII or better. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

Section 16. Maintenance and Repair

(a) Subject to the provisions of subparagraph(f) of this Section 16, the Operator shall at all times keep the Terminal Space clean, and in an orderly condition and appearance, together with all the fixtures, equipment and personal property of the Operator located in or on the Terminal Space, and shall comply with all applicable governmental statutes, rules and regulations as required by Section 10 hereof. Without limiting the generality of the immediately preceding sentence or any obligations of the Operator with respect to the Terminal Space, but subject to subparagraph (f) of this Section 16, the Operator agrees that upon the commencement of the letting and during the Term it shall place and keep the Terminal Space in good operating condition. Notwithstanding anything appearing to the contrary in this Section 16, the Operator shall be under no obligation to upgrade any systems or items at the Terminal Space, but shall be obligated only to maintain, repair and replace the systems or other items as applicable at the Terminal Space.

(b) Subject to the provisions of subparagraph (f) of this Section 16, the Operator shall repair, replace, rebuild and paint all or any part of the Terminal Space which may be damaged or destroyed by the acts or omissions of the Operator or by those of its officers or employees, or of other persons on or at the Terminal Space. Any repair, replacement or rebuilding required under this Section shall be conducted pursuant to the terms and conditions set forth in Section 20(o).

(c) Subject to the provisions of subparagraph (f) of this Section 16 and Section 20(o) of this Agreement, throughout the Term, the Operator shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the Terminal Space, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing, the Operator shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the Terminal Space, all utilities related to the Terminal Space (except as provided below), and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said Terminal Space or the Operator's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of the following items, as applicable: (1) sprinkler systems, if any (provided, however, that (i) the Operator shall be required to maintain in full force and effect throughout the Term of this Agreement a valid contract with a licensed contractor to maintain the fire protection systems, including without limitation, the sprinkler systems and the alarm systems, and shall promptly replace such contractor with a similar licensed contractor in the event that the current contractor is terminated during the Term of this Agreement, based on similar contractual terms and provisions, and (ii) provided, further, that the Operator shall provide the Port Authority with (x) monthly reports certifying that the fire alarm systems are inspected, tested and have met NFPA standards and (y) on an annual basis, certified documentation from a licensed contractor that all buildings on the Terminal Space comply with NFPA standards); (2) gas and electric from the meter (utility companies are responsible up to the meter); (3) the electrical system, equipment and fixtures, including, without limitation, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and all relamping and fuse replacement; (4) the plumbing system, fixtures and equipment, and all finished plumbing; (5) buildings, if any, and all parts thereof; (6) signs; (7) fire extinguishers; (8) all painting; (9) any security measures (including without limitation fencing, guard booths, crash gates, and/or jersey barriers) implemented on the Terminal Space; (10) catch basins and storm sewer system drains, which are to be kept fully functional, clear of obstruction and free of damage at all times; (11) any paving required on the Terminal Space; (12) the Terminal Railroad Tracks and all related ties and switches; and (13) the Gate; provided, however, that the Operator shall not be

responsible for the maintenance of any underground utilities. The Operator shall maintain all improvements, utilities, fixtures, machinery and equipment set forth above at all times in good condition, and shall perform all necessary preventive maintenance during the Term.

In the event that the Port Authority reenters, regains or resumes possession of the Terminal Space in accordance with the provisions of this Agreement, or upon the expiration or earlier termination of this Agreement, except in connection with the termination of this Agreement based upon an Event of Default of Operator (as defined in Section 24 hereof), the following procedure will be undertaken: The Port Authority, its agent, representative or the like, will conduct an inspection of the Terminal Space (including without limitation of the then current state of cleaning, maintenance and repairs, janitorial services, painting, structural and nonstructural conditions, lighting of buildings and open areas, the condition of utilities and utilities systems, fire-fighting and fire protection equipment and systems, communications and communications systems, antipollution systems and devices, fuel facilities and systems, and fixtures, equipment and personal property of the Operator) ("Condition Survey") and, to the extent the Operator is in possession of the Terminal Space, the Port Authority's agent or representative shall have all rights of entry to the Terminal Space during all reasonable times as appropriate or required to perform the Condition Survey. The Condition Survey shall be conducted no less than six (6) months and no more than twelve (12) months after the effective date of such termination, except in the event that the Port Authority re-lets all or a portion of the Terminal Space, in which case the Condition Survey shall be completed as to the re-let portion of the Terminal Space prior to such re-letting. The Port Authority will provide the Operator with a list of all items that demonstrate Operator's failure to maintain the Terminal Space in accordance with the obligations of this Section 16 (a "Condition Survey Report," and the date upon which such list is provided to Operator being hereinafter known as the "Report Date"). All obligations relating to the items identified by the Condition Survey Report arising out of Operator's failure to maintain, repair, replace or rebuild, shall survive such termination or cancellation, reentry, regaining or resumption of possession. The Condition Survey Report shall solely address the Operator's obligation with respect to the maintenance and repair of the Terminal Space pursuant to this Section 16. In no event shall any other obligation under this Agreement be affected by the Condition Survey Report, including, but in no event, limited to any

environmental conditions with respect to the Terminal Space. At the Port Authority's sole option, within ninety (90) days after the Report Date, the Port Authority shall have the following options, (i) require Operator to commence or cause to be commenced all required or recommended items and actions contained in such Condition Survey Report that are necessary or required to meet Operator's maintenance, repair or other obligations, duties or responsibilities under this Agreement and the Operator shall diligently continue the same or cause the same to be continued to completion; provided, however, that the Operator shall promptly commence or cause to be commenced any and all items, actions or work related to, affecting or involving fire safety, health, structural integrity, life safety, security or emergency response or (ii) draw against the letter of credit maintained by Operator pursuant to Section 42 hereof to remedy such conditions. To the extent the amount of security is insufficient to cover the costs set forth on the Condition Survey Report, Operator shall be responsible for and shall, within five (5) days of demand of the Port Authority, remit the shortfall to the Port Authority or, (iii) direct the Operator to make direct payment to the Port Authority in an amount equal to the cost of the items set forth on the Condition Survey Report and Operator shall be responsible for and shall, within five (5) days of demand of the Port Authority make payment to the Port Authority.

For example, if the Condition Survey Report identifies a failure on Operator's part to maintain a switch associated with the Terminal Railroad Tracks, all such repairs and/or replacements shall be the sole and absolute responsibility of Operator and shall either, in the sole discretion of the Port Authority (i) be commenced or caused to be commenced within ninety (90) days of the Report Date by the Operator or (ii) be paid for by either a draw against the Operator's security deposit or a direct payment by the Operator to the Port Authority.

In no event shall the Condition Survey procedure be applicable in the event of a termination based on an Event of Default by Operator under this Agreement.

Upon the expiration of this Agreement, the Terminal Space must be in as good condition as at the time of the installation or construction thereof, except for reasonable wear and tear. The Operator shall make periodic inspections of the Terminal Space and subject to Section 20(o) of this Agreement shall make all repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and

entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacement. All repairs, rebuilding and replacements by the Operator shall be in quality and class not inferior to the original in materials and workmanship.

(d) Without limiting the obligations of the Operator stated elsewhere in this Agreement, the Operator shall be solely responsible to the Port Authority for any damage caused by Operator, its employees, agents or representatives to any and all personal property, equipment and fixtures belonging to the Port Authority located or to be located in or on the Terminal Space and shall promptly replace or repair the same within twenty (20) days after such damage (except that if any such repair requires activity over a period of time, then the Operator shall commence to perform such repair within such twenty (20) day period and shall diligently proceed therewith without interruption). The Operator shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the letting under this Agreement in the same condition as at the commencement of the letting, reasonable wear and tear excepted.

(e) The Port Authority shall have no responsibility with respect to any repairs or replacements which are required because of any casualty whether or not insured or insurable, except as expressly provided in Section 16 of this Agreement. The Operator shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents, and representatives, from and against all claims and demands, including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, of any third persons whatsoever, including, but not limited to, the Operator's officers, employees, agents, and representatives which may arise from the condition of the Terminal Space or any part thereof, or from the failure of the Operator to make timely corrections of dangerous or potentially dangerous conditions in or on the Terminal Space; provided, however, that the Operator's obligation hereunder to indemnify and hold the Port Authority harmless shall not apply to any claims or demands resulting from (i) the intentional tortious acts or gross negligence of the Port Authority or (ii) any conditions caused by an accident relating solely to or arising solely from the Non-Terminal Railroad Tracks, including, but not limited to derailments, except if such accident is caused, in whole or in part, by the acts or omissions of the Operator. Except as set forth above, the Operator hereby

releases and discharges the Port Authority, its Commissioners, officers, employees, agents and representatives from any liability for damages to the Operator, consequential or otherwise, in connection with any of the provisions of this paragraph concerning repairs or replacements to any portion of the Terminal Space, and including without limitation thereto any act or omission of the Port Authority, its officers, agents, employees, contractors or their employees, connected with the performance of such repairs or replacements.

(f) Notwithstanding anything in this Section 16 or this Agreement to the contrary, the Operator shall not be obligated, responsible, or liable for any repairs or maintenance to: (i) underground utilities on, under, or near the Terminal Space or the Facility, including storm water underground utilities; provided, however, that the Operator shall be responsible for the maintenance, repair and damage to traps, grates (manhole covers), frames, inlet boxes, catch basins, drains and the lateral service line connection up through the first valve or the main line, and shall also be responsible to keep the forgoing free and clean of clutter and debris and shall conduct regular inspections of same. The Port Authority shall be responsible for maintenance and repair to all other portions of such storm water utilities, except as expressly provided in the preceding sentence, which items shall be the Operator's responsibility; and the portion of the Non-Terminal Railroad Tracks located on the Terminal Space, other than the railroad switch that provides access to the Terminal Railroad Tracks. It being understood and agreed that the Operator's obligation with respect to the Non-Terminal Railroad Tracks is limited to (i) providing pass-through access to and accepting traffic by the users of the Terminal, including various railroads and/or shippers, and (ii) maintaining and repairing the switch that provides access to the Terminal Railroad Tracks.

Section 17. Casualty

(a) In the event that as a result of a casualty, whether or not insured or insurable, the Terminal Space is damaged, the Operator shall rebuild the same with due diligence in accordance with the procedures set forth in Section 20(o) hereof.

(b) In the event of damage to or a partial or total destruction of the Terminal Space, the Operator shall within thirty (30) days after the occurrence commence to remove from the Terminal Space 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 Operator or to any third person whatsoever, and thereafter shall diligently continue such removal, and if the Operator does not perform its obligation hereunder within such thirty (30) day period, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit at Operator's sole cost and expense, 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 Operator to the Port Authority, with any balance remaining to be paid to the Operator. If the expenses of such removal, storage and sale shall exceed the proceeds of sale, the Operator shall pay such excess to the Port Authority on demand. Without limiting any term or provision of this Agreement, the Operator 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; provided, however, that such indemnity obligation shall not apply to claims or demands arising from the intentional tortious acts or gross negligence of the Port Authority.

Section 18. Assignment and Sublease

(a) The following terms shall have the respective meanings set forth below:

"Assignment" shall mean any sale, conveyance, transfer, exchange, mortgage, assignment or other disposition of any or all portion of the Operator's interest in this Agreement or the leasehold estate created hereby, whether by operation of law or otherwise, and shall include any arrangement whereby all or substantially all of the Operator's operations hereunder are managed or performed by another Person.

"Control" (including the terms "controlling," "controlled by" and "under common control with") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or membership interests, by contract or otherwise.

"Person" shall mean a natural person, corporation, limited liability company, or other legal entity, and also two or more natural persons, corporations or other legal entities acting jointly as a firm, general or limited partnership, unincorporated association, consortium, joint venture or otherwise.

"Sublease" shall mean any sublease (including a sub-sublease or any further level of subletting) and any occupancy, license, franchise, or concession agreement applicable to the Terminal Space or any portion thereof, and shall include any arrangement whereby a substantial portion of the Operator's operations hereunder are managed or performed by another Person.

"Transfer" shall mean the transfer, sale, assignment, pledge, hypothecation or other disposition of any interest in the Operator or in any direct or indirect constituent entity of the Operator, where such disposition (whether by itself or cumulatively with other transactions) produces any change in the Control (as hereinafter defined) of the Operator, and shall include, without limitation, (1) the sale, assignment, redemption or transfer of outstanding stock of or membership interests in, respectively, in any corporation or limited liability company that is the Operator; (2) the issuance of additional stock or membership interests in, respectively, any corporation or limited liability company that is the Operator or that is the general partner of any partnership that is the Operator, and (3) the sale, assignment, redemption or transfer of any general or limited partner's interest in, or the admission of a new partner to, a partnership that is the Operator, or that a general or limited partner of any partnership that is the Operator.

(b) The Operator shall not effect or permit any Assignment, Transfer or Sublease without the prior written consent of the Port Authority, which consent may be given or withheld by the Port Authority in its sole and absolute discretion. The Operator shall not enter into any management agreement, services agreement or similar type of agreement governing the operations or management of the Terminal Space without the prior written consent of the Port Authority, which consent can be withheld by the Port Authority in its sole and absolute discretion.

(c) Any Sublease, Assignment or Transfer, including without limitation any sale, assignment, transfer, mortgage, pledge, hypothecation, encumbrance or disposition of the Terminal Space or of the rents, revenues or any other income from the Terminal Space, or this Agreement or any part hereof, or any license or

other interest of the Operator herein in not made in accordance with the provisions of this Agreement shall be null and void *ab initio* and of no force or effect.

(d) If without the prior written consent of the Port Authority, the Operator effects or permits any Assignment, Transfer or Sublease, or if the Terminal Space is occupied by any person, firm or corporation other than the Operator, the Port Authority may collect rent from any assignee, sublessee, or anyone who claims a right to this Agreement or to the letting or who occupies the Terminal Space, and shall apply the net amount collected to the Rental herein reserved; but no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section, nor an acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as tenant, nor a release of the Operator by the Port Authority from the further performance by the Operator of the covenants contained in this Agreement.

(e) Any consent granted by the Port Authority to any Assignment, Transfer or Sublease pursuant to the provisions hereof shall not be construed or deemed to release, relieve or discharge the Operator or any other Person claiming any right, title or interest in this Agreement from the requirement of obtaining the prior written consent of the Port Authority with respect to any other Assignment, Transfer or Sublease.

(f) The Operator further covenants and agrees that it will not use or permit any Person whatsoever to use the Terminal Space or any portion thereof for any purpose other than in accordance with Section 8 of this Agreement. Except as provided in this Agreement or otherwise permitted in writing by the Port Authority, the Operator shall not permit the Terminal Space to be used or occupied by any Person other than its own officers, employees, contractors and representatives.

(g) Notwithstanding anything in this Agreement to the contrary, the Operator shall be permitted to license certain limited portions of the Terminal Space as office space to its clients (and/or such clients' service providers) as may be deemed necessary or desirable to facilitate the processing of cargo at the Terminal Space. The Provisions of this Section 18 shall not be applicable to such licensed space. Operator shall not permit such license to rise to the level of a Sublease, as determined in the Port Authority's reasonable discretion.

(h) Notwithstanding that the disposition of any interest in the Operator not producing any change in Control of the

Operator does not constitute a Transfer hereunder and accordingly does not require the consent of the Port Authority, the Operator covenants to provide the Port Authority with notice of any such disposition not later than fourteen (14) days thereafter.

Section 19. Condemnation

(a) In any action or other proceeding by any governmental agency or agencies superior to the Port Authority for the taking for a public use of any interest in all or part of the Terminal Space, 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 Operator 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 Operator; provided, however, that this paragraph shall not be construed to prevent the Operator from making a possible claim against the condemning party for an award for moving or relocation expenses, for trade fixtures and for other fixtures and improvements owned by the Operator to the extent that such fixtures and improvements are owned by the Operator and have been paid for by the Operator, if such claims are then permitted by law and if such award is made separately from the award which the Port Authority will be entitled to in the condemnation proceeding, and will not reduce the amount thereof, but this provision shall not be deemed a recognition by the Port Authority of the validity of any such claims.

(b) In the event that the Port Authority exercises its powers to acquire Operator's interest hereunder by condemnation, as authorized by specific legislation enactment, codified at N.J.S.A. 32:2-10, the Port Authority may by notice given to the Operator, in compliance with N.J.S.A. 32:2-11, terminate the letting with respect to all or such portion of the Terminal Space so required. Such termination shall be effective on the date specified in the notice. The Operator hereby agrees to deliver possession of all or such portion of the Terminal Space so required upon the effective date of such termination in the same condition as that required for the delivery of the Terminal Space upon the date originally fixed by this Agreement for the

expiration of the Term. If the Port Authority exercises this option, the Operator shall have the same rights and remedies provided in subparagraph (a) above. No taking by or conveyance to any governmental authority as described in paragraph (a) of this Section, nor any delivery by the Operator nor taking by the Port Authority pursuant to this paragraph, shall be construed to be an eviction of the Operator or a breach of this Agreement or be made the basis of any claim by the Operator against the Port Authority for damages, consequential or otherwise; provided, however, that in the event the Port Authority terminates this Agreement pursuant to this Section 19, Operator's obligations with respect to the Terminal Space (or such portion(s) of the Terminal Space so taken) shall cease as of the date of such termination. Further, the Port Authority's right to condemnation hereunder shall in no way be limited or restricted by the provisions of Section 25 hereof.

(c) Subject to the provisions of paragraphs (a) and (b) above, in the event that the taking or conveyance covers the entire Terminal Space, or in the event that the letting is terminated with respect to the entire Terminal Space 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 terminate in the same manner and with the same effect as if the said date were the original date of expiration hereof.

(d) Subject to the provisions of paragraphs (a) and (b) above, in the event that the taking or conveyance covers less than fifty percent (50%) of the total useable area of the Terminal Space, or in the event that the letting is terminated pursuant to paragraph (b) of this Section with respect to a part only of the Terminal Space, 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 terminate in the same manner and with the same effect as if the Term had on that date expired.

(e) Subject to the provisions of paragraphs (a) and (b) above, in the event that the taking or conveyance or the delivery by the Operator or taking by the Port Authority pursuant to paragraph (b) of this Section covers fifty percent (50%) or more of the total usable area of the Terminal Space, then the Operator and the Port Authority shall each have an option exercisable by notice given within ten (10) 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.

Section 20. Repairs, Replacements or Alterations by the Operator

(a) Any repairs, replacements or alterations conducted under this Agreement except as expressly set forth herein to the contrary, shall be performed at the Operator's sole cost and expense (the "Operator's Alterations").

(b) With respect to any Alterations, undertaken by Operator, the Operator shall procure insurance in favor of the Port Authority, and its Commissioners, officers, agents and employees against the following risks, whether they arise from acts or omissions of the Operator, any contractors of the Operator, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from intentional tortious acts or grossly negligent acts done by the Port Authority subsequent to commencement of the work:

(1) The risk of loss or damage to all such Operator's Alterations prior to the completion thereof. In the event of such loss or damage, the Operator shall forthwith repair, replace and make good the Operator's Alterations without cost to the Port Authority;

(2) The risk of death, injury or damage, direct or consequential, to the Port Authority, and its Commissioners, officers, agents and employees, and to its or their property, arising out of or in connection with the performance of the Operator's Alterations. The Operator shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, for all such injuries and damages (including without limitation, direct or consequential damages), and for all loss suffered by reason thereof;

(3) The risk of claims and demands, just or unjust, by third persons against the Port Authority, and its Commissioners, officers, agents and employees, arising or alleged to arise out of the performance of the Operator's Alterations. The Operator shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, against and from all such claims and demands, and for all loss and expense incurred by it and by them in the defense, settlement or satisfaction thereof including

without limitation thereto, claims and demands for death, for personal injury or for property damage, direct or consequential.

(c) Prior to the commencement of any of the Operator's Alterations to be performed by the Operator during the Term of this Agreement, the Operator shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include (an "Alteration Application"), setting forth in detail by appropriate plans and specifications the work the Operator proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract, in accordance with subsection (o) of this Section 20.

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

(e) Without limiting the generality of paragraph (b) of this Section, the Operator 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 the improvements, fixtures, and equipment 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 Operator's Alterations or for the contracts for the performance thereof entered into by the Operator. Any warranties extended or available to the Operator in connection with the aforesaid Operator's Alterations shall be for the benefit of the Port Authority as well as the Operator.

(f) Without limiting or affecting any other term or provision of this Agreement, the Operator shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the Terminal Space by the Operator and all other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Operator in the Terminal Space and shall do preventive maintenance and make such repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear which does not adversely affect the efficient or proper utilization of any part of the Terminal Space.

(g) The Operator shall pay all claims lawfully made against it by its contractors, subcontractors, materialmen and workmen, and all claims lawfully made against it by other third persons arising out of or in connection with or because of the performance of the Operator's Alterations, and shall cause its contractors and subcontractors to pay all such claims lawfully made against them. Nothing herein contained shall be deemed to constitute consent to the creation of any lien or claim against the Terminal Space or any part thereof, nor to prevent the Operator from contesting claims in good faith.

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

(1) Commercial General Liability Insurance including but not limited to Independent Contractor coverage and coverage for Premises Operations and Completed-Operations and for Broad Form Property Damage, with a contractual liability endorsement covering the obligations assumed by the Operator under paragraph (b) of this Section, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of $10,000,000 per occurrence, no general aggregate. The policy will also include x,c,u coverage

(2) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined

single limit coverage for bodily injury and property damage of $10,000,000 per occurrence, no general aggregate.

(i) With the exception of the Commercial Automobile Liability, Workers' Compensation and Employers' Liability Insurance policies each policy of insurance described in paragraph (g) of this Section shall include the Port Authority as an additional insured, in its coverages including, without limitation, coverage for premises-operations and completed operations, and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Operator or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured, or the coverage under the contractual liability endorsement described in subdivision (1) of paragraph (g) of this Agreement. The certificates of such insurance shall also contain an endorsement providing that the protection afforded the Operator thereunder with respect to any claim or action against the Operator by a third party shall pertain and apply with like effect with respect to any claim or action against the Operator by the Port Authority and against the Port Authority by the Operator, but said endorsement shall not limit, vary, change or affect the protections afforded the Port Authority as an additional insured and/or loss payee, as applicable. Such insurance shall contain a provision that the insurer shall not, without obtaining express written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. The requirements of the certificate of insurance evidencing these coverages shall be the same as specified in Section 15 (f), except that, instead of the certificate being delivered to the Port Authority on or before the Commencement Date, the certificate must be delivered to The Port Authority before any of Operator's Alterations are to take place.

(j) Title to all improvements and fixtures placed, constructed or installed in or on the Terminal Space as the Operator's Alterations shall vest immediately in the Port Authority upon placement, construction or installation thereof and title to any and all equipment and trade fixtures removable without substantial injury to the Terminal Space placed in or installed upon the Terminal Space as part of the Operator's

Alterations shall remain with the Operator. No such equipment or trade fixtures shall be removed by the Operator prior to the termination of this Agreement unless replaced with identical property of equal or greater value. Without limiting any other term of the Agreement and notwithstanding the foregoing provisions, upon written notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the letting of the Terminal Space under this Agreement the Operator shall remove from the Terminal Space any improvements, fixtures, trade fixtures, or equipment as the Port Authority may specify in its notice, and shall repair any damage to the Terminal Space caused by such removal.

(k) In the performance of the Operator's Alterations, and otherwise during the Term of this Agreement, to the extent within its reasonable control, the Operator will not permit any situation or condition to arise or continue that causes any labor troubles at, or emanating from, the Operator's Terminal Space which interferes in any material respect with the operations at the Operator's Terminal Space. Upon written notice from the Port Authority (and provided the Port Authority has obtained a corresponding understanding and agreement from the New York Shipping Association with respect to the actions requested in such notice), the Operator will (or will cause its contractor to, as applicable) take such actions as are within its control and commercially reasonable under the circumstances to rectify any condition causing or contributing to labor troubles as specified in such notice. In the event of failure by the Operator (or any of its contractors, as applicable) to timely comply with the requirements of this paragraph, the Port Authority, after consultation with, and approval by, the New York Shipping Association, will have the right, by notice from the Port Authority to the Operator, to require the Operator to: (a) suspend the Port Authority's permission to the Operator to proceed with the applicable portion of each specific project of the Operator's Alterations being performed by or on behalf of the Operator (i.e. the portion to which the underlying labor trouble relates), or suspend the Port Authority's permission to the Operator to continue such other specific operations as reasonably necessary to immediately terminate such labor troubles, and the Operator will thereupon immediately cease the same, and/or (b) take such other actions, supported by the New York Shipping Association, as reasonably necessary to terminate such labor troubles. When labor troubles will be so settled that such interference no longer exists and the danger thereof has been substantially mitigated, the Port Authority by notice to the Operator will (i) reinstate the permission to the

Operator to perform the subject specific Operator's Alterations on all the same terms and conditions as before the suspension and/or (ii) permit the Operator to resume such other suspended activities at the Operator's Terminal Space or the Facility. "Labor troubles" will mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, disputes or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any, which materially interferes with operations or construction within the Facility.

(l) No contractor or third party shall, or shall be deemed to, have acquired any rights against the Port Authority by virtue of the execution of this Agreement and nothing contained herein shall operate or give to any such contractor or third party any claim or right of action against the Port Authority and its Commissioners, officers, agents and employees.

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

any greater requirements on the Operator than those which may be imposed on the Operator under applicable law.

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

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

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

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

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

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

(o) The data to be supplied by the Operator in the Alteration Application shall identify each anticipated repair or alteration, and shall describe in detail any systems, improvements, fixtures and equipment to be installed by the Operator. The Operator 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 Operator shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Operator's submissions under this paragraph, the Operator shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Operator's complete Alteration Application and complete plans and specifications, no later than ten (10) business days following submittal of all required information, plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Operator shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been reasonably approved by the Port Authority. The Operator shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Alteration Application approved by the Port Authority. The Operator shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in paragraphs (g) and (h) of this Section 20 and such performance bonds as the Port Authority may specify. All of the Operator's Alterations shall be performed by the Operator in accordance with the Alteration Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Operator shall redo or replace at its own expense any work not done in accordance therewith.

The Operator shall be obligated to pay a three percent (3%) tenant alteration review fee or other review fee charged by the Port Authority for its costs of administrating the Tenant Alteration Application Process.

(o) Notwithstanding anything to the contrary in this Section 20 or this Agreement, the Port Authority shall give its written approval or rejection, or shall request such revisions or modifications as the Port Authority deems necessary, no later than ten (10) calendar days following the Operator's submittal of any Alteration Application relating to security on the Terminal Space, including without limitation installation of fencing, jersey barriers, or other related similar improvements within or bordering the Terminal Space. In the event the Port Authority requests revisions or modifications to any Alteration Application relating to security, the Port Authority shall give its written approval or rejection thereof within ten (10) days of its receipt of such revisions or modifications.

(p) The Operator agrees that in the performance of any work that is subject to this Section 20, it will comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

Section 21. Additional Rent and Charges

(a) If the Port Authority has paid any sum or sums or has incurred any obligations or expense which the Operator 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 Operator 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 Operator contrary to the said conditions, covenants and agreements, the Operator 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 the Rental 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 (the "Additional Rental"). No payment made by the Operator to the Port Authority under this Section shall be or be deemed a waiver by the Operator of any right to contest its making of such payment.

(b) Should the Port Authority elect to use its operating and maintenance staff in performing any work and to charge the Operator with the cost thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall be prima facie evidence against the Operator that the amount of such charge was necessary.

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

Section 22. Rights of Entry Reserved

(a) The Port Authority, by its officers, employees, agents, representatives and contractors shall have the right, upon reasonable advance notice, to enter upon the Terminal Space for the purpose of inspecting the same at all reasonable times, for observing the performance by the Operator 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; provided, however, that in the exercise of such rights of access, the Port Authority shall not materially interfere with the use and occupancy of the Terminal Space by the Operator.

(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 Operator, or for the benefit of others than the Operator at the Facility, to maintain existing and future utility, mechanical, electrical and other systems and, upon reasonable advance notice, to enter upon the Terminal Space 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 Terminal Space new systems or parts thereof, and to use the Terminal Space for access to other parts of the Facility otherwise not conveniently accessible; provided, however, that in the exercise of such rights of access, the Port Authority shall not materially interfere with the use and occupancy of the Terminal Space by the Operator.

(c) In the event that any property of the Operator 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 Operator 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 Operator 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 Operator hereby agrees to pay the cost of such moving upon demand.

(d) Except as described in Section 16(e) hereof, 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. Subject to the rights of others to use the Terminal Space as set forth in Section 6 hereof, the Operator is and shall be in exclusive control and possession of the Terminal Space 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 Terminal Space or for any injury or damage to the Terminal Space or to any property of the Operator or of any other person located therein or thereon (other than those occasioned by the intentional tortious acts or gross negligence of the Port Authority).

(e) 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 Operators, occupiers or users of the Terminal Space, 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 Terminal Space, the usual "To Let" signs, which signs the Operator shall permit to remain without molestation.

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

(g) 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 Operator nor be made the grounds for any

abatement of Rental nor any claim or demand for damages, consequential or otherwise.

Section 23. Limitation of Rights and Privileges Granted

(a) The Terminal Space is let to the Operator and the Operator takes the same subject to all the following: (i) easements, restrictions, reservations, covenants and agreements, if any, to which the Terminal Space may be subject, and 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 Terminal Space is located; (iii) permits, licenses, regulations and restrictions, if any, of the United States the municipality or State in which the Terminal Space is located, or other governmental authority with appropriate jurisdiction.

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

Section 24. Termination

(a) Each of the following events shall be an "Event of Default" or a "default" hereunder:

(1) The Operator 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 Operator shall be adjudged bankrupt or an order shall be made approving a petition filed by any of its creditors or, if (i) the Operator is a corporation, by any of its stockholders, or, (ii) if the Operator is a limited liability company, by any of its members, or (iii) if the Operator is a general or limited partnership, by any of its general partners,

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 Operator and shall not be dismissed within ninety (90) days after the filing thereof; or

(4) Except as permitted under Section 18 hereof, the letting or the interest of the Operator under this Agreement shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other person, firm, partnership, corporation, or other business entity; or

(5) The Operator, without the prior approval of the Port Authority, merges, consolidates, dissolves or experiences a change in Control as defined herein; or

(6) 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 Operator, and such possession or control shall continue in effect for a period of ninety (90) days; or

(7) The Operator shall voluntarily abandon, desert or vacate all or substantially all of the Terminal Space or discontinue its operations at the Terminal Space for over sixty (60) days (except in connection with a casualty, in accordance with Section 16 hereof) or, after exhausting or abandoning any right of further appeal, the Operator shall be prevented for a period of sixty (60) days by action of any governmental agency from conducting its operations on the Terminal Space, regardless of the fault of the Operator; or

(8) Any lien shall be filed against the Terminal Space because of any act or omission of the Operator and shall not be discharged or bonded within thirty (30) days; or

(9) The Operator 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, and such failure shall not be corrected within fifteen (15) days of the due date of any such payment; or

(10) The Operator shall fail to (i) obtain any insurance policy required under this Agreement, or, (ii) following the lapse, termination or expiration of any such insurance policy, fail to replace the same with a policy complying with the terms and conditions set forth in this Agreement, and Operator fails to correct this lapse within thirty (30) days following such lapse, termination or expiration; or

(11) The Operator shall fail to perform its repair and maintenance obligations under this Agreement with regard to any of the leasehold Terminal Space and fails to commence such repairs within thirty (30) days after receipt of notice thereof from the Port Authority, or, if such repairs cannot be completed within thirty (30) days, to commence such repairs during the thirty (30) day period and continue to perform such repairs in a diligent and timely manner until completed; or

(12) The Operator shall fail to keep, perform and observe any 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 Operator shall have commenced to perform whatever may be required for fulfillment within thirty (30) days after receipt of notice, and diligently continues such performance without interruption to completion.

Upon the occurrence of any such Event of Default or at any time thereafter during the continuance thereof, the Port Authority may by written notice terminate the letting and the rights of the Operator under this Agreement, such termination to be effective upon the date specified in such notice, which date shall not be less than five (5) days after the giving of such notice.

(b) If any of the events enumerated in paragraph (a) of this Section shall occur prior to the commencement of the letting, the Operator shall not be entitled to enter into

possession of the Terminal Space, and the Port Authority, upon the occurrence of any such event, or at any time thereafter during the continuance thereof may, by forty eight (48) hours' notice, cancel the interest of the Operator 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 Operator 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 Operator in performance of any of the terms, covenants or conditions hereof to be performed, kept or observed by the Operator 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 as a consequence of any breach of this Agreement by the Operator, and the exercise by the Port Authority of any right of termination shall be without prejudice to any other such rights and remedies.

Section 25. Intentionally Deleted

Section 26. Right of Re-entry Upon Termination

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 24 of this Agreement, have the right to re-enter the Terminal Space and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or other legal proceedings, or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the surviving obligations of the Operator under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 27. Waiver of Redemption

The Operator hereby waives any and all rights to recover or regain possession of the Terminal Space 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 Terminal Space in any lawful manner.

Section 28. Survival of the Obligations of the Operator Upon Termination

(a) In the event that (i) the letting shall have been terminated in accordance with a notice of termination as provided in Section 24 of this Agreement, or (ii) the Port Authority has re-entered, regained or resumed possession of the Terminal Space in accordance with the provisions of Section 26 of this Agreement, then all of the obligations under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession, including repair and maintenance obligations. Upon such termination, 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, subject to the Port Authority's right as provided in the next sentence to accelerate the amounts due and recover the full amount for the entire unexpired Term. 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, and, notwithstanding anything appearing in this Section to the contrary, the Port Authority does not waive any rights it may have against Operator under any performance bonds or any other agreements.

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

(1) the amount of all unfulfilled monetary obligations of the Operator under this Agreement, including, without limitation thereto, all sums constituting Additional Rental under Section 21 of this Agreement, and all sums constituting the Annual Intermodal Rental under Sections 4-5 of this Agreement, and all other Rental accrued prior to the effective date of termination, and the cost to and expenses of the Port Authority for fulfilling all other obligations of the Operator which would have accrued or matured during the balance of the Term or on the expiration date originally fixed or within a stated time after expiration or termination; and

(2) an amount equal to all reasonable costs and expenses incurred by the Port Authority in connection with such termination, cancellation, regaining or resumption of possession, collection of all amounts due to the Port Authority, the restoration of the Terminal Space (on failure of the Operator to have restored), the reletting of the Terminal Space, the care and maintenance of the Terminal Space during any period of vacancy of the Terminal Space, the foregoing to include without limitation, personnel costs and legal expenses (including but not limited to the cost to the Port Authority of outside counsel), brokerage fees and commissions, repairing and altering the Terminal Space and putting the Terminal Space in order (such as but not limited to cleaning and decorating the Terminal Space).

Section 29. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 24 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 26 of this Agreement, may occupy the Terminal Space or may relet the Terminal Space and shall have the right to permit any person, firm or corporation to enter upon the Terminal Space and use the same. Such reletting may be of a part of the Terminal Space or of the entire Terminal Space, and may be for any period of time (whether the same as or different from the amount remaining in the Term hereunder), 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 24 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 26 of this Agreement, have the right to repair and to make structural or other changes in the Terminal Space, including changes which alter the character of the Terminal Space and the suitability thereof for the purposes of the Operator under this Agreement, without affecting, altering or diminishing the obligations of the Operator 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 Operator against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any Operator, licensee, permittee or other occupier in connection with the use of the Terminal Space (or portion thereof) during the balance of the Term as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the

Terminal Space 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. The Port Authority acknowledges that it has an obligation to mitigate its damages in accordance with applicable law.

Section 29A. Remedies Under Bankruptcy and Insolvency Codes

If an order for relief is entered or if any stay of proceeding or other act becomes effective in favor of Operator the Port Authority's interest in this Agreement in any proceeding commenced by or against Operator under the present or any future United States Bankruptcy Code or in a proceeding which is commenced by or against Operator seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future applicable federal, state or other bankruptcy or insolvency statute or law, the Port Authority shall be entitled to invoke any and all rights and remedies available under such bankruptcy or insolvency code, statute or law or under this Agreement including such rights and remedies as may be necessary to adequately protect the Port Authority 's right, title and interest in and to the Terminal Space or any part thereof and adequately assure the complete and continuous future performance of Operator's obligations under this Agreement. Adequate protection of the Port Authority's right, title and interest in and to the Terminal Space, and adequate assurance of the complete and continuous future performance of Operator's obligations under this Agreement, shall include all of the following requirements:

(a) that Operator shall comply with all of its obligations under this Agreement;

(b) that Operator shall continue to use the Terminal Space only in the manner permitted by this Agreement; and

(c) that if Operator's trustee, Operator or Operator as debtor-in-possession assumes this Agreement and proposes to assign it (pursuant to Title 11 U.S.C. Section 365, as it may be amended) to any person who has made a bona fide offer therefor, the notice of such proposed assignment, giving (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided the

Port Authority to assure such person's future performance under this Agreement, including the assurances referred to or intended by Title 11 U.S.C. Section 365, as it may be amended, and such other assurances as the Port Authority may reasonably require, shall be given to the Port Authority by the trustee, Operator or Operator as debtor-in-possession of such offer, not later than twenty (20) days before the date that the trustee, Operator or Operator as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment, and Port Authority shall thereupon have the prior right and option, to be exercised by notice to the trustee, Operator and Operator as debtor-in-possession, given at any time before the effective date of such proposed assignment, to accept an assignment of this Agreement upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person (including any higher or better offers made that may be made in such proceedings), less any brokerage fees, finders' fees, procuring fees, or commissions, or any similar fees or commissions which may be payable out of the consideration to be paid by such person for the assignment of this Agreement ("Brokerage Commissions"). The Port Authority shall have no obligation to pay any such Brokerage Commissions. If Operator attempts to arrange such an assignment of this Agreement, then as an element of the required adequate assurance to the Port Authority, and as a further condition to Operator's right to make such an assignment, Operator's agreement(s) with brokers shall, to the Port Authority's reasonable satisfaction, provide that the Port Authority shall have no obligation to pay such Brokerage Commissions if the Port Authority exercises the Port Authority's rights under this Section 29 A.

Section 30. 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 31. Surrender

(a) The Operator covenants and agrees to yield and deliver peaceably to the Port Authority possession of the Terminal Space 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 16(c)

hereof regarding the condition of the Terminal Space at the expiration or termination of the letting hereunder.

(b) The Operator shall have the right at any time during the letting to remove from the Terminal Space, all its equipment, removable fixtures and other personal property, and all property of third persons for which the Operator is responsible, and on or before the expiration or earlier termination of the letting it shall remove all of the same from the Terminal Space, repairing all damage caused by any removal. If the Operator 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, provided, however, that the Port Authority shall have given the Operator twenty (20) days' written notice of the Port Authority's intent to sell such property 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 Operator to the Port Authority, with any balance remaining to be paid to the Operator; if the expenses of such removal, repair, storage and sale shall exceed the proceeds of sale, the Operator shall pay such excess to the Port Authority upon demand (or the Port Authority shall have recourse to the letter of credit provided pursuant to this Agreement). Without limiting any other term or provision of this Agreement, the Operator 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. Notwithstanding the foregoing, Operator shall not indemnify nor hold harmless the Port Authority, its Commissioners, officers, agents, employees or contractors for their respective intentional tortious acts or gross negligence.

Section 32. Acceptance of Surrender of Agreement

No agreement of surrender or purported acceptance of 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 Operator. 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 33. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Operator, except as otherwise expressly provided herein, shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an officer or representative at their office during regular business hours; or (iii) if directed to the Operator, delivered to the Terminal Space at any time to the attention of the President; or (iv) forwarded to such party, officer or representative at the office by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar reputable overnight courier service. Until further notice, the Port Authority hereby designates its Executive Director, and the Operator 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 Operator designates its office, the address of which is set forth in the first page of this Agreement, as their respective offices where notices and requests may be served.

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

Section 34. General

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

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

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

(4) If the Operator is a limited liability company, its obligations shall be performed and its rights shall be exercised only by its members, managers and employees;

(5) None of the provisions of this paragraph (a) shall be taken to alter, amend or diminish any obligation of the Operator 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 Terminal Space with its consent.

(b) If more than one individual or other legal entity is the Operator 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 Terminal Space the Operator 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 Operator's representative, hereinbefore specified in this Agreement (or such substitute as the Operator may hereafter designate in writing), shall have full authority to act for the Operator in connection with this Agreement and any things done or to be done hereunder, and to execute on the Operator'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 Operator by this Agreement shall be made by mail to the Port Authority at P. O. Box 95000, Philadelphia, Pennsylvania 19195-1517 or via wire transfer to TD Bank, Bank ABA Number: 031201360, Account Number: or to such other address as may be substituted therefor.

(g) This Agreement does not render the Operator the agent or representative of the Port Authority for any purpose

whatsoever. Neither a partnership nor any joint venture is hereby created.

(h) As used in Sections 13 and 16 hereof, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, catch basins, storm grates, storm drains, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment. The phrase "utility, mechanical, electrical and other systems" shall specifically exclude any underground utilities, including storm water underground utilities in accordance with Section 16(f).

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

(j) 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 Operator, it shall mean the Manager (or the Acting Manager) Port Authority Marine Terminals-New Jersey for the time being, or his or her duly designated representative or representatives.

(k) 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.

(l) So long as the Operator shall pay all Rental provided for in this Agreement and shall observe and perform all the terms, covenants and conditions on the Operator's part to be

observed and performed under this Agreement, the Operator may peaceably and quietly enjoy the Terminal Space, during the Term, without disturbance 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 obligations hereunder shall continue only so long as it remains the owner of the Terminal Space.

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

(n) Intentionally Deleted.

(o) Intentionally Deleted.

(p) The Operator is not acquiring an ownership interest in the Terminal Space under this Agreement. Capital expenditures in connection with the Terminal Space have been, or are expected to be made, in whole or in part by the Port Authority from "exempt facility bonds" (within the meaning of Section 142(a) of the Internal Revenue Code of 1986, as amended) issued by the Port Authority from time to time (such capital expenditures are hereinafter called "the Property"). The Operator hereby irrevocably elects not to claim for purposes of federal, state or local taxation of income any depreciation or investment credits, for which it may be eligible with respect to the Property. The Operator further agrees that this irrevocable election shall be binding upon its successors in interest, if any, under this Agreement, and as a condition of any permitted sale or assignment of the interest of the Operator under this Agreement, every successor in interest shall furnish an executed irrevocable election in the form of the immediately preceding sentence to the Port Authority. The foregoing shall not grant or be deemed to grant to the Operator the right to sell or assign, in any manner, its interest under this Agreement.

(q) Neither this Agreement nor a Memorandum of Operating Agreement may be recorded of record.

(r) It is understood that the election set forth in paragraph (p) of this Section 34 shall not apply to any personal property of the Operator (including equipment and trade fixtures) removable without material damage to the Terminal Space leased to the Operator pursuant to this Agreement which are installed by the Operator in or on the Terminal Space leased to the Operator pursuant to this Agreement and which shall be deemed to be and remain the property of the Operator.

(s) Unless otherwise specified, whenever in this Agreement the consent of the Port Authority is required to be obtained, the giving of the consent shall be in the sole discretion of the Port Authority.

(t) This Agreement shall be governed by the laws of the State of New Jersey without regard to conflict of law principles. The parties irrevocably and unconditionally consent and submit to the exclusive jurisdiction and venue of the state and federal courts in the State of New Jersey (in the District in which the Facility is located).

(u) The Port Authority shall not be deemed to have modified or waived any of its rights or remedies hereunder unless such modification or waiver is in writing and signed by the Port Authority, and then only to the extent specifically set forth therein. A waiver in one specific event shall not be deemed to apply either as a waiver or bar to any right or remedy stemming from a subsequent event.

(v) The Operator shall be responsible for the provision of parking facilities for all of Operator's employees working in office buildings, processing buildings and yards located at the Facility; provided, however, that the Operator shall not be responsible for providing parking facilities for ILA workers discharging or loading vessels or draying vehicles.

Section 35. Terminal Space

(a) The Port Authority shall deliver the Terminal Space to the Operator in its presently existing "as is" condition and the Operator agrees to and shall take the Terminal Space in its "as is" "where is" condition, without any representations or warranties of any kind whatsoever, and the Port Authority shall have no obligations under this Agreement for finishing work or preparation of any portion of the Terminal Space for the Operator's use. The Operator acknowledges that pursuant to Lease 293, it has been in continuous occupancy of all of the

Terminal Space prior to the commencement of this Agreement and is fully familiar with the Terminal Space.

(b) The Operator 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 Terminal Space or the suitability thereof for the operations permitted on the Terminal Space by this Agreement. The Operator, prior to the execution of this Agreement, has thoroughly examined the Terminal Space as existing and has found the same to be suitable and satisfactory for the operations of the Operator contemplated and permitted under this Agreement. Without limiting any obligation of the Operator to commence operations under this Agreement at the time and in the manner stated elsewhere in this Agreement, the Operator agrees that no portion of the Terminal Space 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 Operator, so that there is a likelihood of injury or damage to life or property, and the Operator further agrees that before any use it will immediately correct any such unsafe or improper condition.

(c) The Port Authority shall not be liable to the Operator for injury or death to any person or persons whomsoever, or for damage to any property whatsoever at any time in the Terminal Space or elsewhere at the Facility, including but not limited to any such injury, death or damage from falling material, water, rain, hail, snow, ice, 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. Notwithstanding the foregoing, the Port Authority shall at all times remain liable for its intentional tortious acts and/or gross negligence.

Section 36. Force Majeure

(a) Neither the Port Authority nor the Operator shall be liable for any failure, delay or interruption in performing its respective obligations hereunder due to causes or conditions beyond its control, including, without limitation thereto, subject to the provisions of paragraph (k) of Section 20, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type (whether affecting the Port Authority, the Operator or their respective contractors or subcontractors), embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior or applicable governmental authority, weather conditions, tides, riots, rebellion, sabotage or any other circumstances for which it is not responsible and which are not within its control. 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; provided, however, that the provisions of this paragraph shall not apply to failures by the Operator to pay the Rental specified hereunder, and shall not apply to any other charges or money payments.

(b) The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency.

(c) No abatement, diminution or reduction of the rent or other charges payable by the Operator, shall be claimed by or allowed to the Operator 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 37. Brokerage

The Operator represents and warrants that no broker has been engaged, hired or contracted 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 Operator shall indemnify and save the Port Authority harmless of and from any and every claim for commission or brokerage made by any and all persons, firms or corporations whatsoever who allege to have acted for the Operator for services in connection with the negotiation and execution of this Agreement.

Section 38. Non-Liability of Individuals

No Commissioner, director, officer, agent or employee of either party to this Agreement shall be held personally liable to the other party under any term or provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach thereof.

Section 39. Services

(a) The Port Authority shall be under no obligation to supply the Operator 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, internet, telegraph, cable, or electrical guard or watch service.

(b) The Operator shall promptly pay all utility bills covering its own consumption. Payment of water bills shall include any factor which may have been included by the appropriate governmental agency as a sewer-rent or other charge for the use of a sewer system. In the event that any such utility bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of Additional Rental, payable to the Port Authority on demand. Where sewage is contained in tanks periodically cleaned by a contractor paid by the Port Authority, the Operator shall pay such portion of the contract charge as may be reasonably determined by the Port Authority, on demand.

(c) The Operator agrees to maintain the enclosed portions of the Terminal Space, if any are present on the Terminal Space, at a sufficient temperature, or to bleed pipes, so that the plumbing, fire-protection and sprinkler systems will not be damaged by reason of low temperatures.

(d) If during the Term of this Agreement, 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 and/or used by the Operator at the Terminal Space or the structures or buildings (if any), which, or a portion or

portions of which, are included in the Terminal Space, then the Operator shall, at the option of the Port Authority exercised at any time and from time to time by notice to the Operator, 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 Terminal Space or to the operations of the Operator 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 (collectively, an "Interruption") in any water or gas service, whether supplied by the Port Authority or by others, shall relieve or be construed to relieve the Operator of any of its obligations hereunder or shall be or be constructed to be an eviction of the Operator, or shall constitute grounds for any diminution or abatement of the Rental payable under this Agreement, or grounds for any claim by the Operator for damages, consequential or otherwise.

(f) Without in any way affecting the obligations of the Operator elsewhere stated in this Agreement, the Operator 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), whether master meters or not, are located at or on the Terminal Space.

Section 40. Right of Termination - Ownership and Control

(a) The Operator hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that it is a corporation incorporated and existing under the laws of the State of New Jersey, and that the requisite corporate consents to enter into this Agreement have been obtained. The Operator hereby represents that all of the common stock and other securities of the Operator is owned by Gary LoBue and August LoBue.

(b) The Operator recognizes the fact that a change in Control (as defined in Section 18 hereof), Transfer of securities in the Operator or of a substantial part thereof, entry into any management, services agreement or similar type of agreement for operations on the Terminal Space, or any other act or transaction involving or resulting in a change in the ownership or distribution of Operator's securities or with respect to the identity of the parties in Control of the

Operator or the Terminal Space, or the degree thereof (except as provided in Section 18), is for practical purposes a Transfer or disposition of the rights obtained by the Operator through this Agreement. The Operator further recognizes that because of the nature of the obligations of the Operator hereunder, the qualifications and identity of the Operator and its security holders are of particular concern to the Port Authority. The Operator also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Agreement and, in doing so, is willing to accept and rely on the Operator for the faithful performance of all obligations and covenants hereunder. Therefore, the Operator represents and agrees for itself, its present owners and any successor in interest thereof, respectively, that without the prior written approval of the Port Authority, there shall be no Transfer of any securities in the Operator by its present owners to any other Person; nor shall the present owners suffer any transfer of such securities to be made; nor shall there be or be suffered to be made by the Operator or by any owner of securities therein, any other change in the ownership of such securities or in the relative distribution thereof, or with respect to the identity of the parties in Control of the Operator or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional new securities or classification of securities or otherwise; and the Operator further represents and agrees for itself and its present owners, and any successor in interest thereof, respectively, that the direct ownership and Control of the Operator shall be and remain as represented in paragraph (a) of this Section.

(c) The Operator acknowledges the Operator's assurance of faithful performance of these provisions is a special inducement for the Port Authority to enter into this Agreement. Noncompliance on the part of the Operator with the provisions contained in this Section shall be and be deemed an Event of Default under Section 24 of this Agreement, and the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of said Section 24 hereof.

(d) The foregoing right of termination shall be in addition to all other rights of termination the Port Authority has under this Agreement and the failure of the Port Authority to exercise its right of termination under this Section at any time in which it may have such right shall not affect, waive or limit its

right to exercise said right of termination at any subsequent time.

(e) The phrase "direct or indirect beneficial ownership" shall include without limiting the generality thereof the direct or indirect power through contract, arrangement, understanding, relationship or otherwise to dispose of or to direct the disposal of, or to vote or to direct the voting of, any voting security of an entity.

(f) The term "security" shall include any stock, any limited liability company interest, any bond which carries voting rights, or rights or options to subscribe to, purchase, convert or transfer into or otherwise acquire equity securities, or any other obligation of an entity the holder of which has any voting rights including but not limited to the right to vote for the election of members of the board of directors or board of managers of said entity and shall include any security convertible into a voting security and any right, option or warrant to purchase a voting security.

(g) The Operator shall promptly advise the Port Authority of any change in the representations made in this Section 40 not later than fourteen (14) days thereafter.

Section 41. Condition Precedent.

The Operator and the Port Authority acknowledge that in addition to this Agreement, the Port Authority and the Operator have recently entered into that certain Lease 309 for the premises described therein located at the Facility. Notwithstanding the actual date of execution of this Agreement and Lease 309, both shall be deemed to have a simultaneous commencement date as of October 1, 2010, and the execution and delivery of Lease 309 shall constitute a condition precedent to the execution and delivery of this Agreement.

Section 42. Security

(a) The parties acknowledge that the Operator has previously delivered to the Port Authority, as security for the Operator's full, faithful and prompt performance of and compliance with all of its obligations under Lease 309, a clean irrevocable letter of credit issued by a banking institution reasonably satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of $2,400,000.00, allowing for

partial and complete draws upon presentation of a site draft (the "Letter of Credit").

(b) The Operator and the Port Authority hereby agree that the Letter of Credit and any and all other security delivered by the Operator as security for Lease 309 shall be held and used by the Port Authority as security for the full, faithful and prompt performance of and compliance with, on the part of the Operator, all of the terms, provisions, covenants and conditions of this Agreement and no part of the security delivered by the Operator under Lease 309 (including without limitation, the Letter of Credit) shall be released, repaid or returned to the Operator until both Lease 309 and this Agreement shall have expired, and except in accordance with the provisions set forth in Section 42 of Lease 309.

Section 43. Late Charges

If the Operator 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 herein below 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 (0.8%) of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be and become Additional Rental, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the Rental

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 Section 24 of this Agreement entitled "Termination" or (ii) any obligations of the Operator 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 44. Intentionally Deleted.

Section 45. Port Authority Costs Following Termination

Notwithstanding anything appearing to the contrary in this Agreement, in the event the Port Authority exercises its right of termination under the provisions of Section 24 of this Agreement, the Operator shall be obligated to pay to the Port Authority an amount equal to all costs and expenses reasonably incurred by the Port Authority in connection with such termination, including without limitation any re-entry, regaining or resumption of possession, the collection of all amounts due to the Port Authority, the restoration of the Terminal Space (on failure of the Operator to have it restored), the preparation of the Terminal Space for use and occupancy by a succeeding Operator, the care and maintenance of the Terminal Space during any period of nonuse of the Terminal Space; the foregoing shall include, without limitation, personnel costs and reasonable legal fees and expenses (including but not limited to the cost to the Port Authority of the legal services of outside counsel), repairing and altering the Terminal Space and putting the Terminal Space in working order.

Section 46. Holdover Rent

Unless otherwise notified by the Port Authority in writing at least ninety (90) days prior to the expiration or earlier termination of the Term of this Agreement, in the event that the Operator remains in possession of the Terminal Space after the expiration or earlier termination of the Term of the Agreement, the Operator shall be deemed a "holdover tenant" and upon notice from the Port Authority shall be obligated to pay holdover rental in the amount of 200% of the last due Rental all as in accordance with law as a result of the Operator's status as a holdover tenant. Nothing herein contained will be deemed to give the Operator any right to remain in possession of the

Terminal Space after the expiration or earlier termination of the Term of the Agreement.

Section 47. Audit Fee

In the event that upon conducting an examination and audit under the provisions of the Agreement (and as it may be hereinafter amended), the Port Authority determines that unpaid amounts are due to the Port Authority by the Operator (the "Audit Findings"), the Operator will be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge will be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) will be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Operator under the Agreement or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge will be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of the Agreement with respect to such unpaid amount. Each such service charge will be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the Rentals to be paid. Nothing in this section is intended to, or will be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under the Agreement, including, without limitation, the Port Authority's rights to terminate the Agreement or (ii) any obligations of the Operator under the Agreement. This provision shall not apply to security matters.

Section 48. Waiver of Jury Trial

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

Section 49. Counterparts

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

Section 50. Environmental Responsibilities

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

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about, under or migrating from the Terminal Space of any Hazardous Substance (a) whose presence occurred during the "Term" which definition of "Term" shall for purposes of this Section include periods prior to the letting under this Agreement during which the Operator was in occupancy of the Terminal Space under Lease 265, Lease 266, Lease 291, or Lease 293 (as applicable)or (b) resulting from any act or omission of the Operator or Operator's Representative (as defined herein) during the Term, and/or (ii) the disposal, release or threatened release of any Hazardous Substance on, about, under or migrating from the Terminal Space during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Terminal Space during the Term, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Operator's use and occupancy of the Terminal Space or a migration of a Hazardous Substance from the Terminal Space during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Terminal Space during the Term, and/or (iv) any personal injury, including wrongful death, property damage and/or natural resource damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements pertaining to any such Hazardous Substance, the Terminal Space and/or the activities thereon.

(2) "Environmental Requirement" and "Environmental Requirements" shall mean all applicable present and future laws, statutes, enactments, resolutions, regulations, rules, treaties, ordinances, codes, licenses, appropriate and applicable guidance documents, permits, orders, approvals, plans, authorizations, concessions, franchises, requirements, and similar items of all Governmental

Authorities and all applicable judicial, administrative and regulatory decrees, common law standards, 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 surface or subsurface strata, the sewer or septic system, or relating to the manufacture, processing, distribution, generation, use, treatment, storage, disposal, transport or handling of Hazardous Substances;

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

(iii) All requirements pertaining to the protection of natural resources, species or ecological amenities.

(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, special nuclear byproduct material, asbestos in any form, asbestos containing material, any chemicals, materials, waste or other substance that are listed, designated, classified, determined to be or defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "pollutants," "contaminants," "toxic substances," "toxic pollutants," "hazardous constituents," or words of similar import, under or pursuant to any Environmental Requirement and inclusive of any mixture or solution thereof, urea formaldehyde foam insulation, polychlorinated byphenyls ("PCBs"), chemicals known to cause cancer or reproductive toxicity, petroleum, petroleum products and petroleum based derivatives, 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. When an Environmental Requirement defines any of the foregoing terms more broadly than another, the broader definition shall apply.

(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. Governmental Authorities shall also include with respect to any remediation hereunder a Licensed Site Remediation Professional ("LSRP") acting in such capacity, pursuant to the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. ("SRRA").

(b) Without limiting the generality of any of the other terms and provisions of this Agreement, the Operator hereby expressly agrees to assume all responsibility for, any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the Terminal Space from and after the commencement of the Term, including without limitation all Environmental Requirements and all Environmental Damages. Except for Environmental Damages arising from the sole gross negligence or intentional tortious acts of the Port Authority, the Operator 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 losses, damages, judgments, fines, penalties, payments in lieu of penalties, settlements, LSRP expenses, and legal expenses incurred by the Port Authority in connection therewith). If so directed, the Operator shall at its own expense defend any suit based upon the foregoing, and in handling such suit 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. Operator shall not be liable for the condition of the Terminal Space under this Section existing or created prior to the commencement of the

Term, unless the Operator exacerbates such condition as further described in paragraph (e) of this Section 50.

(c) In addition to and without limiting the generality of the obligations of the Operator set forth above and elsewhere in this Agreement, the Operator shall at its sole cost and expense, upon notice from the Port Authority, promptly take all actions to completely remove and remediate: (1) any Hazardous Substance present on, about, under or migrating from the Terminal Space whose presence occurred during the Term or resulted from any act or omission of the Operator or Operator's Representative (as defined herein) during the Term, (2) any Hazardous Substance disposed of or released on the Terminal Space during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Terminal Space during the Term, and (3) any Hazardous Substance present on, about or under other property at the Facility or elsewhere whose presence resulted from the Operator's use and occupancy of the Terminal Space or which migrated from the Terminal Space to such other property during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Terminal Space during the Term, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Governmental Authority and Port Authority are necessary to mitigate Environmental Damages (which determination in the case of the Port Authority shall not be made in an arbitrary or capricious manner). Such removal and remediation shall include, but not be 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. Any soil remediation may be to applicable limited restricted and/or restricted (nonresidential-industrial) soil standards set forth in the applicable Environmental Requirements, and may utilize institutional and engineering controls, provided that none of the foregoing controls would either prohibit nor limit the use of the Terminal Space or the Facility for the purposes set forth in Section 8 hereof now or in the future. Operator further agrees to execute any declaration of environmental restrictions, deed notice, remedial action, permit application, or other document necessary to effectuate the implementation or recordation of institutional or engineering controls, as applicable, and, in the event institutional or engineering controls are placed on the Terminal Space, Operator shall be fully responsible for and shall (i)

maintain such controls, (ii) conduct any compliance monitoring as required under all applicable Environmental Requirements, (iii) obtain any permits in connection with such controls required by applicable Environmental Requirements, (iv) establish all required funding sources in connection with the maintenance of such institutional or engineering controls, and any permits associated therewith, and (v) file with applicable Governmental Agencies all applicable certifications and reports. The Operator agrees that with respect to any of its obligations set forth above in this paragraph it will not make any claim against the Port Authority and/or the City of Newark and/or the State of New Jersey for contribution under any Environmental Requirement. Notwithstanding the foregoing, the Operator shall not be responsible for any Hazardous Substance that migrates onto, about, or under the Terminal Space from off-Premises, except as provided in paragraph (e) of this Section. 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 Terminal Space. The Operator 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 Operator shall seal or cap all monitoring wells and test holes, remove all associated equipment and restore the remediated property. Upon the completion of any such remediation, the Operator shall provide to the Port Authority a copy of either a No Further Action letter, Response Action Outcome issued by an LSRP, or such similar or equivalent final remediation document.

(d) Without limiting any other of the Operator's obligations under this Agreement, the Operator shall provide the Manager of the Facility at the cost and expense of the Operator 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 Operator shall promptly swear to, sign or otherwise fully execute the same. Prior to retaining or dismissing any consultant or LSRP in connection with remediation of the Terminal Space, the Operator shall give notice of such retention or dismissal to the Port Authority. The Operator shall comply

with any and all timeframes set forth in any Environmental Requirements in connection with the filing of remediation documents and/or completion of remediation. The Operator agrees that any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Operator and at the Operator's cost and expense in the event Operator fails to sign and file same, after reasonable notice to Operator and Operator's failure to cure. Further, the Operator agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Operator to a Governmental Authority at the same time such are provided to a Governmental Authority and by a Governmental Authority to the Operator at the time the same are provided to the Operator with respect to any Environmental Requirements.

(e) Notwithstanding any other provision of this Section 50, Operator shall be responsible for all Environmental Damage involving any Hazardous Substance whose presence on, about, under or migrating from the Terminal Space occurred prior to the commencement of the Term as a result of (1) any violation by the Operator or the Operator's Representative, as hereinafter defined, of any Environmental Requirements pertaining to such Hazardous Substance, the Terminal Space and/or the activities thereon, or any failure by the Operator or the Operator's Representative to observe and comply with any Port Authority requirements, directives and procedures (which shall not be arbitrary or capricious) regarding any Hazardous Substance on, about or under the Terminal Space, including specifically those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities (which agreements have been provided by the Port Authority to the Operator or are subsequently provided to Operator in the future), or construction guidelines, all of the foregoing which have been or may be established by the Port Authority for the Facility and/or the Terminal Space and submitted to the Operator, and/or are subsequently provided to Operator in the future, and/or (2) any grossly negligent act or omission by the Operator or the Operator's Representative with respect to such Hazardous Substance. For purposes of this Section 50, "Operator's Representative" shall mean its officers, employees, shareholders, members, agents, representatives, contractors, customers, guests, invitees, or other persons who are doing business with the Operator or are on the Terminal Space with the Operator's consent, or are on the Terminal Space

without Operator's consent but due to Operator's failure to undertake adequate security measures.

(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 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 Operator with its environmental obligations under this Section. In the event the Operator fails to comply with or perform any of its obligations hereunder, the Port Authority at any time during the Term of this Agreement and subsequent to the termination or expiration thereof may elect (but shall not be required) to perform such obligations and the Operator shall pay to the Port Authority upon demand all of its costs thereof.

(g) Notwithstanding any other provision of this Section, and without limiting the generality of subparagraph (e) of this Section, the Operator's obligations, undertakings and responsibilities under this Section 50 shall not apply to any Environmental Damage involving any Hazardous Substance which migrated or shall migrate onto the Terminal Space prior to or during the Term (hereinafter called the "Migrated Hazardous Substance"), except that Operator shall be responsible for such Migrated Hazardous Substance if any clean-up, remediation or other response action, or indemnification or other action under this Section 50 is required with respect to such Environmental Damage as a result of (1) any violation by the Operator or the Operator's Representative of any Environmental Requirements pertaining to such Migrated Hazardous Substance, the Terminal Space and/or the activities thereon; (2) the failure by the Operator or the Operator's Representative (which shall not be arbitrary or capricious) to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the Terminal Space, including specifically those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities (which agreements have been provided by the Port Authority to the Operator or are subsequently provided to Operator in the future), or construction guidelines, all of the foregoing which have been or may be established by the Port Authority for the Facility and submitted to the Operator; and/or (3) any act or omission of the Operator or the Operator's Representative with respect to such Migrated Hazardous Substance.

(h) The Operator agrees that in any legal action or proceeding in which the Port Authority and the Operator are opposing parties the Operator 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, under or migrating from the Terminal Space occurred prior or subsequent to the commencement of the Term; (2) whether any Hazardous Substance disposed of or released from the Terminal Space or which migrated from the Terminal Space came to be present on, about or under the Terminal Space prior or subsequent to the commencement of the Term; and (3) whether the Operator exacerbated any pre-existing environmental condition so as to cause a Hazardous Substance to first become regulated during the Term. 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 Operator under this paragraph shall survive the expiration or termination of this Agreement.

Section 51. Record-Keeping Obligations

(a) The Operator will, for the Term of this Agreement and for three (3) years thereafter: (i) maintain books, records and accounts with respect to the business and operations of the Operator on a separate stand-alone basis from any other business operations of the principals of Operator and any other direct or indirect subsidiaries thereof, in accordance with good business practice and applicable law; and (ii) make available to the Port Authority, during normal business hours upon the Port Authority's reasonable prior notice to the Operator, at the office of the Operator or one of its agents or advisors solely for review by the Port Authority and its agents at such location and without taking any copies, that portion of such books, records and accounts relating to operations and exclusive of security matters, at the Terminal Space leased under the Agreement or as may reasonably be required for the Port Authority to verify calculations relating to intermodal rentals and reimbursement requests made from time to time. In no event shall this provision be deemed to constitute a statute of limitations or a restriction on the Port Authority's right to commence suit against the Operator in connection with this Agreement, and the loss or destruction of documents by Operator

or its agents or representatives shall not constitute a defense to any such suit.

(b) The Port Authority agrees that (i) all information delivered pursuant to this paragraph (b), including, without limitation, the documents delivered pursuant to clause (a) above, and (ii) all notes, reports and analyses prepared by the Port Authority, its representatives or its advisors in connection with their review of materials provided or made available pursuant to this section, including, without limitation, the books and records and other materials provided or made available pursuant to paragraph (a) above, will, to the fullest extent permitted by applicable law, be treated confidentially and protected from disclosure by the Port Authority, including, without limitation, pursuant to any available exceptions or exemptions under the Port Authority's "Freedom of Information Policy and Procedure". If the Port Authority receives any request to disclose any of the information provided hereunder, the Port Authority agrees to provide the Operator with prior notice of such requirement so that the Operator may seek a protective order or other appropriate remedy, and/or waive compliance with the terms of this provision. If such protective order or other remedy is not obtained, or if the Operator waives compliance with the provisions hereof, the Port Authority agrees to disclose only that portion of the information that it is advised by counsel is legally required and it will exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to such information.

Section 52. Entire Agreement

Except as otherwise provided herein, this Agreement, together with all schedules and exhibits hereto, constitutes the entire agreement between the Port Authority and the Operator on the subject matter, and shall supersede and replace Lease 293 in its entirety. This Agreement may not be changed, modified, discharged or extended, except by written instrument duly executed on behalf of both the Port Authority and the Operator. The Operator agrees that no representations or warranties shall be binding upon the Port Authority unless expressed in writing in this Agreement.

Section 53. OFAC Representations

(a) Operator hereby represents and warrants to the Port Authority that the Operator (i) is not, and shall not become, a person or entity with whom the Port Authority is

restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order or other regulation relating to national security or foreign policy (including, but not limited to, the Executive Order 13224 of September 23, 2001, *Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism*), or other governmental action, such persons being referred to herein as "Blocked Persons" and such regulations, statutes, executive orders and governmental actions being referred to herein as "Blocked Persons Laws", and (ii) is not engaging in any dealings or transactions with Blocked Persons in violation of any Blocked Persons Laws. Operator acknowledges that the Port Authority is entering into this Agreement in reliance on the foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing the Port Authority to enter into and execute this Agreement.

(b) Operator covenants that (i) during the Term of this Agreement it shall not become a Blocked Person, and shall not engage in any dealings or transactions with Blocked Persons in violation of any Blocked Persons Laws. In the event of any breach of the aforesaid covenant by Operator, the same shall constitute an event of default, and, accordingly, a basis for termination of this Agreement in accordance with Section 24 hereof, in addition to any and all other remedies provided under this Agreement or at law or in equity, which does not constitute an acknowledgement by the Port Authority that such breach is capable of being cured.

(c) The Operator shall indemnify and hold harmless the Port Authority and its Commissioners, officers, employees, agents and representatives from and against any and all claims, damages, losses, risks, liabilities and expenses (including without limitation, attorney's fees and disbursements) arising out of, relating to, or in connection with the Operator's breach of any of its covenants, representations and warranties made under this Section 53. Upon the request of the Port Authority, the Operator shall at its own expense defend any suit based on any such claim or demand (even if such suit, claim or demand is groundless, false or fraudulent) and in handing 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 provision of any statutes respects suits against the Port Authority.

(d) The provisions of this Section 53 shall survive the expiration or earlier termination of the Term of this Agreement.

Section 54. Estoppel Certificate.

Operator agrees to periodically furnish within ten (10) days after so requested by the Port Authority a certificate signed by Operator certifying (a) that this Agreement is in full force and effect and unmodified (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (b) as to the Commencement Date and the date through which Base Rental and Additional Rental have been paid, (c) that Operator has accepted possession of the Terminal Space, (d) that except as stated in the certificate no Rental has been paid more than thirty (30) days in advance of its due date, (e) that the address for notices to be sent to Operator is as set forth in this Agreement (or has been changed by notice duly given and is as set forth in the certificate), (f) that except as stated in the certificate, Operator, as of the date of such certificate, has no charge, lien, or claim of offset against rent due or to become due, (g) that except as stated in the certificate, the Port Authority is not then in default under this Agreement, (h) that there are no renewal or extension options in favor of Operator, and (i) as to such other matters as may be reasonably requested by the Port Authority.

Section 55. Termination of Lease 293; Survival of Obligations.

(a) Pursuant to the Surrender Agreement, Lease 293 is hereby terminated, as if the expiration date of Lease 293 is the date of this Agreement. The Operator hereby surrenders the Surrendered Premises (as defined in the Surrender Agreement) to the Port Authority. The Port Authority and the Operator acknowledge that the remainder of the Lease 293 Premises are the subject of and are incorporated into the Premises created by Lease 309 and the Terminal Space created by this Agreement, and are subject to the terms and conditions of, and governed by, this Agreement.

(b) Any and all obligations, claims, liabilities, damages, losses, causes of action, suits, demands and expenses arising out of the Condition Survey pursuant to the Surrender Agreement, and any environmental matters relating to the Lease 265 Premises, the Lease 266 Premises the Lease 291 Premises, and/or the Lease 293 Premises (including without limitation, environmental matters governed by Special Endorsement 17 of Lease 265, Special Endorsement 12 of Lease 266, Special Endorsement 13 of Lease 291, and/or Section 50 of Lease 293, as the same may have been supplemented and amended) shall survive the termination of Lease 265, Lease 266, Lease 291 and Lease 293, and shall not be deemed released hereunder and the Operator shall remain responsible therefor. All other obligations and rights of the Port Authority and the Operator set forth in Lease 293 have been terminated, are null and void and of no further force and effect with the execution of this Agreement and of Lease 309.

(c) Notwithstanding the provisions of paragraph (b) of this Section 55, any lease provisions or obligations that would have survived the expiration date of Lease 293 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 293 Premises.

Section 56. Release; Covenant Not to Sue.

(a) The Operator and the Port Authority confirm that the Annual Intermodal Rental provided for in this Agreement during the Term was determined by the parties in arms-length negotiations on the basis of the unique circumstances of the transactions contemplated in this Agreement, including, without limitation, the surrender of the Surrendered Premises.

(b) Operator acknowledges and agrees that Operator will derive substantial benefits from the Port Authority's agreement to enter into this Agreement, that the terms hereof represent significant and costly concessions by the Port Authority, and that without the release, agreements and acknowledgements set forth in this Section, the Port Authority likely would not have obtained the approval of its Board to enter into this Agreement. Operator acknowledges and agrees that were it to violate the terms of this Section it would be depriving the Port Authority of a material benefit of the bargain to which Operator and the Port Authority have agreed.

(c) In accepting the concessions and benefits it is receiving hereunder Operator believes and expressly agrees that

the Annual Intermodal Rental is fair and not unreasonably or unduly discriminatory or preferential, and that any differences between the Annual Intermodal Rental and the rental or intermodal charges in the terms of other publicly-available leases and/or operating agreement with other tenants at marine terminals owned and/or operated by the Port Authority are justified by legitimate transportation considerations, policy objectives and reasonable business judgments.

(d) In consideration of the foregoing, Operator for itself and on behalf of its shareholders, officers, directors, employees, representatives, agents, successors, and assigns, hereby releases and forever discharges the Port Authority and its Commissioners, officers, directors, employees, representatives, agents, successors, and assigns from any and all actions, causes of action and claims arising from or relating to any attempt to challenge or otherwise invalidate the Annual Intermodal Rental pursuant to the Shipping Act of 1984, as amended (the "Shipping Act") or any other applicable statute and any regulations thereunder or legal theory, on the ground that such Annual Intermodal Rental results in any undue or unreasonable prejudice or disadvantage to Operator when compared with the rental and intermodal charges payable to the Port Authority by other marine terminal tenants in the New York/New Jersey harbor.

(e) In agreeing to the release set forth in this Section, the Operator hereby covenants and agrees not to sue the Port Authority on any legal theory challenging the Annual Intermodal Rental, including without limitation, the theory that such Annual Intermodal Rental constitutes an alleged violation of the Shipping Act or any other applicable statute and any regulations thereunder.

Section 57. Negotiated Agreement.

This Agreement has been negotiated by the parties and their respective counsel, and the parties agree that no presumption against the drafter can be applied against either party.

Signatures appear on follow page

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

ATTEST:

SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

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

ATTEST:

FAPS, INC.

By _____
Gary LoBue
(Title) President
(Corporate Seal)

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

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

On the 13th day of January, 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared

Dennis Lombardi, Deputy Director - Port Commerce

of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, 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 instruments, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

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

STATE OF NEW JERSEY)
: ss. :
COUNTY OF ESSEX)

On the 6 day of Dec., 2010, before me, the undersigned, a Notary Public in and for said state, personally appeared Gary LoBue, President of FAPS, INC., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me the executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

MARIA ELIZABETH SOARES
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 12, 2012

Lease No. LPN-293

AGREEMENT OF LEASE

Between

THE PORT AUTHORITY OF
NEW YORK AND NEW JERSEY

and

FAPS, INC.

Dated as of: June 1, 2009

CONFORMED COPY

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THIS AGREEMENT OF LEASE (this "Agreement" or "Lease"), made as of June 1, 2009, 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 **FAPS, INC.**, a New Jersey corporation (hereinafter called "the Lessee") with an office and place of business at 371 Craneway Street, Port Newark, Newark, New Jersey 07114, whose representative is Gary LoBue, President, or such authorized person as may be designated by the Lessee to the Port Authority.

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. Background

(a) On December 1, 2000, the Port Authority and the Lessee entered into that certain Agreement Number L-PN-265 (as subsequently supplemented and amended, "Lease 265") for certain premises located at Port Newark (hereinafter called the "Facility"), on the north side of the Port Newark Channel ("Port Newark North"), including the Open Area, the Associated Open Area, the Easement, the Railroad ROW, the Office Space, and the Warehouse Space (all as defined in Lease 265 and, when taken together the "Lease 265 Premises").

(b) On December 1, 2000, the Port Authority and the Lessee also entered into that certain Agreement Number L-PN-266 (as subsequently supplemented and amended, "Lease 266") for certain other premises located at the Facility, on the south side of the Port Newark Channel ("Port Newark South") and at Port Newark North, including the open area demarcated by Exhibits A-F attached to Lease 266 (when taken together, the "Lease 266 Premises").

(c) Effective as of February 15, 2009, the Port Authority and the Lessee also entered into that certain Agreement Number L-PN-291, for certain other premises located at the Facility,

including certain additional open areas (when taken together, the "Lease 291 Premises").

(d) The Port Authority and the Lessee have agreed to: (i) the termination of Lease 265, Lease 266 and Lease 291, (ii) the surrender of certain portions of the Lease 265 Premises and the Lease 266 Premises, and (iii) the inclusion of certain new parcels on Port Newark North (the "New Parcels") into the leasehold demised under this Agreement. The parties have agreed that the remainder of the Lease 265 Premises, the remainder of the Lease 266 Premises, the Lease 291 Premises and the New Parcels shall be the subject of this Lease all as more particularly set forth on "Exhibit A," attached hereto and made a part hereof.

(e) Simultaneously with the execution of this Lease, the Lessee is surrendering the following space located in the Lease 265 Premises: approximately 3.29 acres shown on "Exhibit D" attached hereto and made a part hereof, also known as FAPS Lot P, (the "Surrendered Lease 265 Area"). Simultaneously with the execution of this Lease, the Lessee is also surrendering the following space located in the Lease 266 Premises: (i) a total of 26.35 acres, as shown on "Exhibit B" attached hereto and made a part hereof (representing the entirety of FAPS Lots S2, S3, H3 and H4); and (ii) a total of 2.18 acres, as shown on "Exhibit C" attached hereto and made a part hereof (representing 0.50 acres from FAPS Lot H1 and 1.68 acres from FAPS Lot H2, also known as Parcels 11 and 12, respectively, on Exhibit A) (when taken together, the "Surrendered Lease 266 Area," and, when taken together with the "Surrendered Lease 265 Area," the "Surrendered Area").

(f) The parties acknowledge the existence of a certain agreement of lease dated May 1, 1990 number EP-171 (as subsequently amended and supplemented, the "WWL Lease") entered into between the Port Authority and WWL Vehicle Services Americas Inc., f/k/a Distribution and Auto Service, Inc. ("WWL") for certain premises located at the Elizabeth-Port Authority Marine Terminal. Simultaneously with the execution of this Lease, WWL and the Port Authority will be executing a Surrender and Termination Agreement (the "WWL Surrender and Termination Agreement"), pursuant to which the Port Authority and WWL will agree to terminate the WWL Lease and WWL will surrender its premises at the Elizabeth-Port Authority Marine Terminal, in order to relocate its operations onto the Premises in the Lessee's leasehold.

Section 1A. Letting

(a) Subject to and in accordance with the terms and conditions of this Agreement, the Port Authority hereby lets to the Lessee and the Lessee hereby hires and takes from the Port Authority, at Port Newark, in the City of Newark, in the County of Essex and the State of New Jersey, the following: Two Hundred and Eighty Two/One Hundredths (200.82) acres as marked in bold cross-hatching on Exhibit A, 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, and buildings, structures, fixtures, improvements and other property of the Port Authority being hereinafter collectively called "the Premises"; provided, that the parties agree and acknowledge that as of the Lease Commencement Date of this Agreement, the portion of the Premises attributed to Craneway Street set forth on Exhibit A, will not yet have been delivered to Lessee and that the Premises will consist of One Hundred Ninety Nine and Fifty Four/One Hundredths (199.54) acres until the delivery of Craneway Street to the Lessee which delivery is anticipated to be on or about September 1, 2009. The parties agree (i) that the Premises constitute non-residential property, (ii) that as of the Lease Commencement Date of this Agreement, 199.54 acres of the Premises will have been delivered to Lessee; and (iii) that, as of the delivery of Craneway Street by the Port Authority to Lessee, the total number of acres constituting the Premises shall be 200.82.

(b) The Port Authority represents that, located on Port Newark North at the Facility, there are six (6) leaseholds, lease numbers L-PN-050, L-PN-239, L-PN-276, L-PN-105, L-PN-273, L-PN-275 currently in existence granted to third parties (the "Third Party Leaseholds"). The parties acknowledge and agree that the parcels demised in the Third Party Leaseholds are, at a minimum, required to be incorporated into the Premises demised hereunder in order to effectuate the parties' mutual goal of consolidation of auto-marine processing operations on Port Newark North ("Consolidation"). The Port Authority further represents that the Third Party Leaseholds are due to expire, pursuant to the terms and conditions of their respective leases, after the Lease Commencement Date of this Agreement and prior to December 31, 2013, with the exception of the leasehold of L-PN-276, which expires on December 31, 2014. The Port Authority agrees that (i) it shall not enter into any new leases with any third parties for any portion of Port Newark North falling within the bold line shown on Exhibit A; and (ii) it shall not extend any of the Third Party Leaseholds beyond their respective

current expiration dates, with the exception of the leasehold of L-PN-239, which leasehold expires on December 31, 2013, but which the Port Authority may, in its discretion, extend on a month-to-month basis through December 31, 2014 (but in no event shall it further extend the leasehold beyond December 31, 2014) and with respect to L-PN-050 which leasehold expires on May 31, 2010 but which the Port Authority may within its discretion extend on a month to month basis through December 31, 2010 (but in no event shall it further extend the leasehold beyond December 31, 2010). The Port Authority shall exert its good faith efforts to cause the Third Party Leaseholds to be surrendered in a timely manner and to deliver the parcels demised in the Third Party Leaseholds for incorporation into the Premises under this Lease, to be delivered as each such Third Party Leasehold becomes available. Prior to delivering and incorporating the parcels currently demised under L-PN-239 and L-PN-050 into the leasehold Premises, the Port Authority shall demolish those buildings or structures located thereon, in addition to Building 305, shall clear such parcels and shall grade and pave such open space resulting from such demolition, at its sole cost and expense. Provided, however, the Port Authority shall not be required to grade and pave such open space in the event the Lessee intends to utilize such open space area for its Vehicle Storage Facility (as defined herein). As to former Building 291 specifically, the Port Authority shall grade the open area created by the demolition of Building 291 so that the resulting open area tapers down over fifty (50) feet to a twelve percent (12%) grade). Said construction is tentatively anticipated to commence in September 2009. All fencing and other related work shall be at the sole cost and expense of the Lessee. Each such Third Party Leasehold shall be incorporated into the leasehold Premises created under this Lease by execution of spreader agreement(s), each such spreader agreement(s) to be executed at the time each such Third Party Leasehold is delivered to Lessee, and the Basic Rental and Annual Vehicle Throughput Rental (each as hereinafter defined) due hereunder shall be adjusted accordingly in accordance with the terms of this Agreement. Provided that the Port Authority utilizes good faith efforts to obtain a Third Party Leasehold, it shall have no liability to Lessee for failure to do so; provided, however, that such failure shall relieve the Lessee's obligation to pay converted Basic Rental at Warehouse Rates (as both terms are hereinafter defined), subject to the conditions of Section 3(b) herein and provided that the Lessee begins Preliminary Construction of the Vehicle Storage Facility (as hereinafter defined in Section 1A(d)) within the time period set forth in Section 3(b). Such failure shall also relieve the

Lessee's obligation to pay the escalated Basic Rental attributable to Parcels 2, 11 and 12 on Exhibit A (also known as FAPS Lots W, H1 and H2, respectively), subject to Section 4(b) herein.

To the extent the leasehold demised under Lease Number L-PN-226 (as supplemented or amended) expires or otherwise becomes available (said space being shown as adjacent to Parcel 12 set forth on Exhibit A, also known as Lot H2, on Port Newark South), the Port Authority will add such leasehold to the Premises. In consideration of the addition of such leasehold, Lessee shall surrender to the Port Authority five (5) feet along the easterly border of Parcel 12 as shown as Exhibit C-1 attached hereto and made a part hereof, and the parties shall enter into a spreader agreement in accordance with the preceding paragraph hereof.

(c) The parties further agree and acknowledge that certain roadways located on Port Newark North, as set forth in greater detail on "Exhibit E," attached hereto and made part hereof (the "Roadways"), are required to be closed and incorporated into the leasehold Premises created pursuant to this Lease in order to effectuate the parties' mutual goal of Consolidation. The Port Authority shall close the Roadways (the "Road Closures") in accordance with the dates set forth on Exhibit E; provided, however, that each of the Road Closures shall be contingent upon the expiration and incorporation of the relevant Third Party Leaseholds into the Premises, and in no event shall the Port Authority have any obligation to conduct the Road Closures until such time as the appropriate requisite conditions has been satisfied, as set forth on Exhibit E. The resulting open area created by the Road Closures (the "Road Closure Open Area") shall ultimately be incorporated into the leasehold Premises created pursuant to this Lease. In conducting the Road Closures, the Port Authority shall not be obligated to pave, grade or fence the Road Closure Open Area. The Lessee shall be responsible for all grading, security (including without limitation fencing, guard booths, crash gates and jersey barriers) and paving necessary to incorporate the Road Closure Open Area into the Premises, subject to the provisions of Section 20(q) hereof (collectively, the "Road Closure Open Area Improvements"). Upon the completion of the Road Closure Open Area Improvements by the Lessee and the incorporation of the Road Closure Open Area into the leasehold Premises, the parties shall execute a spreader agreement, and the Basic Rental (as hereinafter defined) and the Annual Vehicle Throughput Rental (as hereinafter defined) shall be adjusted accordingly in accordance with the terms of this Agreement. The Port Authority

hereby represents that the Roadways are "Marine Terminal Highways."

(d) The parties agree and acknowledge that with regard to the Premises, the Lessee intends to construct a multi-level vehicle storage facility as more particularly described on "Exhibit F", attached hereto and made a part hereof (the "Vehicle Storage Facility"), which Preliminary Construction (as defined in this paragraph (d)) is intended to commence on or before December 31, 2013; provided, however, that the Port Authority has delivered all of the Third Party Leaseholds to the Lessee prior to December 31, 2013, except the L-PN-276 and L-PN-239 leaseholds, which the Port Authority shall deliver to Lessee by December 31, 2014, as described in Section 1A(b) hereof. In connection with the construction of the Vehicle Storage Facility, (i) the Lessee must file its Construction Application (as hereinafter defined in Section 20(a)) on or before June 30, 2012, and the Port Authority shall provide definitive comments to same within one hundred and twenty (120) days, and (ii) such Construction Application must have received final approval (to be granted in the Port Authority's reasonable discretion) on or before December 31, 2012. Upon reasonable notice from Lessee, the Port Authority shall provide reasonable access, with Port Authority escort of the Lessee, to the parcels demised in the Third Party Leaseholds prior to June 30, 2012 to allow the Lessee to prepare and file a timely Construction Application. Notwithstanding the foregoing, the parties may mutually agree to extend the date by which the Construction Application must be submitted. After the filing of the Construction Application, the Lessee shall (i) provide to the Port Authority a signed copy of any and all construction contract(s) for the Vehicle Storage Facility prior to December 31, 2013; and (ii) the Lessee shall diligently pursue performance under the construction contract(s) (defined as not more than 90 days) by its contractor(s) upon delivery of the Third Party Leaseholds ("Preliminary Construction"). The parties acknowledge and agree that this Section 1A(d) and Section 20 hereof are not intended to address or resolve any issue with respect to any Construction Application or Alteration Application (as both terms are defined herein, in Section 20) process with respect to the construction of the Vehicle Storage Facility, which the parties acknowledge will be the subject of a future and different agreement.

(e) (i) The parties further agree and acknowledge that with regard to the Premises, the Lessee has the right but not the obligation to demolish any of the buildings located within the footprint of the leasehold Premises, provided that Lessee

paves, fences and grades the new open area resulting therefrom (the "Leasehold Demolitions"), which Leasehold Demolitions shall be conducted in accordance with the provisions of Section 20(q) hereof. In the event that the Lessee chooses to complete the Leasehold Demolitions, the Port Authority shall provide after January 1, 2010 up to Four Million Two Hundred Fifty Thousand Dollars ($4,250,000) for use by Lessee for the performance of such Leasehold Demolitions in accordance with the terms in this Section (e) (the "Demolition Allowance"). In connection with the Leasehold Demolitions, the Demolition Allowance may not be used for any other purpose other than for the actual demolitions and associated paving and grading, and shall not be used for any other related work, such as soft costs related to the demolition and the fencing of open areas newly created by the demolitions. The parties further agree that with regard to Building 264 on the Premises ("Building 264"), while the Port Authority shall remove the fencing and metal ramp located at such building at its cost and expense, the modular office component of such Building 264 shall not be included in the leasehold created by this Agreement (and the Basic Rental shall be reduced accordingly); provided, that in the event the Lessee opts to demolish the modular office component of Building 264, the entire area created by the demolition of the modular office component of Building 264 shall be incorporated into the leasehold created hereunder (and the Basic Rental shall be adjusted accordingly).

(ii) The parties intend that no out-of-pocket payments will be required to be made by Lessee in connection with the Leasehold Demolitions until such time as the Demolition Allowance is fully exhausted. The Port Authority shall disburse the Demolition Allowance in accordance with the procedure set forth in this subsection (ii) of paragraph (e) of Section 1A. First, in connection with the Alteration Application(s) (as defined in paragraph (q) of Section 20 of this Agreement) required to be filed with the Port Authority pursuant to paragraph (q) of Section 20 of this Agreement in connection with the Leasehold Demolitions, the Lessee shall deliver to the Port Authority, for its review and approval, copies of any and all contracts entered into by the Lessee with contractors for the conduct of any or all of the Leasehold Demolitions. Any such Alteration Applications filed by the Lessee in connection with the Leasehold Demolitions shall be exempted from payment of the three percent (3%) Tenant Alteration Application ("TAA") fee. Within ten (10) business days of its receipt of the complete Alteration Application(s) and the required contract(s), the Port Authority shall provide its written approval or rejection

thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. Upon the Lessee's receipt of the Port Authority's final approval of the contracts and contractors for the Leasehold Demolitions, the Lessee shall cause its contractors to perform the Leasehold Demolitions in accordance with the provisions of paragraph (q) of Section 20 of this Agreement. Upon its receipt of invoices setting forth costs incurred in connection with the Leasehold Demolitions, the Lessee shall promptly deliver copies of such invoices to the Port Authority. From the date of its receipt of such invoices, the Port Authority shall within thirty (30) days remit payment to the Lessee directly or in the sole discretion of the Port Authority to the contractor(s) directly; provided, however, that upon the exhaustion of the Demolition Allowance, the Lessee shall be responsible for all remaining costs pertaining to the Leasehold Demolitions to the extent the cost of the Leasehold Demolitions exceeds the Demolition Allowance.

(iii) If any or all of the Demolition Allowance is not used by December 31, 2013, the Port Authority shall be entitled to the remainder of the Demolition Allowance, and the Lessee shall receive no credit therefor.

(iv) The Port Authority will have no obligation to disburse the Demolition Allowance or any portion thereof so long as any Event of Default (as defined in this Agreement) exists and is continuing.

(v) In the event that the Lessee exercises its option to complete the Leasehold Demolitions, such Leasehold Demolitions shall only be required to be completed to grade level. Such Leasehold Demolitions shall be performed consistent with the procedures followed by the Port Authority with respect to the demolition of Building 291, which procedures the Lessee acknowledges it has received. Lessee shall not be required to remove any portions of the foundations, except as necessary in connection with its construction of the Vehicle Storage Facility.

(f) Nothing contained in this Agreement 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, including the installation and operation of information technology communications and security systems), or more than twenty (20) feet above the present ground level of any open area included in the Premises

(except to the extent required for the installation and operation of information technology communications and security systems).

(g) The Port Authority shall exert its reasonable efforts to accommodate the Lessee's operational requirement to discharge two (2) vessels simultaneously on Port Newark South at the Facility. This requirement shall be imposed upon the Port Authority only until such time as the Port Authority shall have caused Berths 18, 20 and 22 of the Facility to be dredged to a depth that will allow the discharge of vessels carrying vehicles at such berths (the "Dredging"), and Berth 8 shall remain a public berth until such Dredging has been completed. Provided that the Port Authority utilizes reasonable efforts to complete the foregoing, the Port Authority shall have no liability to Lessee for its failure to accommodate Lessee.

(h) The parties acknowledge and agree that they are working together in good faith toward Consolidation. The parties shall continue to use good faith efforts to complete such Consolidation efforts, which include the execution of the Consolidation Agreement as soon as reasonably practicable and no later than December 31, 2010, unless otherwise mutually agreed to by the parties. The Consolidation Agreement shall govern the terms and conditions of the long-term leasing, financing, construction, and operation of the consolidated Premises and Vehicle Storage Facility.

Section 2. Term; Lease Commencement Date

The term of the letting under this Agreement shall commence at 12:01 o'clock A.M. as of June 1, 2009 (the "Lease Commencement Date") and shall expire if not sooner terminated, at 11:59 o'clock P.M on December 31, 2019 (the "Term").

Section 3. Basic Rental

(a) From the Lease Commencement Date through and including the date preceding the date that the Port Authority delivers to the Lessee the portion of Craneway Street depicted as "1" on Exhibit E attached hereto ("Craneway Street") the Lessee shall pay a basic rental to the Port Authority at the annual rate of Eleven Million Four Hundred Seventy Three Thousand Three Hundred Forty Seven and 12/100 Dollars ($11,473,347.12) for the entire Premises, payable in advance on the first day of each calendar month in equal monthly installments of Nine Hundred Fifty Six Thousand One Hundred Twelve and 26/100 Dollars ($956,112.26), representing a rate of One Dollar and Thirty Two Cents ($1.32)

per square foot (the "Open Area Rate"). Commencing on the date the Port Authority delivers to Lessee Craneway Street, the basic rental shall readjust such that the Lessee shall pay a basic rental to the Port Authority at the annual rate of Eleven Million Five Hundred Forty Seven Thousand One Hundred Twenty Four and 80/100 Dollars ($11,547,124.80) for the entire Premises, payable in advance on the first day of each calendar month in equal monthly installments of Nine Hundred Sixty Two Thousand Two Hundred Sixty and 40/100 Dollars ($962,260.40) and continuing on the first day of each calendar month thereafter during the Term ("Basic Rental"). The Basic Rental set forth in this Section shall be adjusted during the Term under this Agreement in accordance with the provisions of paragraph (b) of Section 4 hereof.

(b) Subject to the last sentence of this paragraph (b), in the event that the Lessee has not begun the Preliminary Construction of the Vehicle Storage Facility on or before December 31, 2013, then in lieu of the Open Area Rate set forth in paragraph (a) above, the Basic Rental pertaining to any and all buildings then located and then existing on the Premises shall convert to the warehouse rates that would have been due pursuant to Lease 265, Lease 266 and Lease 291, each as applicable to such then existing building(s), as escalated pursuant to the provisions of same through December 31, 2013 (the "Warehouse Rate"). In such event, only Basic Rental relating to the open areas of the Premises shall continue to be calculated at the Open Area Rate. In the event that the Preliminary Construction of the Vehicle Storage Facility has commenced before January 1, 2014, the Basic Rental for the Premises shall continue to be calculated on the basis of the Open Area Rate for the remainder of the Term. Notwithstanding any conversion of the Basic Rental from the Open Area Rate to the Warehouse Rate under the provisions of this paragraph (b), in the event that the Lessee shall commence Preliminary Construction pursuant to an approved Construction Application (as defined in Section 20(a) hereof) of the Vehicle Storage Facility at any time subsequent to December 31, 2013, then commencing upon the day immediately following the date of such commencement of construction and continuing through the Term, the Lessee shall pay Basic Rental at the Open Area Rate for the entire Premises, including for any then existing buildings. In the event that the Port Authority has not delivered all of the Third Party Leaseholds to Lessee prior to December 31, 2013 (except for the L-PN-276 and L-PN-239 leaseholds, which the Port Authority shall deliver to the Lessee no later than December 31, 2014, as described in Section 1A(b) hereof), and such non-

delivery prevents construction of the Vehicle Storage Facility, the Basic Rental shall not convert to Warehouse Rates unless and until the thirtieth (30) day following the date that the last of the Third Party Leaseholds have been delivered to Lessee and the Lessee has failed to commence Preliminary Construction of the Vehicle Storage Facility. Notwithstanding any conversion of the Basic Rental from the Open Area Rate to the Warehouse Rate under the provisions of this paragraph (b), at such time that the Lessee commences Preliminary Construction pursuant to an approved Construction Application (as defined in Section 20(a) hereof) of the Vehicle Storage Facility then commencing upon the date of such commencement of construction and continuing through the Term, the Lessee shall pay Basic Rental at the Open Area Rate for the entire Premises, including for any then existing buildings.

(c) This Lease is a triple net lease, and, except as expressly provided to the contrary in this Lease, the Lessee shall pay any and all costs, charges, and other expenses of every character and nature, foreseen or unforeseen, whether currently in existence or enacted at a future date, for the payment of which the Port Authority or the Lessee is or shall become liable by reason of its respective estate, right, title or interest in the Premises, or which are connected with or arise out of the possession, use, occupancy, maintenance, addition to, repair of or construction on the Premises, including, without limitation, those specifically referred to in this Lease; provided, however, that Lessee shall not be liable for the repair, maintenance or upgrade of any underground utilities.

(d) The Lessee further agrees to pay promptly upon demand as Basic Rental any user fees and/or security fees imposed by the Port Authority pursuant to the Rules and Regulations (as hereinafter defined) and/or the Tariff (as hereinafter defined); provided, however, that such fees must be simultaneously imposed upon all users of public berths.

Section 4. Basic Rental Escalation

(a) *Definitions*. As used in this Section:

(i) "Adjustment Period" shall mean, as the context requires, the calendar month of September 2009 and the same calendar month in each calendar year thereafter during the Term.

(ii) "Anniversary Date" shall mean, as the context requires, December 1, 2009 (the "First Anniversary Date") and each anniversary of such date occurring during the Term.

(iii) "Annual Index Increase" shall mean the percentage of increase in the Index on each Anniversary Date, equal to: (x) with respect to the First Anniversary Date, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the Base Period, and the denominator shall be the Index for the Base Period, and (y) with respect to each Anniversary Date thereafter, a fraction of which the numerator shall be the Index for the Adjustment Period immediately preceding such Anniversary Date less the Index for the next preceding Adjustment Period, and the denominator shall be the Index for such next preceding Adjustment Period. For example, the Annual Index Increase for the Anniversary Date that is December 1, 2009 would be a fraction of which the numerator is the Index for September 2009 less the Index for September 2008 and the denominator is the Index for September 2008. As a further example, the Annual Index Increase for the Anniversary Date that is December 1, 2010 would be a fraction of which the numerator is the Index for September 2010 less the Index for September 2009 and the denominator is the Index for September 2009.

(iv) "Base Period" shall mean the calendar month of September 2008.

(v) "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.

(vi) "Percentage Increase" shall mean, with respect to each Anniversary Date, a percentage equal to the Annual Index Increase for that Anniversary Date, unless (x) such Annual Index Increase is less than three percent (3%), in which case the Percentage Increase shall be three percent (3%) or (y) such Annual Index Increase is more than four and one half percent (4 1/2%), in which case the Percentage Increase shall be four and one half percent (4 1/2%)(with the exception of the annual increase for the Anniversary Date of December 1, 2013 expressly

set forth in paragraph (b) hereof, which shall not be subject to such limitation).

(b) *Annual Increases*. Commencing on the First Anniversary Date and for the period commencing with each Anniversary Date and continuing through to the day preceding the next Anniversary Date for each year thereafter, or the expiration date of the Term under this Agreement, as the case may be, the Lessee shall pay a Basic Rental at a rate per annum equal to the sum of: (x) the Basic Rental theretofore payable and (y) the product obtained by multiplying such theretofore payable Basic Rental by one hundred percent (100%) of the Percentage Increase for such Anniversary Date; provided, however, that as of January 1, 2014, in the event that the Lessee has not begun the Preliminary Construction of the Vehicle Storage Facility by December 31, 2013, the Basic Rental attributable to Parcels 2, 11 and 12 as depicted on Exhibit A (also known as Lots W, H1 and H2 respectively) of the Premises shall increase by Twenty Five Percent (25%); provided further however, that, notwithstanding any such escalation of Basic Rental attributable to Parcels 2, 11 and 12 of the Premises by Twenty Five Percent (25%) pursuant to the provisions of this paragraph (b), in the event that the Lessee shall commence Preliminary Construction of the Vehicle Storage Facility at any time subsequent to December 31, 2013, then commencing on the date of commencement of Preliminary Construction and continuing through the Term, the Basic Rental attributable to Parcels 2, 11 and 12 shall convert to the Basic Rental payable for the remainder of the Premises as of the date of such commencement of Preliminary Construction. Notwithstanding the foregoing, in the event that the Port Authority has not delivered all of the Third Party Leaseholds to Lessee prior to December 31, 2013 (except for L-PN-276 and L-PN-239 leaseholds, which the Port Authority shall deliver to the Lessee no later than December 31, 2014, as described in Section 1A(b) hereof), there shall be no such twenty five percent (25%) increase of Basic Rental attributable to Parcels 2, 11 and 12 as shown on Exhibit A.

(c) All Basic Rentals shall be paid in advance on the first day of each calendar month in equal monthly installments.

(d) *Adjustments*.

(i) In the event the Index to be used in computing any adjustment referred to in paragraph (b) of this Section is not available on the effective date of such adjustment, the Lessee shall continue to pay the Basic Rental at the annual rate

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

(ii) If, after 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.

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

Section 5. Annual Vehicle Throughput Rental

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

"Calendar Year" shall mean each twelve-month period commencing on January 1 and terminating on December 31 and each Calendar Year thereafter and continuing throughout the Term of the letting under this Agreement.

"FAPS Vehicle" shall mean (i) an automobile, truck, sports utility vehicle, trailer, motorcycle, or other such vehicle as is commonly processed or otherwise handled as part of a privately-owned vehicle stevedoring operation, whether such vehicle is rolled on or off a vessel independently or on a flat-bed trailer, or is moved by container crane, which vehicle is handled by the Lessee at the Premises or at any of the Port Authority's marine terminal facilities; and (ii) "Heavy Cargo," as defined in the next sentence, which Heavy Cargo is handled by the Lessee at the Premises or at any of the Port Authority's marine terminal facilities. "Heavy Cargo" shall mean boats, aircraft, buses, farm and construction equipment, cranes, machinery, and any other heavy item requiring utilization of wheeled equipment in order to be discharged from or loaded onto a vessel. For purposes of the calculation of the "Annual Vehicle Throughput Rental," as defined in Paragraph (b) of this Section 5, each boat, aircraft, bus or other item of Heavy Cargo shall be deemed equivalent to three (3) FAPS Vehicles.

"Minimum Annual Vehicle Guarantee" shall mean (i) from Lease Commencement Date through delivery by the Port Authority of the last of the Third Party Leaseholds to the Lessee, that the Lessee guarantees a minimum of Two Hundred Eighty Nine Thousand Eight Hundred Fourteen (289,814) FAPS Vehicles (representing 1,480 FAPS Vehicles per acre multiplied by 195.82 acres) shall be loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities per Calendar Year; and (ii) commencing from the date of delivery of the last of the Third Party Leaseholds by the Port Authority to the Lessee and continuing throughout the Term of this Agreement that Lessee guarantees that a minimum of One Thousand Four Hundred Eighty (1,480) FAPS Vehicles per each one (1) acre of the Premises shall be loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities per Calendar Year.

For purposes of achieving the Minimum Annual Vehicle Guarantee, each item of Heavy Cargo shall be deemed to constitute three (3) FAPS Vehicles. Further, each FAPS Vehicle that arrives at or ships from any of the Port Authority's marine terminal facilities in a container shall be counted as one (1) FAPS Vehicle for the purpose of calculating the Annual Vehicle Throughput Rental and meeting the Minimum Annual Vehicle Guarantee. However, any vehicles arriving at or shipped from any of the Port Authority's marine terminal facilities, which vehicles are handled by FAPS on behalf of another tenant at the Facility, cannot be applied towards FAPS' Minimum Annual Vehicle Guarantee, regardless of the location of such vehicles' berth of discharge, first point of rest, and/or processing facility, and shall instead be applied to the account of such other tenant's annual vehicle throughput requirement; provided, however, that in the event that (i) the Lessee and such other tenant execute the form attached hereto and made a part hereof as "Exhibit G", and provide such executed form to the Port Authority; or (ii) the Lessee provides the Port Authority with prior notice that it will be handling such other tenant's vehicles and further provides the Port Authority with a waiver satisfactory to the Port Authority of such tenant's right to count those vehicles toward that tenant's minimum annual vehicle guarantee, then Lessee has the right to count such vehicles toward its Minimum Annual Vehicle Guarantee.

(b) In addition to all other rentals payable under this Agreement, as an additional Basic Rental under this Lease, the Lessee shall pay a FAPS Vehicle/Heavy Cargo throughput rental (hereinafter called the "Annual Vehicle Throughput Rental") for each Calendar Year running from the Lease Commencement Date of this Lease, through the expiration of the Term of this Lease as follows: if during any Calendar Year the number of FAPS Vehicles received at or shipped from any of the Port Authority's marine terminal facilities is not equal to at least the Minimum Annual Vehicle Guarantee, then the Lessee shall pay the Port Authority Annual Vehicle Throughput Rental during such Calendar Year by multiplying (i) the amount of Five Dollars and Twenty Cents ($5.20) (the "FAPS Vehicle Charge") by (ii) the difference between the Minimum Annual Vehicle Guarantee and the actual number of FAPS Vehicles loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities for FAPS' account.

(c) The FAPS Vehicle Charge shall be adjusted during the Term as follows: The FAPS Vehicle Charge shall be adjusted

during the Term of this Agreement proportionately to such adjustments as may be made to the per ton wharfage charge for unboxed automobiles discharged at public berths located at the Port Authority's marine terminal facilities, or any successor tariff, as the same may be amended from time to time during the Term of this Agreement pursuant to "Port Authority Marine Terminals PAMT FMC No. PA-10 The Port Authority of New York and New Jersey FMC Schedule No. PA 10 Naming Rules and Regulations Applying At Port Authority Marine Terminals and Rates and Charges Applicable For the Use of Public Areas at Port Authority Marine Terminals", or any successor tariff as the same may be amended from time to time during the Term of this Agreement (the "Tariff", attached hereto and made a part hereof as "Exhibit H").

(d) The Annual Vehicle Throughput Rental shall be reported and payable as set forth below in this paragraph, based on the number of FAPS Vehicles and/or Heavy Cargo loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities, per Calendar Year:

(1) On or before July 20, 2009, and on the twentieth (20th) day of each and every month thereafter occurring during the Term of the letting hereunder, including the month following the end of the Term of this Lease, the Lessee shall render to the Port Authority a statement (a "FAPS Waterborne Vehicles Monthly Report") certified by a responsible officer of the Lessee showing (i) the names of vessels berthing at any of the Port Authority's marine terminal facilities during the preceding month and duration of stay of each such vessel, (ii) the total number of FAPS Vehicles loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities, (iii) the number of those FAPS Vehicles for which wharfage charges were paid to the Port Authority during the preceding month; (iv) the number of those FAPS Vehicles received or shipped in containers; and (v) the cumulative number of FAPS Vehicles loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities, from the date of the commencement of the Calendar Year for which the FAPS Waterborne Vehicle Monthly Report is made through the last day of the preceding month.

(2) The FAPS Waterborne Vehicle Monthly Report made on the 20th day of each January of each Calendar Year shall include a reconciliation of the amount of the Annual

Vehicle Throughput Rental payable for the preceding Calendar Year and the Lessee shall pay within fifteen (15) days of rendering such FAPS Waterborne Vehicle Monthly Report any amount of the Annual Vehicle Throughput Rental then owed to the Port Authority if not previously invoiced by the Port Authority.

(e) The computation of the Vehicle Throughput Rental for each Calendar Year, or a portion of a Calendar Year, shall be individual to such Calendar Year, or such portion of a Calendar Year, and without relation to any other Calendar Year, or any other portion of any Calendar Year.

(f) Upon any termination of the letting (even if stated to have the same effect as expiration), no later than the twentieth (20th) day of the month following the month in which the effective date of termination occurs, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee setting forth the total number of FAPS Vehicles loaded onto or discharged from vessels berthing at any of the Port Authority's marine terminal facilities from the commencement of the Calendar Year through the effective date of termination. The statement shall also set forth the product obtained by multiplying (i) the number of FAPS Vehicles described in the immediately preceding sentence by (ii) 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 Calendar Year 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 FAPS Vehicles"). If the Projected Number of FAPS Vehicles shall be fewer than the Minimum Annual Vehicle Guarantee as of the effective date of the termination, then the Lessee shall pay to the Port Authority Annual Vehicle Throughput Rental for the Calendar Year in which the effective date of termination occurs in an amount equal to the product obtained by multiplying (i) the Minimum Annual Vehicle Guarantee less the Projected Number of FAPS Vehicles by (ii) the FAPS Vehicle Charge as of the effective date of termination. Any amount of the Annual Vehicle Throughput Rental determined to be owed to the Port Authority pursuant to such final calculation shall be remitted together with the statement referred to hereinabove.

(g) At the time that a spreader agreement is executed and delivered by the parties to reflect the incorporation of the last of the Third Party Leaseholds into the Premises, the Minimum Annual Vehicle Guarantee shall be adjusted to reflect

the total acreage incorporated into the Premises in accordance with the provisions of Section 5(a) hereof.

(h) The parties acknowledge that the Annual Vehicle Throughput Rental was not collected with respect to the final period of the predecessor leases to this Agreement. The Minimum Annual Vehicle Guarantee set forth for 2009 in such predecessor leases predates the Lease Commencement Date of this Agreement; notwithstanding the fact that the Minimum Annual Vehicle Guarantee for the year 2010 will be calculated on a Calendar Year commencing on January 1, 2010, the Minimum Annual Vehicle Guarantee for the Calendar Year of 2009 will include the thirteen (13) month period running from December 1, 2008 through December 31, 2009 (i.e., the final period of the predecessor leases, in addition to the partial Calendar Year of this Agreement running from the Lease Commencement Date through December 31, 2009), which Minimum Vehicle Guarantee for such thirteen (13) month period shall be 316,679.

Section 6. Non-Waterborne Vehicle Wharfage Rate

(a) In the event that any FAPS Vehicle is not waterborne to the Facility, or that is not intended to be waterborne therefrom, shall be transported to the Premises and shall remain thereon (i) beginning on June 1, 2009 and continuing through May 31, 2010, in excess of fourteen (14) days and, (ii) beginning on June 1, 2010 and continuing thereafter throughout the Term of this Agreement, in excess of five (5) days, the Lessee shall pay as an additional Basic Rental, for such non-waterborne FAPS Vehicles ("Non-Waterborne Vehicle") on a one-time basis, an amount equal to the product obtained by multiplying each such Non-Waterborne Vehicle by the "Non-Waterborne Vehicle Wharfage Rate" as hereinafter defined. The "Non-Waterborne Vehicle Wharfage Rate" shall be Twelve Dollars and Six Cents ($12.06) and shall be adjusted during the Term of this Lease proportionately to such adjustments as may be made from time to time in the per ton wharfage charge for unboxed automobiles discharged at public berths located at the Port Authority's marine terminal facilities, as set forth in the Tariff, during the Term.

(b) Commencing on or before the 20th day of each and every April, July, October and January during the Term of this Agreement, the Lessee shall render to the Port Authority a statement certified by a responsible officer of the Lessee showing the total number of FAPS Vehicles released from the Facility during the three (3) calendar months preceding the

month (except for the month of June 2009 which report shall be provided July 20, 2009) in which the statement is rendered for which the additional rental pursuant to paragraph (a) of this Section 6 is applicable, and the Lessee shall pay to the Port Authority at the time of the rendering of each such statement the additional rental set forth therein and due under this Section 6.

Section 7. Abatement

(a) If at any time during the Term, the Lessee shall become entitled to an abatement of Basic Rental, pursuant to the terms of this Agreement, such abatement shall be computed as follows: for the period from June 1, 2009 to November 30, 2009, both dates inclusive, for each square foot of usable area, the use of which is denied the Lessee, at the annual rate of One Dollar and Thirty Two Cents ($1.32), the rate thereafter to be adjusted during the Term proportionately to the adjustment in Basic Rental in accordance with the provisions of paragraph (b) of Section 4 hereof. Notwithstanding the foregoing, no rent abatement shall be allowed in connection with any areas of the Premises that are currently or are in the future encumbered by jersey barriers. From the Lease Commencement Date, until such time that the Port Authority has completed the grading work referenced in paragraph 1A(b) above with respect to former Building 291, Lessee shall receive an abatement of the Basic Rental in the area near former Building 291 solely as to the unusable area which shall be defined as the area encumbered by the jersey barriers in the approximate amount of 1006 square feet. Furthermore, as provided in Section 1A(e)(i) hereof, the Lessee shall also be entitled to an abatement of the Basic Rental for the modular office space located at Building 264.

(b) Except as provided in this Section and in Section 19(d), no abatement of Basic Rental or Additional Rental (as hereinafter defined) shall be claimed by or allowed to the Lessee.

Section 8. Rights of User

The Lessee shall use the Premises for the following purposes and in full compliance with all applicable laws, rules and regulations: (i) receipt, preparation, storage incidental to distribution, and distribution of FAPS Vehicles and Heavy Cargo substantially waterborne to or from the Facility or the Elizabeth Port Authority Marine Terminal, for the benefit of third parties and (ii) uses incidental to the foregoing (i), including without limitation uses and operations relating to the

security of the Premises and, as necessary, the Facility. Any other use not specifically authorized in this Section 8 shall require the prior written consent of the Port Authority, in its sole and absolute discretion. Nothing herein shall prevent Lessee from allowing the use of the Premises by security personnel or federal or state law enforcement in fulfilling their law enforcement responsibilities; provided, however, that any Sublease (as defined herein in Section 18) shall require the prior consent of the Port Authority.

Section 9. Ingress and Egress

(a) The Lessee 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 (See Section 11 for Rules and Regulations). 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; provided, that, a reasonably equivalent means of ingress and egress remains available. 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.

(b) Lessee agrees and acknowledges that, as set forth in paragraph (c) of Section 1A hereof and subject to the satisfaction of certain conditions precedent, certain Road Closures shall occur during the Term of this Lease; and the Road Closure Open Area comprised of same shall be incorporated into the Premises and shall be subject to payment of the Basic Rental, any Additional Rental, and the Annual Vehicle Throughput Rental, in accordance with the terms of this Agreement.

Section 10. Governmental and Other Requirements

(a) Prior to or contemporaneous with the commencement of its operations under this Agreement, at its sole cost and expense, the Lessee shall procure from all governmental authorities having jurisdiction over the operations of the Lessee hereunder, all licenses, certificates, permits and other authorizations which may be necessary for the conduct of such operations and, upon the request of the Port Authority, shall provide copies of all such items to the Port Authority. Lessee covenants that it shall ensure that all such licenses, certificates, permits and other authorizations shall remain in full force and effect through the Term.

(b) The Lessee shall promptly observe, comply with and execute all laws and ordinances and governmental rules, regulations, requirements, orders and similar items now or at any time during the occupancy of the Premises by the Lessee which as a matter of law are applicable to or which affect (i) the Premises, (ii) the operations of the Lessee at the Premises or the Facility, (iii) the use and occupancy of the Premises and/or (iv) any Hazardous Substance on, at or migrating from the Premises, in accordance with Section 50 hereof. The Lessee, at its sole cost and expense, shall make any and all structural and non-structural improvements, repairs or alterations of the Premises and perform all remediation work and clean up of Hazardous Substances required in order to fully satisfy the compliance obligations set forth in this Agreement, subject to the provisions of Section 20(q) hereof.

(c) The Lessee shall, for the Port Authority's information, deliver to the Port Authority promptly after receipt any notice, warning, summons or other legal process for the enforcement of any enactment, ordinance, resolution or regulation of a governmental authority of competent jurisdiction that may reasonably have a material effect on the Premises, the Facility, the Port Authority or the Lessee (collectively, a "Notice").

(d) 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. Notwithstanding the foregoing in this Section 10, the Lessee shall not be deemed in breach or violation of its obligations hereunder and to the Port Authority for not complying with any license, certificate, permit, or other authorization, so long as (i) the Lessee is pursuing a good

faith challenge or amendment to such license, certificate, permit, or other authorization; (ii) such non-compliance does not result in criminal liability; (iii) such non-compliance does not cause a lien to be incurred on the Premises or the Facility; (iv) such non-compliance will not adversely affect any other tenant at the Facility; (v) will not cause the Port Authority to breach any agreement; and (vi) that such non-compliance does not pose a potential or actual danger to person or property in the discretion of the Port Authority. The Port Authority shall have no liability or obligation with regard to such matters.

Section 11. Rules and Regulations

(a) The Lessee covenants and agrees to observe and obey (and to compel its officers, employees, guests, invitees, agents, representatives, and others on the Premises with its consent to observe and obey) the Rules and Regulations of the Port Authority now or hereafter in effect, and such further reasonable rules and regulations (including amendments and supplements thereto) for the governance 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, security, health, or preservation of property, or for the maintenance of the good and orderly appearance of the Premises, or for the safe and 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, and every proposed change or amendment as provided for by Section IX of the Port Authority's By-Laws, but at least five (5) days before the Lessee shall be required to comply therewith.

(b) Intentionally Deleted

(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.

Section 12. Operational Obligations of the Lessee

(a) In the performance of its obligations hereunder and in the use of the Premises, the Lessee shall conduct its operations in an orderly, lawful and proper manner, so as not to annoy,

disturb or be offensive to others near the Premises or at the Facility.

(b) The Lessee shall control the conduct, demeanor and appearance of its officers, members, employees, agents, representatives, contractors, customers, guests, invitees and those doing business with it. As soon as reasonably possible the Lessee shall remove the cause of any objection made by the Port Authority relative to the demeanor, conduct or appearance of any of the employees of the Lessee or of any such others on the Premises with the consent of the Lessee.

(c) 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 in a concealed location, 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 in its sole discretion; provided, however, that such garbage shall be collected and removed from the Premises a minimum of three (3) times weekly.

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

(e) The Lessee shall permit the use of and provide reasonable access to the Premises from time to time for the installation, maintenance and operation of such navigation lights, as the same may be required by the United States Coast Guard or other governmental authority having jurisdiction; provided, however, that reasonable prior written notice shall be afforded to the Lessee.

(f) From time to time and as often as reasonably required by the Port Authority and upon prior notice to 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, without cost to the Port Authority. 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 the appropriate number of its employees in the use of all such equipment (with such employees to participate in periodic training drills).

(g) Intentionally Deleted.

Section 13. 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, electrical system, 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. Notwithstanding the foregoing, such services may be temporarily interrupted for the purposes of repairing or upgrading same, if approved by the Port Authority and undertaken by the Lessee in accordance with Section 20(q) hereof.

(b) The Lessee shall not do or permit to be done anything which may interfere with the effectiveness or accessibility of existing and future utilities systems or portions thereof on the Premises or elsewhere at the Facility, including without limitation, systems for the supply of heat, hot and cold water, gas, electricity and fuel, and for the furnishing of air-conditioning, telephone, telegraph, teleregister, internet, fiber optic cable, and intercommunications services including any lines, pipes, mains, wire, conduits and equipment connected with or appurtenant to all such systems. Notwithstanding the foregoing, such services may be temporarily interrupted for the purposes of repairing or upgrading same, if approved by the Port Authority and undertaken by the Lessee in accordance with Section 20(q) hereof.

(c) 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.

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

(e) The Lessee shall not dispose of nor permit any one to dispose of any industrial/Hazardous waste material 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, and in compliance with all applicable statutes, ordinances, laws, rules, and regulations.

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

(g) Except as set forth in paragraphs (g)(1)-(2) of this Section, the Lessee shall not install, maintain or operate, or permit the installation, maintenance or operation on the Premises of any vending machine or device designed to dispense or sell food, beverages, tobacco, tobacco products or merchandise of any kind whether or not included in the above categories, or of any restaurant, cafeteria, kitchen, stand or other establishment of any type for the preparation or dispensing of food, beverages, tobacco, tobacco products, or merchandise of any kind whether or not included in the above categories, or of any equipment or devices for the furnishing to the public of service of any kind including therein, without limitation thereto, telephone pay stations.

(1) Subject to the provisions of paragraph (g)(2) of this Section, the Port Authority, by itself or by contractors, lessees or permittees, shall have the exclusive right to install, maintain and receive the revenues from all coin-operated or other vending machines or devices installed by it and operated on the Premises for the sale of merchandise of all types or for the rendering of services. The Lessee shall have the right to receive and retain the revenues from all coin-operated or other vending machines or devices which it may install on the Premises pursuant to the provisions of paragraph (g)(2) of this Section.

(2) Subject to all of the terms and provisions of this Agreement, the Lessee may install vending machines or devices designed to dispense or sell food, beverages, tobacco or tobacco products, subject to the Port Authority's approval of the type and method of installation thereof. The Lessee may use an independent contractor, operator or supplier for such machines selected by the Lessee unless the Port Authority determines, in its reasonable discretion, that said contractor, operator or supplier will adversely affect or interfere with operations of the Facility or will cause or contribute to the causing of labor problems or disturbances thereat. Such machines shall be installed and operated solely for use by the Lessee's officers, employees, members, contractors, customers, guests and invitees. The Lessee's agreement with any contractor, operator or supplier of vending machines shall permit cancellation by the Lessee on short term notice in the event that the Port Authority notifies the Lessee that such contractor, operator or supplier fails to meet the standards set forth in this paragraph (g)(2). The Lessee shall be fully responsible for insuring that its contractor, operator or supplier shall comply with all of the applicable provisions of this Agreement and all acts and omissions of such contractor, operator or supplier shall be deemed acts or omissions of the Lessee, and the Lessee and the contractor, operator or supplier shall be jointly and severally responsible therefor to the Port Authority only.

(h) The Lessee shall not place a load upon any floor or paved area of the Premises that exceeds one hundred (100) pounds per square foot in any office area, or five hundred (500) pounds per square foot for any other portion of the Premises, and shall repair any floor, including supporting members, and any paved area damaged by overloading. Nothing in this paragraph (h) 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. The Lessee shall also not overload any roof, land surface, bulkhead, pavement, landing, pier or wharf at the Facility and shall repair, replace or rebuild any such roof, land surface, bulkhead, pavement, landing, pier or wharf, including but not limited to supporting members, damaged by overloading. Any repair, replacement or rebuilding required under this Section shall be conducted in accordance with the provisions of Section 20(q) hereof.

(i) The Lessee shall not fuel or defuel its vehicles or equipment in the enclosed portions of the Premises without the prior approval of the Manager of the Facility (as hereinafter defined).

(j) The Lessee shall not keep or store in the Premises, explosives, inflammable liquids or solids or oxidized materials or use any cleaning materials having a harmful corrosive effect on any part of the Premises, except for those materials normally used in the operations permitted at the Premises pursuant to Section 8 hereof and stored in a structure normally used for the storage of such materials and made safe for the storage thereof.

(k) The Lessee shall not use or permit the use of any truss or structural supporting member of a building or roof or any part thereof at the Facility 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.

(l) 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.

(m) The Lessee shall not do or permit to be done any act or thing on the Premises or at the Facility which (i) will invalidate or conflict with any fire insurance policies covering the Premises or any part thereof, or the Facility, or any part thereof, or (ii) which, in the opinion of the Port Authority, may constitute an extra-hazardous condition, so as to increase the risks normally attendant upon the operations permitted by this Agreement or (iii) which will increase the rate of any fire insurance, extended coverage or rental insurance on the Facility or any part thereof or upon the contents of any building thereon. The Lessee shall promptly observe, comply with and execute the provisions of any and all present and future rules and regulations, requirements, orders and directions of the Insurance Services Office of New Jersey, the National Fire Protection Association, 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; provided, however, that the Lessee shall not be

obligated to make such improvements, alterations or repairs involving underground utilities. If by reason of any failure on the part of the Lessee to comply with the provisions of this paragraph or by reason of any act by Lessee, 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 act, violation or failure by the Lessee.

(n) 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.

(o) The Lessee shall not dispose of, release or discharge nor permit anyone to dispose of, release or discharge any Hazardous Substance (as defined in Section 50) on or from the Premises, and shall not dispose of, release or discharge or permit anyone subject to its control or authority to dispose of, release or discharge any Hazardous Substance at the Facility. Any Hazardous Substance disposed of, released or discharged by the Lessee (or permitted by the Lessee to be disposed of, released or discharged) on or from the Premises or at the Facility, shall upon notice by the Port Authority to the Lessee and subject to the provisions of Section 50 hereof, be completely removed, cleaned up and/or remediated by the Lessee. The obligations of the Lessee pursuant to this paragraph shall survive the expiration or termination of this Agreement.

(p) The Lessee may store wooden pallets on the open areas of the Premises strictly in accordance with the requirements and restrictions of the Port Authority which are disclosed to Lessee. These requirements and restrictions include but are not limited to: (i) pallets shall be stacked no greater than eight (8) feet in height; (ii) pallets shall be sheltered from public view; and (iii) pallets shall be removed from the Premises not less than on a weekly basis.

(q) The Lessee shall use good faith efforts to prevent staging outside of its leasehold Premises exclusive of the public berths and point of first rest.

Section 14. Signs

(a) Except with the prior reasonable consent of the Port Authority, the Lessee shall not erect, maintain or display any

advertising, signs, posters or similar devices at or on the Premises or elsewhere at the Facility.

(b) Upon demand by the Port Authority, the Lessee shall remove 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 or paint out each and every such piece of advertising, sign, poster or device and so to restore the Premises and the Facility after receipt of written notice from the Port Authority, the Port Authority may perform the necessary work and the Lessee shall pay the costs thereof to the Port Authority on demand.

Section 15. 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, customers, vendors, or representatives, contractors, subcontractors or their employees, or by others on the Premises with the consent or invitation of any of the foregoing persons, or out of any other acts or omissions of the Lessee, its officers, agents and employees on the Premises or elsewhere at the Facility, excepting only claims and demands which result solely from the intentional tortious acts or gross negligence of the Port Authority.

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

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

(1) Commercial General Liability Insurance including but not limited to coverage for premises operations and Products Liability-Completed Operations, with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000 per occurrence, no general aggregate. Said insurance shall also include coverage for explosion, collapse and underground property damage hazards. If the Lessee's operations entail the ownership, maintenance, operation, or use of any watercraft, whether owned, non-owned, or hired, the Lessee shall have any exclusion for such watercraft deleted or shall purchase equivalent coverage under a policy of Protection and Indemnity Insurance and shall provide the Port Authority with a certificate of insurance evidencing such coverage.

(2) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with its operations hereunder with a minimum combined single limit coverage for bodily injury and property damage of $5,000,000 per occurrence, no general aggregate.

(d) Each policy of insurance described in paragraph (c) of this Section shall include the Port Authority as an additional insured and/or loss payee, as applicable (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 and/or loss payee, as applicable.

(e) The Lessee shall also maintain and pay the premiums on a Garagekeepers Legal Liability policy in limits not less than $2,000,000.

(f) 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 on or before the Lease Commencement Date, and on each anniversary date thereafter. In the event any binder is delivered it shall be replaced with due diligence by a certified copy of the policy or by a certificate. Each such copy or certificate shall contain a valid provision or endorsement that the policy may not be cancelled, terminated, changed or modified, without giving thirty (30) days' written advance notice thereof to the Port Authority. A binder evidencing each renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the letting hereunder, as the letting may be from time to time extended, and a certificate or a certified copy of each such renewal policy shall be delivered to the Port Authority with due diligence. If at any time any policy shall be or become unsatisfactory to the Port Authority as to form or substance or as to coverages or minimum limits, or if any carrier issuing any one or more such policies shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain one or more new and satisfactory policies in replacement. A policy shall be deemed satisfactory to the Port Authority if it (i) meets all the terms and conditions of this Agreement, and (ii) has an AM Best (or its successors' and/or assigns' or its industry equivalent's) rating of A-:VII or better. If the Port Authority at any time so requests, a certified copy of each of the policies shall be delivered to the Port Authority.

Section 16. 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, and shall comply with all applicable governmental statutes, rules and regulations as required by Section 10 hereof. Without limiting the generality

of the immediately preceding sentence or any obligations of the Lessee with respect to the Premises, the Lessee agrees that upon the commencement of the letting and during the Term it shall place and keep the Premises in good operating condition. Notwithstanding anything appearing to the contrary in this Section 16, the Lessee shall be under no obligation to upgrade any systems or items at the Premises, but shall be obligated only to maintain, repair and replace the systems or other items as applicable at the Premises.

(b) The Lessee shall repair, replace, rebuild and paint all or any part of the Premises 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. Any repair, replacement or rebuilding required under this Section shall be conducted pursuant to the terms and conditions set forth in Section 20(q).

(c) Subject to the provisions of paragraphs (e) and (f) of this Section and Section 20(q) of this Agreement, throughout the Term, the Lessee shall assume the entire responsibility for, and shall relieve the Port Authority from all responsibility from, all care, maintenance, repair and rebuilding whatsoever in the Premises, whether such care, maintenance, repair, or rebuilding be ordinary or extraordinary, partial or entire, inside or outside, foreseen or unforeseen, structural or otherwise; and without limiting the generality of the foregoing, the Lessee shall maintain and make repairs and replacements, structural or otherwise to all improvements located on the Premises, all utilities related to the Premises (except as provided below), and all other fixtures, machinery, or equipment now or hereafter belonging to or connected with said Premises or the Lessee's operations being conducted thereon, including without limitation thereto all maintenance, repair and replacement of the following items: (1) sprinkler systems (provided, however, that the Port Authority shall provide the Lessee with the names of acceptable contractors who are to service the same); (2) gas and electric from the meter (utility companies are responsible up to the meter); (3) the electrical system, equipment and fixtures, including, without limitation, lighting fixtures, switches, outlets, receptacles and other electrical devices and accessories, and all relamping and fuse replacement; (4) the plumbing system, fixtures and equipment, and all finished plumbing; (5) buildings and all parts thereof; (6) signs; (7) fire extinguishers; (8) all painting; (9) any security measures (including without limitation fencing, guard booths, crash gates, and/or jersey barriers) implemented on the Premises; (10)

catch basins and storm sewer system drains, which are to be kept fully functional, clear of obstruction and free of damage at all times; and (11) any paving required on the Premises; provided, however, that the Lessee shall not be responsible for the maintenance of any underground utilities. The Lessee shall maintain all improvements, utilities, fixtures, machinery and equipment set forth above at all times in good condition, and shall perform all necessary preventive maintenance during the Term.

In the event that the Port Authority reenters, regains or resumes possession of the Premises in accordance with the provisions of this Agreement, or upon the expiration or earlier termination of this Agreement, except in connection with the termination of this Agreement based upon an Event of Default of Lessee (as defined in Section 24 hereof), the following procedure will be undertaken: The Port Authority, its agent, representative or the like, will conduct an inspection of the Premises (including without limitation of the then current state of cleaning, maintenance and repairs, janitorial services, painting, structural and nonstructural conditions, lighting of buildings and open areas, the condition of utilities and utilities systems, fire-fighting and fire protection equipment and systems, communications and communications systems, antipollution systems and devices, fuel facilities and systems, and fixtures, equipment and personal property of the Lessee) ("Condition Survey") and, to the extent the Lessee is in possession of the Premises, the Port Authority's agent or representative shall have all rights of entry to the Premises during all reasonable times as appropriate or required to perform the Condition Survey. The Condition Survey shall be conducted no less than six (6) months and no more than twelve (12) months after the effective date of such termination, except in the event that the Port Authority re-lets all or a portion of the Premises, in which case the Condition Survey shall be completed as to the re-let portion of the Premises prior to such re-letting. The Port Authority will provide the Lessee with a list of all items that demonstrate Lessee's failure to maintain the Premises in accordance with the obligations of this Section 16 (a "Condition Survey Report," and the date upon which such list is provided to Lessee being hereinafter known as the "Report Date"). All obligations relating to the items identified by the Condition Survey Report arising out of Lessee's failure to maintain, repair, replace or rebuild, shall survive such termination or cancellation, reentry, regaining or resumption of possession. The Condition Survey Report shall solely address the Lessee's obligation with respect to the

maintenance and repair of the Premises pursuant to this Section 16. In no event shall any other obligation under this Lease be affected by the Condition Survey Report, including, but in no event, limited to any environmental conditions with respect to the Premises. At the Port Authority's sole option, within ninety (90) days after the Report Date, the Port Authority shall have the following options, (i) require Lessee to commence or cause to be commenced all required or recommended items and actions contained in such Condition Survey Report that are necessary or required to meet Lessee's maintenance, repair or other obligations, duties or responsibilities under this Agreement and the Lessee shall diligently continue the same or cause the same to be continued to completion; provided, however, that the Lessee shall promptly commence or cause to be commenced any and all items, actions or work related to, affecting or involving fire safety, health, structural integrity, life safety, security or emergency response or (ii) draw against the letter of credit maintained by Lessee pursuant to Section 42 hereof to remedy such conditions. To the extent the amount of security is insufficient to cover the costs set forth on the Condition Survey Report, Lessee shall be responsible for and shall, within five (5) days of demand of the Port Authority, remit the shortfall to the Port Authority or, (iii) direct the Lessee to make direct payment to the Port Authority in an amount equal to the cost of the items set forth on the Condition Survey Report and Lessee shall be responsible for and shall, within five (5) days of demand of the Port Authority make payment to the Port Authority.

For example, if the Condition Survey Report identifies a failure on Lessee's part to maintain the roof, all such repairs and/or replacements shall be the sole and absolute responsibility of Lessee and shall either, in the sole discretion of the Port Authority (i) be commenced or caused to be commenced within ninety (90) days of the Report Date by the Lessee or (ii) be paid for by either a draw against the Lessee's security deposit or a direct payment by the Lessee to the Port Authority.

In no event shall the Condition survey procedure be applicable in the event of a termination based on an Event of Default by Lessee under this Agreement.

Upon the expiration of this Lease, the Premises must be in as good condition as at the time of the installation or construction thereof), except for reasonable wear and tear. The Lessee shall make periodic inspections of the Premises and subject to Section 20(q) of this Agreement shall make all

repairs and replacements, and do all rebuilding, inside and outside, ordinary and extraordinary, partial and entire, foreseen and unforeseen, structural or otherwise, regardless of the cause of the condition requiring such repairs, rebuilding or replacement. All repairs, rebuilding and replacements by the Lessee shall be in quality and class not inferior to the original in materials and workmanship.

(d) Without limiting the obligations of the Lessee stated elsewhere in this Agreement, the Lessee shall be solely responsible to the Port Authority for any damage caused by Lessee, its employees, agents or representatives to any and all personal property, equipment and fixtures belonging to the Port Authority located or to be located in or on the Premises and shall promptly replace or repair the same within twenty (20) days after such damage (except that if any such repair requires activity over a period of time, then the Lessee shall commence to perform such repair within such twenty (20) day period and shall diligently proceed therewith without interruption). The Lessee shall yield and deliver the same or replacements thereof to the Port Authority at the expiration or earlier termination of the letting under this Agreement in the same condition as at the commencement of the letting, reasonable wear and tear excepted.

(e) The Port Authority shall have no responsibility with respect to any repairs or replacements which are required because of any casualty whether or not insured or insurable, except as expressly provided in Section 16 of this Agreement. The Lessee shall indemnify and hold harmless the Port Authority, its Commissioners, officers, employees, agents, and representatives, from and against all claims and demands, including but not limited to claims and demands for death, claims and demands for personal injuries, and claims and demands for property damages, of any third persons whatsoever, including, but not limited to, the Lessee's officers, employees, agents, and representatives which may arise from the condition of the Premises or any part thereof, or from the failure of the Lessee to make timely corrections of dangerous or potentially dangerous conditions in or on the Premises; provided, however, that the Lessee's obligation hereunder to indemnify and hold the Port Authority harmless shall not apply to any claims or demands resulting from the intentional tortious acts or gross negligence of the Port Authority. Except as set forth above, the Lessee hereby releases and discharges the Port Authority, its Commissioners, officers, employees, agents and representatives from any liability for damages to the Lessee, consequential or

otherwise, in connection with any of the provisions of this paragraph concerning repairs or replacements to any portion of the Premises, and including without limitation thereto any act or omission of the Port Authority, its officers, agents, employees, contractors or their employees, connected with the performance of such repairs or replacements.

(f) Notwithstanding anything in this Section 16 or this Lease to the contrary, the Lessee shall not be obligated, responsible, or liable for any repairs or maintenance to underground utilities on, under, or near the Premises or the Facility, including storm water underground utilities; provided, however, that the Lessee shall be responsible for the maintenance, repair and damage to traps, grates (manhole covers), frames, inlet boxes, catch basins, drains and the lateral service line connection up through the first valve or the main line, and shall also be responsible to keep the forgoing free and clean of clutter and debris and shall conduct regular inspections of same. The Port Authority shall be responsible for maintenance and repair to all other portions of such storm water utilities, except as expressly provided in the preceding sentence, which items shall be the Lessee's responsibility. Further, notwithstanding anything in this Agreement, the Lessee shall not be obligated to repair or maintain railroad tracks 1 and 2 located on the Premises and set forth on "Exhibit J," annexed hereto and made a part hereof, during the time period that the tenant in the leasehold demised under L-PN-050 remains a tenant in its Third Party Leasehold (during such time period, the Port Authority shall be responsible for such maintenance and repair of railroad tracks 1 and 2); provided that (i) upon incorporation of the L-PN-50 leasehold space into the Premises pursuant to the terms of this Agreement, Lessee shall assume the responsibility for repairing and maintaining the railroad tracks. Lessee shall be responsible for the repair and maintenance of the two (2) switches located on railroad track 2 commencing on the Lease Commencement Date and throughout the Term of this Agreement.

Section 17. 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 in accordance with the procedures set forth in Section 20(q) hereof. Without in any way limiting the obligations of the Lessee set forth in the first sentence of this paragraph, with respect to all portions of the Premises, the Lessee shall secure and maintain in its own name as insured and shall pay the premiums on the

following policy of insurance in the limit set forth below, which policy shall be effective during the Term:

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

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

insurance as to the interest of the Port Authority shall not be invalidated by any act or negligence of the Lessee or any other insured. Each policy of insurance shall have attached thereto an endorsement that the Port Authority will be given at least thirty (30) days' prior written notice of any material change in the policy. A certificate of insurance with respect to a renewal policy shall be delivered to the Port Authority at least fifteen (15) days prior to the expiration date of each expiring policy, except for any policy expiring after the date of expiration of the effective period hereof. If at any time the policy required by this paragraph shall be or become unsatisfactory to the Port Authority as to form or substance, or if the carrier issuing such policy shall be or become unsatisfactory to the Port Authority, the Lessee shall promptly obtain a new satisfactory policy in replacement. A policy shall be deemed satisfactory to the Port Authority if it (i) meets all the terms and conditions of this Agreement, and (ii) has an AM Best (or its successors' and/or assigns' or its industry equivalent's) rating of A-:VII or better.

The proceeds of insurance from coverages secured in accordance with this paragraph shall be made available to the Lessee and shall be applied by the Lessee to the repair, replacement, or rebuilding of the Premises as provided in this Agreement. The Lessee shall not be entitled to any abatement of the rentals payable hereunder at any time by reason of such casualty.

(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 within such thirty (30) day period, the Port Authority may remove such debris and dispose of the same and may remove such property to a public warehouse for deposit at Lessee's sole cost and expense, 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; provided, however, that such indemnity obligation shall not apply to claims or demands arising from the intentional tortious acts or gross negligence of the Port Authority.

Section 18. Assignment and Sublease

(a) The following terms shall have the respective meanings set forth below:

"Assignment" shall mean any sale, conveyance, transfer, exchange, mortgage, assignment or other disposition of any or all portion of the Lessee's interest in this Lease or the leasehold estate created hereby, whether by operation of law or otherwise, and shall include any arrangement whereby all or substantially all of the Lessee's operations hereunder are managed or performed by another Person.

"Control" (including the terms "controlling," "controlled by" and "under common control with") shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities or membership interests, by contract or otherwise.

"Person" shall mean a natural person, corporation, limited liability company, or other legal entity, and also two or more natural persons, corporations or other legal entities acting jointly as a firm, general or limited partnership, unincorporated association, consortium, joint venture or otherwise.

"Sublease" shall mean any sublease (including a sub-sublease or any further level of subletting) and any occupancy, license, franchise, or concession agreement applicable to the Premises or any portion thereof, and shall include any

arrangement whereby a substantial portion of the Lessee's operations hereunder are managed or performed by another Person.

"Transfer" shall mean the transfer, sale, assignment, pledge, hypothecation or other disposition of any interest in the Lessee or in any direct or indirect constituent entity of the Lessee, where such disposition (whether by itself or cumulatively with other transactions) produces any change in the Control (as hereinafter defined) of the Lessee, and shall include, without limitation, (1) the sale, assignment, redemption or transfer of outstanding stock of or membership interests in, respectively, in any corporation or limited liability company that is the Lessee; (2) the issuance of additional stock or membership interests in, respectively, any corporation or limited liability company that is the Lessee or that is the general partner of any partnership that is the Lessee, and (3) the sale, assignment, redemption or transfer of any general or limited partner's interest in, or the admission of a new partner to, a partnership that is the Lessee, or that a general or limited partner of any partnership that is the Lessee.

(b) The Lessee shall not effect or permit any Assignment, Transfer or Sublease without the prior written consent of the Port Authority, which consent may be given or withheld by the Port Authority in its sole and absolute discretion. The Lessee shall not enter into any management agreement, services agreement or similar type of agreement governing the operations or management of the Premises without the prior written consent of the Port Authority, which consent can be withheld by the Port Authority in its sole and absolute discretion.

(c) Any Sublease, Assignment or Transfer, including without limitation any sale, assignment, transfer, mortgage, pledge, hypothecation, encumbrance or disposition of the Premises or of the rents, revenues or any other income from the Premises, or this Agreement or any part hereof, or any license or other interest of the Lessee herein in not made in accordance with the provisions of this Agreement shall be null and void *ab initio* and of no force or effect.

(d) If without the prior written consent of the Port Authority, the Lessee effects or permits any Assignment, Transfer or Sublease, or if the Premises are occupied by any person, firm or corporation other than the Lessee, the Port Authority may collect rent from any assignee, sublessee, or anyone who claims a right to this Agreement or to the letting or who occupies the Premises, and shall apply the net amount

collected to the Rental herein reserved; but no such collection shall be deemed a waiver by the Port Authority of the covenants contained in paragraphs (a) and (b) of this Section, nor an acceptance by the Port Authority of any such assignee, sublessee, claimant or occupant as tenant, nor a release of the Lessee by the Port Authority from the further performance by the Lessee of the covenants contained in this Agreement.

(e) Any consent granted by the Port Authority to any Assignment, Transfer or Sublease pursuant to the provisions hereof shall not be construed or deemed to release, relieve or discharge the Lessee or any other Person claiming any right, title or interest in this Agreement from the requirement of obtaining the prior written consent of the Port Authority with respect to any other Assignment, Transfer or Sublease.

(f) The Lessee further covenants and agrees that it will not use or permit any Person whatsoever to use the Premises or any portion thereof for any purpose other than in accordance with Section 8 of this Agreement. Except as provided in this Agreement or otherwise permitted in writing by the Port Authority, the Lessee shall not permit the Premises to be used or occupied by any Person other than its own officers, employees, contractors and representatives.

(g) Notwithstanding anything in this Agreement to the contrary, the Lessee shall be permitted to license certain limited portions of the Premises as office space to its clients (and/or such clients' service providers) as may be deemed necessary or desirable to facilitate the processing of waterborne cargo at the Premises. The Provisions of this Section 18 shall not be applicable to such licensed space. Lessee shall not permit such license to rise to the level of a Sublease, as determined in the Port Authority's reasonable discretion.

(h) Notwithstanding that the disposition of any interest in the Lessee not producing any change in Control of the Lessee does not constitute a Transfer hereunder and accordingly does not require the consent of the Port Authority, the Lessee covenants to provide the Port Authority with notice of any such disposition not later than fourteen (14) days thereafter.

(i) Notwithstanding the foregoing provisions, as set forth in paragraph (f) of Section 1 hereof, the parties acknowledge that WWL shall execute the WWL Surrender and Termination Agreement and surrender the WWL Lease and the premises associated therewith at the Elizabeth-Port Authority Marine

Terminal in order to relocate its operations onto the Premises; provided, however, that the relocation of WWL's operations onto the Premises is subject to receipt of the prior written consent of the Port Authority which consent shall be given if the following conditions are satisfied: (i) WWL shall enter into a long term agreement (for a minimum of ten (10) years) with the Lessee, terminable for cause only, for the purpose of providing processing services (the "Processing Agreement"); (ii) for the duration of the entire term of the Processing Agreement, WWL shall guarantee the payment of Rental by the Lessee for thirty five (35) acres of the Premises under this Lease; (iii) the Processing Agreement shall provide for and incorporate guaranteed annual Consumer Price Index Percentage Increases at least equal to those set forth in Section 4 of this Lease; and (iv) the Processing Agreement shall provide for and incorporate guaranteed minimum throughputs commensurate with the Minimum Annual Vehicle Guarantee set forth in paragraph (a) of Section 5 of this Lease. The Port Authority shall be provided with a conformed copy of the proposed Processing Agreement.

Section 19. Condemnation

(a) In any action or other proceeding by any governmental agency or agencies superior to the Port Authority 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; provided, however, that this paragraph shall not be construed to prevent the Lessee from making a possible claim against the condemning party for an award for moving or relocation expenses, for trade fixtures and for other fixtures and improvements owned by the Lessee to the extent that such fixtures and improvements are owned by the Lessee and have been paid for by the Lessee, if such claims are then permitted by law and if such award is made separately from the award which the Port Authority will be entitled to in the condemnation proceeding, and will not reduce the amount thereof, but this

provision shall not be deemed a recognition by the Port Authority of the validity of any such claims.

(b) In the event that the Port Authority exercises its powers to acquire Lessee's interest hereunder by condemnation, as authorized by specific legislation enactment, codified at N.J.S.A. 32:2-10, the Port Authority may by notice given to the Lessee, in compliance with N.J.S.A. 32:2-11, 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. If the Port Authority exercises this option, the Lessee shall have the same rights and remedies provided in subparagraph (a) above. 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 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; provided, however, that in the event the Port Authority terminates this Agreement pursuant to this Section 19, Lessee's obligations with respect to the Premises (or such portion(s) of the Premises so taken) shall cease as of the date of such termination. Further, the Port Authority's right to condemnation hereunder shall in no way be limited or restricted by the provisions of Section 25 hereof.

(c) Subject to the provisions of paragraphs (a) and (b) above, 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 terminate in the same manner and with the same effect as if the said date were the original date of expiration hereof.

(d) Subject to the provisions of paragraphs (a) and (b) above, in the event that the taking or conveyance covers less than fifty percent (50%) of the total useable area 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 terminate in the same manner and with the same effect as if the Term had on that date expired, and Basic Rental and Additional Rental (as hereinafter defined) shall be abated as provided in Section 7 hereof.

(e) Subject to the provisions of paragraphs (a) and (b) above, 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 covers fifty percent (50%) or more of the total usable area of the Premises, then the Lessee and the Port Authority shall each have an option exercisable by notice given within ten (10) 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.

Section 20. Construction by the Lessee

(a) Any construction work performed by Lessee pursuant to this Lease is hereinafter called "the Lessee's Construction Work"; provided, however, that the Leasehold Demolitions and the Road Closure Open Area Improvements shall be deemed to constitute repairs or alterations subject to Section 20(q) hereof and any other provisions of this Section 20 referenced therein. The Lessee's Construction Work shall be performed at the Lessee's sole cost and expense. The parties acknowledge and agree that this Section 20 is not meant to address or resolve any issue with respect to any Construction Application or Alteration Application process (as same are defined hereinafter in this Section 20) with respect to the construction of the Vehicle Storage Facility, which the parties acknowledge will be the subject of a future and different agreement.

(b) With respect to the Lessee's Construction Work the Lessee shall procure insurance in favor of the Port Authority, and its Commissioners, officers, agents and employees against the following risks, whether they arise from acts or omissions of the Lessee, any contractors of the Lessee, the Port Authority, third persons, or from acts of God or the public enemy, or otherwise, excepting only risks which result solely from intentional tortious acts or grossly negligent acts done by the Port Authority subsequent to commencement of the work:

(1) The risk of loss or damage to all such construction prior to the completion thereof. In the event of such loss or damage, the Lessee shall forthwith repair,

replace and make good the work without cost to the Port Authority;

(2) The risk of death, injury or damage, direct or consequential, to the Port Authority, and its Commissioners, officers, agents and employees, and to its or their property, arising out of or in connection with the performance of the work. The Lessee shall indemnify the Port Authority, and its Commissioners, officers, agents and employees, for all such injuries and damages (including without limitation, direct or consequential damages), and for all loss suffered by reason thereof;

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

(c) Prior to the commencement of any of the Lessee's Construction Work, the Lessee shall submit to the Port Authority for its approval a Construction Application in the form supplied by the Port Authority pursuant to TAA requirements, and containing such terms and conditions as the Port Authority may include (the "Construction Application"), setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each of the items constituting the Lessee's Construction Work, and shall describe in detail the systems, improvements, fixtures and equipment to be installed by the Lessee. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall

bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's complete Construction Application and complete plans and specifications, within a reasonable period but no later than ninety (90) days following submittal of all required information, plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Construction Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in paragraphs (j) and (k) of this Section 20 and such performance bonds as the Port Authority may specify. All of the Lessee's Construction Work shall be performed by the Lessee in accordance with the 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 final completion of all of the Lessee's Construction Work the Lessee shall deliver to the Port Authority a certificate to such effect signed by a responsible officer of the Lessee and by the architect or engineer who sealed the Lessee's plans pursuant to the provisions of this paragraph certifying that all of the work has been performed in accordance with the approved plans and specifications and the provisions of this Agreement, and the Lessee shall supply the Port Authority with as-built drawings of the Lessee's Construction Work in such form and number requested by the Port Authority. The Lessee shall keep said drawings current during the Term under this Agreement. No changes or modifications to such work shall be made without prior Port Authority consent. Following its receipt of the Lessee's certificate, within a reasonable period but no later than ninety (90) days following submittal thereof,

the Port Authority shall inspect the work and, unless such certification is not correct, or the Port Authority determines that the premises are unsuitable for occupancy and use by the Lessee, a certificate of final completion shall be delivered to the Lessee by the Port Authority.

(d) Except as set forth in paragraph (e) of this Section 20, the Lessee shall not commence any portion of the Lessee's Construction Work until the Construction Application and plans and specifications covering such work, referred to in paragraph (c) of this Section, have been finally approved by the Port Authority, and the insurance required pursuant to paragraphs (j) and (k) of this Section procured.

(e) If the Lessee desires to commence construction of portions of the Lessee's Construction Work prior to the approval by the Port Authority of the complete Construction Application and plans and specifications covering all of such work pursuant to paragraph (c) of this Section, the Lessee shall submit to the Port Authority a separate Construction Application for each portion of the Lessee's Construction Work the Lessee so desires to commence (each such portion of the Lessee's Construction Work being hereinafter designated as "Partial Approval Work") which shall be executed by an authorized officer of the Lessee and shall be accompanied by final and complete plans, specifications, drawings, and data with respect to such portion of the Lessee's Construction Work (the final and complete plans, specifications, drawings, and data covering each such portion of the Lessee's Construction Work are hereinafter referred to as "the Partial Approval Work Plans" with respect to such portion of the Lessee's Construction Work) setting forth in detail the work to be performed in connection with each such portion of the Lessee's Construction Work. The Port Authority shall use full and complete discretion to determine whether to permit the Lessee to proceed with the performance of any Partial Approval Work. If the Port Authority consents to the performance of any Partial Approval Work, the Port Authority shall review the Construction Application covering such work and shall give its written approval or rejection of the Partial Approval Work Plans with respect thereto or shall request such revisions or modifications thereto as the Port Authority may find necessary. Upon the Port Authority's approval of the Construction Application covering an item of Partial Approval Work and its approval of the Partial Approval Work Plans with respect thereto, the Lessee may proceed to perform such item of Partial Approval Work subject to and in accordance with the following terms and conditions:

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

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

(3) Each item of Partial Approval Work shall be performed in accordance with and subject to the terms and provisions of this Agreement covering the Lessee's Construction Work and in accordance with the approved Construction Application covering such item of Partial Approval Work and in accordance with the approved Partial Approval Work Plans constituting a part of such Construction Application, and subject to any requirements, stipulations, and provisions which the Port Authority may impose in its approval of the performance of such item of Partial Approval Work.

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

(5) The Lessee specifically understands that neither the Port Authority's approval of any Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work nor the performance by the

Lessee of any item of Partial Approval Work pursuant to such approval shall obligate the Port Authority to approve the Construction Application and plans and specifications submitted by the Lessee for the balance of the Lessee's Construction Work or shall create or be deemed to create any obligation on the part of the Port Authority to permit subsequent Partial Approval Work to be performed. Without limiting the generality of the provisions of this paragraph, it is specifically understood that the Port Authority may withhold its approval of a Construction Application and Partial Approval Work Plans covering any item of Partial Approval Work if the Port Authority determines that review of subsequent items of Partial Approval Work is required before the Port Authority can approve, reject, or comment upon such Partial Approval Work Plans.

(6) In the event that in the opinion of the Port Authority the Lessee: (i) fails to comply with all of the provisions of this Agreement with respect to such work; (ii) fails to comply with the provisions of the Construction Application covering such work and the plans and specifications forming a part thereof; (iii) fails to comply with any requirements, stipulations, or provisions reasonably imposed by the Port Authority in its approval of the performance of such item of Partial Approval Work; (iv) shall be in breach of any of the provisions of this Agreement covering such work; (v) shall be in breach of any of the provisions of the Construction Application and plans and specifications covering the performance of such work; or (vi) shall be in breach of any requirements, stipulations, or provisions imposed by the Port Authority in its approval of the work, the Port Authority shall have the right to cause the Lessee to cease the work that is being performed in violation of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval. Upon written direction from the Port Authority, the Lessee shall promptly cease performance of the portion of the Partial Approval Work specified. The Lessee shall thereupon submit to the Port Authority for its written approval of the Lessee's proposal for making modifications, corrections or changes in or to the item of Partial Approval Work that has been or is to be performed so that the same will comply with the provisions of this Agreement, the Construction Application and plans and specifications, or the conditions of the Port Authority's approval covering such work. The

Lessee shall not commence construction of the portion of the Partial Approval Work that has been halted until it has received written approval of the proposed modifications, corrections or changes.

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

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

(g) Without limiting the generality of paragraph (c) of this Section, 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 the improvements, fixtures, and equipment 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 Lessee's Construction Work or for the contracts for the performance thereof entered into by the Lessee. Any warranties extended or available to the Lessee in connection with the aforesaid work shall be for the benefit of the Port Authority as well as the Lessee. The Lessee shall not conduct any business at the Premises with respect to any improvements, fixtures or equipment constituting the Lessee's Construction Work until the Port Authority shall have notified the Lessee in writing that the Lessee's Construction Work has been completed or substantially completed to its satisfaction pursuant to paragraph (c) of this Section 20 and which shall be given in a reasonable period, but not later than ninety (90) days. In the event of any inconsistency between the provisions of this Agreement and those of the Construction Application referred to in paragraph (c) of this Section the provisions of this Agreement shall control; provided, however, that the Lessee shall be obligated to pay any tenant construction review fee or other review fee charged by the Port Authority for its costs of administrating the Construction Application process.

(h) Without limiting or affecting any other term or provision of this Agreement, the Lessee shall be solely responsible for the design, adequacy and operation of all utility, mechanical, electrical, communications and other systems installed in the Premises by the Lessee and all other improvements, additions, fixtures, finishes, decorations and equipment made or installed by the Lessee in the Premises and shall do preventive maintenance and make such repairs, replacements, rebuilding (ordinary or extraordinary, structural or non-structural) and painting necessary to keep such systems, improvements, additions, fixtures, finishes, decorations and equipment (whether the same involves structural or non-structural work) in the condition they were in when made or installed except for reasonable wear which does not adversely affect the efficient or proper utilization of any part of the Premises.

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

them. Nothing herein contained shall be deemed to constitute consent to the creation of any lien or claim against the Premises or any part thereof, nor to prevent the Lessee from contesting claims in good faith.

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

(1) Commercial General Liability Insurance including but not limited to Independent Contractor coverage and coverage for Premises Operations and Completed-Operations and for Broad Form Property Damage, with a contractual liability endorsement covering the obligations assumed by the Lessee under paragraph (b) of this Section, and which are customarily insured under such a policy, with a minimum combined single limit coverage for bodily injury and property damage of $10,000,000 per occurrence, no general aggregate. The policy will also include x,c,u coverage

(2) Commercial Automobile Liability Insurance covering all owned, non-owned or hired vehicles used in connection with said construction with a minimum combined single limit coverage for bodily injury and property damage of $10,000,000 per occurrence, no general aggregate.

(k) With the exception of the Commercial Automobile Liability, Workers' Compensation and Employers' Liability Insurance policies each policy of insurance described in paragraph (j) of this Section shall include the Port Authority as an additional insured, in its coverages including, without limitation, coverage for Premises- operations and completed operations, and no such policy shall contain any care, custody or control exclusions, or any exclusion for bodily injury to or sickness, disease or death of any employee of the Lessee or of any of its contractors which would conflict with or in any way impair the coverages resulting from the Port Authority's status as an additional insured, or the coverage under the contractual liability endorsement described in subdivision (1) of paragraph (j) of this Agreement. The certificates of 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 and/or loss payee, as applicable. Such insurance shall contain a provision that the insurer shall not, without obtaining express written permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority or the provisions of any statutes respecting suits against the Port Authority. The requirements of the certificate of insurance evidencing these coverages shall be the same as specified in Section 15 (f), except that, instead of the certificate being delivered to the Port Authority on or before the Lease Commencement Date, the certificate must be delivered to The Port Authority before any work is to take place.

(l) Title to all improvements and fixtures placed, constructed or installed in or on the Premises as the Lessee's Construction Work shall vest immediately in the Port Authority upon placement, construction or installation thereof and title to any and all equipment and trade fixtures removable without substantial injury to the Premises placed in or installed upon the Premises as part of the Lessee's Construction Work shall remain with the Lessee. No such equipment or trade fixtures shall be removed by the Lessee prior to the termination of this Lease unless replaced with identical property of equal or greater value. Without limiting any other term of the Lease and notwithstanding the foregoing provisions, upon written notice given by the Port Authority either prior to or within sixty (60) days after expiration or earlier termination of the letting of the Premises under this Agreement the Lessee shall remove from the Premises any improvements, fixtures, trade fixtures, or equipment as the Port Authority may specify in its notice, and shall repair any damage to the Premises caused by such removal.

(m) In the performance of the Lessee's Construction Work, and otherwise during the Term of this Lease, to the extent within its reasonable control, the Lessee will not permit any situation or condition to arise or continue that causes any labor troubles at, or emanating from, the Lessee's Premises which interferes in any material respect with the operations (including any construction work) at the Lessee's Premises. Upon written notice from the Port Authority (and provided the Port Authority has obtained a corresponding understanding and agreement from the New York Shipping Association with respect to the actions requested in such notice), the Lessee will (or will cause its contractor to, as applicable) take such actions as are

within its control and commercially reasonable under the circumstances to rectify any condition causing or contributing to labor troubles as specified in such notice. In the event of failure by the Lessee (or any of its contractors, as applicable) to timely comply with the requirements of this paragraph, the Port Authority, after consultation with, and approval by, the New York Shipping Association, will have the right, by notice from the Port Authority to the Lessee, to require the Lessee to: (a) suspend the Port Authority's permission to the Lessee to proceed with the applicable portion of each specific construction project of the Lessee's Construction Work being performed by or on behalf of the Lessee (i.e. the portion to which the underlying labor trouble relates, or suspend the Port Authority's permission to the Lessee to continue such other specific operations as reasonably necessary to immediately terminate such labor troubles, and the Lessee will thereupon immediately cease the same, and/or (b) take such other actions, supported by the New York Shipping Association, as reasonably necessary to terminate such labor troubles. When labor troubles will be so settled that such interference no longer exists and the danger thereof has been substantially mitigated, the Port Authority by notice to the Lessee will (i) reinstate the permission to the Lessee to perform the subject specific construction project of the Lessee's Construction Work on all the same terms and conditions as before the suspension and/or (ii) permit the Lessee to resume such other suspended activities at the Lessee's Premises or the Facility. "Labor troubles" will mean and include strikes, boycotts, picketing, work-stoppages, slowdowns, disputes or any other type of labor trouble, regardless of the employer of the person involved or their employment status, if any, which materially interferes with operations or construction within the Facility.

(n) No contractor or third party shall, or shall be deemed to, have acquired any rights against the Port Authority by virtue of the execution of this Agreement and nothing contained herein shall operate or give to any such contractor or third party any claim or right of action against the Port Authority and its Commissioners, officers, agents and employees.

(o) Without limiting any of the terms and conditions hereof, the Lessee understands and agrees that it shall put into effect prior to the commencement of the Lessee's Construction Work an affirmative action program and Minority Business Enterprise ("MBE") program and Women-owned Business Enterprise ("WBE") program in accordance with the provisions of "Schedule E," attached hereto and hereby made a part hereof. The

provisions of Schedule E shall be applicable to the Lessee's contractors and subcontractors at any tier of construction as well as to the Lessee with respect to the Lessee's Construction Work, and the Lessee agrees to include the provisions of Schedule E in all of its construction contracts so as to make the provisions and undertakings set forth in Schedule E the direct obligation of the contractors and subcontractors at any tier of construction. The Lessee agrees to and shall require its contractors and subcontractors to furnish to the Port Authority such data, including but not limited to compliance reports, relating to the operation and implementation of the affirmative action, MBE, and WBE programs of the Lessee and its contractors and subcontractors at any tier of construction called for under the provisions of this paragraph and Schedule E annexed hereto as the Port Authority may request at any time and from time to time and the Lessee agrees to and shall also require that its contractors and subcontractors at any tier of construction make and put into effect such modifications and additions thereto as may be directed by the Port Authority pursuant to the provisions of this paragraph and Schedule E to effectuate the goals of affirmative action, MBE, and WBE programs. The obligations imposed on the Lessee under this paragraph and Schedule E shall not be construed to impose any greater requirements on the Lessee than those which may be imposed on the Lessee under applicable law.

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

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

(2) At the request of either the Port Authority or the Lessee, the contractor shall request such employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other

agreement or understanding and which is involved in the performance of the contract with the Lessee to furnish a written statement that such employment agency, labor union or representative shall not discriminate because of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will cooperate in the implementation of the contractor's obligations hereunder;

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

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

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

(q) Prior to the commencement of any demolitions, repairs, replacements or alterations required to be performed by the Lessee during the Term pursuant to the terms of this Agreement, including without limitation the Leasehold Demolitions (as described in paragraph (e) of Section 1A hereof) and the Road Closure Open Area Improvements (as described in paragraph (c) of Section 1A hereof), other than the Lessee's Construction Work (as defined in paragraph (a) of this Section 20), the Lessee shall submit to the Port Authority for its approval an Alteration Application in the form supplied by the Port Authority, and containing such terms and conditions as the Port Authority may include (an "Alteration Application"), setting forth in detail by appropriate plans and specifications the work the Lessee proposes to perform and the manner of and time periods for performing the same, including without limitation a schedule listing each contract proposed to be entered into for the performance of the work and the estimated cost of the work to be performed under each such contract. The data to be supplied by the Lessee shall identify each anticipated repair or alteration, and shall describe in detail any systems, improvements, fixtures and equipment to be installed by the

Lessee. The Lessee shall be responsible at its sole expense for retaining all architectural, engineering and other technical consultants and services as may be directed by the Port Authority and for developing, completing and submitting detailed plans and specifications for the work, except as provided with regard to the Demolition Allowance provided for in Section 1A(e) hereof. The plans and specifications to be submitted by the Lessee shall be in sufficient detail for a contractor to perform the work and shall bear the seal of a qualified architect or professional engineer who shall be responsible for the administration of the work in accordance with the Port Authority's requirements. In connection with review by the Port Authority of the Lessee's submissions under this paragraph, the Lessee shall submit to the Port Authority, at the Port Authority's request, such additional data, detail or information as the Port Authority may find necessary. Following the Port Authority's receipt of the Lessee's complete Alteration Application and complete plans and specifications, no later than ten (10) business days following submittal of all required information, plans and specifications, the Port Authority shall give its written approval or rejection thereof, or shall request such revisions or modifications thereto as the Port Authority may find necessary. The Lessee shall not engage any contractor or permit the use of any subcontractor unless and until each such contractor or subcontractor, and the contract such contractor is operating under, have been reasonably approved by the Port Authority. The Lessee shall include in any such contract or subcontract such provisions as are required in accordance with the provisions of this Agreement and the Alteration Application approved by the Port Authority. The Lessee shall obtain and maintain or cause each contractor to obtain and maintain in force such insurance coverage as is described in paragraphs (j) and (k) of this Section 20 and such performance bonds as the Port Authority may specify. All of the Lessee's repairs, replacements, or alterations shall be performed by the Lessee in accordance with the Alteration Application and final plans and specifications approved by the Port Authority, shall be subject to inspection by the Port Authority during the progress of the work and after the completion thereof, and the Lessee shall redo or replace at its own expense any work not done in accordance therewith. The Lessee shall be obligated to pay any tenant alteration review fee or other review fee charged by the Port Authority for its costs of administrating the Tenant Alteration Application Process.

(r) The Lessee agrees that in the performance of any work that is subject to this Section 20, including without limitation the Lessee's Construction Work, it will comply with the Port Authority's policy on sustainable design as set forth in the sustainable design guidelines promulgated by the Port Authority Engineering Department from time to time.

(s) Notwithstanding anything to the contrary in this Section 20 or this Agreement, the Port Authority shall give its written approval or rejection, or shall request such revisions or modifications as the Port Authority deems necessary, no later than ten (10) calendar days following the Lessee's submittal of any Construction Application or Alteration Application relating to security on the Premises, including without limitation installation of fencing, jersey barriers, or other related similar improvements within or bordering the Premises. In the event the Port Authority requests revisions or modifications to any Construction Application or Alteration Application relating to security, the Port Authority shall give its written approval or rejection thereof within ten (10) days of its receipt of such revisions or modifications.

Section 21. 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 (the "Additional Rental," and, when taken together with the Basic Rental, the "Rental"). No payment made by the Lessee to the Port Authority under this Section shall be or be deemed a waiver by the Lessee of any right to contest its making of such payment.

(b) Should the Port Authority elect to use its operating and maintenance staff in performing any work and to charge the

Lessee with the cost thereof, any time report of any employee of the Port Authority showing hours of work or labor allocated to such work, or any stock requisition of the Port Authority showing the issuance of materials for use in the performance thereof, shall be prima facie evidence against the Lessee that the amount of such charge was necessary.

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

Section 22. Rights of Entry Reserved

(a) The Port Authority, by its officers, employees, agents, representatives and contractors shall have the right, upon reasonable advance notice, to enter upon the Premises for the purpose of inspecting the same at all reasonable times, 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; provided, however, that in the exercise of such rights of access, the Port Authority shall not materially interfere with the use and occupancy of the Premises by the Lessee.

(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, upon reasonable advance notice, to enter upon the Premises 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, the Port Authority shall not materially interfere with the use and occupancy of the Premises by the Lessee.

(c) 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.

(d) Except as described in Section 16(e) hereof, 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 intentional tortious acts or gross negligence of the Port Authority).

(e) 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.

(f) 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.

(g) 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 23. 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 (including without limitation the easement located on Block 5082, Lot 10 in the Premises, as shown on Exhibit A, Parcel "1", noted as 60' easement, providing for a right of access for pedestrians and vehicles over and through the Premises for the purpose of obtaining access to adjacent property); 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 with appropriate jurisdiction.

(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.

Section 24. Termination

(a) Each of the following events shall be an "Event of Default" or a "default" hereunder:

(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 (i) the Lessee is a corporation, by any of its stockholders, or, (ii) if the Lessee is a limited liability company, by any of its members, or (iii) if the Lessee is a general or limited partnership, by any of its general partners,

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 ninety (90) days after the filing thereof; or

(4) Except as permitted under Section 18 hereof, 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, partnership, corporation, or other business entity; or

(5) The Lessee, without the prior approval of the Port Authority, merges, consolidates, dissolves or experiences a change in Control as defined herein; or

(6) 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

(7) The Lessee shall voluntarily abandon, desert or vacate all or substantially all of the Premises or discontinue its operations at the Premises for over sixty (60) days (except in connection with a casualty, in accordance with Section 16 hereof) or, after exhausting or abandoning any right of further appeal, the Lessee shall be prevented for a period of sixty (60) days by action of any governmental agency from conducting its operations on the Premises, regardless of the fault of the Lessee; or

(8) 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

(9) 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, and such failure shall not be corrected within fifteen (15) days of the due date of any such payment; or

(10) The Lessee shall fail to (i) obtain any insurance policy required under this Lease, or, (ii) following the lapse, termination or expiration of any such insurance policy, fail to replace the same with a policy complying with the terms and conditions set forth in this Lease, and Lessee fails to correct this lapse within thirty (30) days following such lapse, termination or expiration; or

(11) The Lessee shall fail to perform its repair and maintenance obligations under this Lease with regard to any of the leasehold Premises and fails to commence such repairs within thirty (30) days after receipt of notice thereof from the Port Authority, or, if such repairs cannot be completed within thirty (30) days, to commence such repairs during the thirty (30) day period and continue to perform such repairs in a diligent and timely manner until completed (provided, however, that this Lease shall not be terminated in connection with the failure of Lessee to perform repair and maintenance on any building located on the Premises specifically designated for demolition for which an Alteration Application has previously been filed, provided that the uncorrected condition does not present an actual or potential danger of injury or damage to persons or property); or

(12) The Lessee shall fail to keep, perform and observe any 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 diligently continues such performance without interruption to completion.

Upon the occurrence of any such Event of Default or at any time thereafter during the continuance thereof, the Port Authority may by 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, which date shall not be less than five (5) days after the giving of such notice.

(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 forty eight (48) 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 as a consequence of 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 25. Additional Termination Rights

(a) The Port Authority shall have the right, on ninety (90) days' notice, to recapture an aggregate of three (3) acres of the Premises in any sixty (60) month period of the Term for the purpose of facilitating the efficient movement of vehicles and cargo in and around the Facility, for the purpose of enhancing ingress and egress to adjacent leaseholds and public berths, for the purpose of complying with any United State Coast Guard, Department of Homeland Security, Port Authority, or any other governmental requirements for the safety of the Facility, as determined in the sole discretion of the Port Authority or other governmental agency, or for the purpose of installation of utilities; provided, however, that the Port Authority, to the extent possible, shall provide replacement acreage in an alternate location on Port Newark North, or if said replacement acreage is not available, shall provide a proportionate adjustment of the Rental. The Port Authority shall be responsible for those costs associated with redefining the Premises under this provision such as security requirements, but

such costs shall not include costs expended in the Lessee's ordinary course of business operations, labor costs or any diminution in value.

The Lessee shall also have the right, on 90 days notice to surrender an aggregate of 3 acres of the Premises in any 60 month period of the Term for any purpose; provided, however, that any notice given by the Lessee in accordance with the provisions of this Section 25 shall not be effective if the Lessee has been delivered a notice of default from the Port Authority as to which any applicable period to cure has passed, or has been delivered a notice of termination from the Port Authority. Lessee shall be responsible for those costs associated with redefining the Premises under this provision such as security requirements, but such costs shall not include costs expended in the Port Authority's ordinary course of business operations, labor costs or any diminution in value.

Termination under the provisions of this Section 25 shall have the same effect as if the effective date of termination stated in the notice delivered hereunder were the date of expiration of the Term of the letting of this Lease with regard to the specific portion of the Premises to which the termination applies.

(b) In the event the Port Authority intends to recapture greater than three (3) acres of the Premises under this Agreement in any sixty (60) month period of the Term for a public purpose, the Port Authority shall have provided six (6) months' prior notice to Lessee (the "Recapture Notice"), and shall, to the extent possible, provide replacement acreage in an alternate location on Port Newark North, or if said replacement acreage is not available, shall provide a proportionate adjustment of the Rental, taking into account the operational impact of such recapture on Lessee. The parties shall endeavor in good faith to agree upon a resolution, however, in the event the parties are unable to come to a mutual agreement within sixty (60) days of the date of the Recapture Notice, each party shall retain an appraiser to determine of the value of acreage proposed to be recaptured. The Port Authority and Lessee, shall each select an appraiser, experienced in appraising real estate, banking and similar disciplines in the Northern New Jersey area and provide written notice of said appraiser's full name and present address to each other; the two appraisers so selected shall endeavor to amicably resolve the valuation issue between the Port Authority and Lessee within sixty (60) days of each party's retention of such appraiser. If the appraisers are unable to arrive at a mutually agreed upon fair market value, the two (2) appraisers shall within thirty (30) days select a mutually agreed upon third appraiser (experienced in the

business of appraising real estate, banking and similar disciplines); and they shall at once notify both parties in writing of the name and address of the third appraiser. The third appraiser shall review and utilize the two appraisals and shall render a binding decision based on such two appraisals.

(c) The parties may mutually agree to terminate or surrender any other acreage during the Term of the Lease.

Section 26. Right of Re-entry Upon Termination

The Port Authority shall, as an additional remedy upon the giving of a notice of termination as provided in Section 24 of this Agreement, have the right to re-enter the Premises and every part thereof upon the effective date of termination without further notice of any kind, and may regain and resume possession either with or without the institution of summary or other legal proceedings, or otherwise. Such re-entry, or regaining or resumption of possession, however, shall not in any manner affect, alter or diminish any of the surviving obligations of the Lessee under this Agreement, and shall in no event constitute an acceptance of surrender.

Section 27. 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 28. Survival of the Obligations of the Lessee Upon Termination

(a) In the event that (i) the letting shall have been terminated in accordance with a notice of termination as provided in Section 24 of this Agreement, or (ii) the Port Authority has re-entered, regained or resumed possession of the Premises in accordance with the provisions of Section 26 of this Agreement, then all of the obligations under this Agreement shall survive such termination or cancellation, re-entry, regaining or resumption of possession, including repair and maintenance obligations, provided, however, that any obligation of the Lessee hereunder relating to the Lessee's Construction Work shall only survive to the extent that such Lessee's Construction Work has been fully approved and has commenced, in accordance with Section 20 hereof. Upon such termination, 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, and, notwithstanding anything appearing in this Section to the contrary, the Port Authority does not waive any rights it may have against Lessee under any performance bonds or any other agreements.

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

(1) the amount of all unfulfilled monetary obligations of the Lessee under this Agreement, including, without limitation thereto, all sums constituting Additional Rental under Section 21 of this Agreement, and all sums constituting the Basic Rental under Sections 3 - 6 of this Agreement, accrued prior to the effective date of termination, and the cost to and expenses of the Port Authority for fulfilling all other obligations of the Lessee which would have accrued or matured during the balance of the Term or on the expiration date originally fixed or within a stated time after expiration or termination; and

(2) an amount equal to all reasonable costs and expenses incurred by the Port Authority in connection with such termination, cancellation, regaining or resumption of possession, collection of 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 outside counsel), 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 29. Reletting by the Port Authority

The Port Authority, upon termination or cancellation pursuant to Section 24 of this Agreement, or upon any re-entry, regaining or resumption of possession pursuant to Section 26 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 a part of the Premises or of the entire Premises, and may be for any period of time (whether the same as or different from the amount remaining in the Term hereunder), 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 24 of this Agreement, or upon re-entry, regaining or resumption of possession pursuant to Section 26 of this Agreement, have the right to repair and to make structural or other changes in the Premises, including changes which alter the character of the Premises and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder. In the event either of any reletting or of any actual use and occupancy by the Port Authority (the mere right to use and occupy not being sufficient however) there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the Premises (or portion thereof) during the balance of the Term as the same is originally stated in this Agreement, or from the market value of the occupancy of such portion of the Premises as the Port Authority may itself during such period actually use and occupy, all reasonable expenses, reasonable costs and reasonable disbursements incurred or paid by the Port Authority in connection therewith. Neither any such letting nor any such other use or occupancy shall be or be construed to be an acceptance of a surrender. The Port Authority acknowledges that it has an obligation to mitigate its damages in accordance with applicable law.

Section 29A. Remedies Under Bankruptcy and Insolvency Codes

If an order for relief is entered or if any stay of proceeding or other act becomes effective in favor of Lessee the Port Authority's interest in this Lease in any proceeding commenced by or against Lessee under the present or any future United States Bankruptcy Code or in a proceeding which is commenced by or against Lessee seeking a reorganization,

arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future applicable federal, state or other bankruptcy or insolvency statute or law, the Port Authority shall be entitled to invoke any and all rights and remedies available under such bankruptcy or insolvency code, statute or law or under this Agreement including such rights and remedies as may be necessary to adequately protect the Port Authority 's right, title and interest in and to the Premises or any part thereof and adequately assure the complete and continuous future performance of Lessee's obligations under this Agreement. Adequate protection of the Port Authority's right, title and interest in and to the Premises, and adequate assurance of the complete and continuous future performance of Lessee's obligations under this Agreement, shall include all of the following requirements:

(a) that Lessee shall comply with all of its obligations under this Agreement;

(b) that Lessee shall continue to use the Premises only in the manner permitted by this Agreement; and

(c) that if Lessee's trustee, Lessee or Lessee as debtor-in-possession assumes this Agreement and proposes to assign it (pursuant to Title 11 U.S.C. Section 365, as it may be amended) to any person who has made a bona fide offer therefor, the notice of such proposed assignment, giving (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided the Port Authority to assure such person's future performance under this Agreement, including the assurances referred to or intended by Title 11 U.S.C. Section 365, as it may be amended, and such other assurances as the Port Authority may reasonably require, shall be given to the Port Authority by the trustee, Lessee or Lessee as debtor-in-possession of such offer, not later than twenty (20) days before the date that the trustee, Lessee or Lessee as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment, and Port Authority shall thereupon have the prior right and option, to be exercised by notice to the trustee, Lessee and Lessee as debtor-in-possession, given at any time before the effective date of such proposed assignment, to accept an assignment of this Agreement upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such person (including any higher or better offers made that may be made in such proceedings), less any

brokerage fees, finders' fees, procuring fees, or commissions, or any similar fees or commissions which may be payable out of the consideration to be paid by such person for the assignment of this Agreement ("Brokerage Commissions"). The Port Authority shall have no obligation to pay any such Brokerage Commissions. If Lessee attempts to arrange such an assignment of this Lease, then as an element of the required adequate assurance to the Port Authority, and as a further condition to Lessee's right to make such an assignment, Lessee's agreement(s) with brokers shall, to the Port Authority's reasonable satisfaction, provide that the Port Authority shall have no obligation to pay such Brokerage Commissions if the Port Authority exercises the Port Authority's rights under this Section 29 A.

Section 30. 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 31. 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 16(c) hereof regarding the condition of the Premises at the expiration or termination of the letting hereunder.

(b) The Lessee shall have the right at any time during the letting to remove from the Premises, all its equipment, removable fixtures and other personal property, 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, provided, however, that the Port Authority shall have given the Lessee twenty (20) days' written notice of the Port Authority's intent to sell such property 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 (or the Port Authority shall have recourse to the letter of credit provided pursuant to this Agreement). 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. Notwithstanding the foregoing, Lessee shall not indemnify nor hold harmless the Port Authority, its Commissioners, officers, agents, employees or contractors for their respective intentional tortious acts or gross negligence.

Section 32. Acceptance of Surrender of Lease

No agreement of surrender or purported acceptance of 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 33. Notices

(a) All notices, permissions, requests, consents and approvals given or required to be given to or by either the Port Authority or the Lessee, except as otherwise expressly provided herein, shall be in writing, and all such notices and requests shall be (i) personally delivered to the party or to the duly designated officer or representative of such party; or (ii) delivered to an officer or representative at their office during regular business hours; or (iii) if directed to the Lessee, delivered to the Premises at any time to the attention of the President; or (iv) forwarded to such party, officer or representative at the office by registered or certified mail, or delivered to such party at such address by "Federal Express" or similar reputable overnight courier service. 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 the first page of this Agreement, as their respective offices where notices and requests may be served.

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

Section 34. 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; or

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

(5) None of the provisions of this paragraph (a) shall be taken to alter, amend or diminish any obligation of the Lessee assumed in relation to its invitees, business visitors, agents, representatives, contractors, customers, guests, or other persons, firms or corporations doing business with it or using or on or at the Premises with its consent.

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

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

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

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

(f) All payments required of the Lessee by this Agreement shall be made by mail to the Port Authority at P. O. Box 95000, Philadelphia, Pennsylvania 19195-1517 or via wire transfer to TD Bank, Bank ABA Number: 031201360, Account Number: or to such other address as may be substituted therefor.

(g) This Agreement does not render the Lessee the agent or representative of the Port Authority for any purpose whatsoever. Neither a partnership nor any joint venture is hereby created.

(h) As used in Sections 13 and 16 hereof, the phrase "utility, mechanical, electrical and other systems" shall mean and include (without limitation thereto) the following: machinery, engines, dynamos, boilers, elevators, escalators, incinerators and incinerator flues, systems for the supply of fuel, electricity, water, gas and steam, plumbing, heating, sewerage, drainage, catch basins, storm grates, storm drains, ventilating, air-conditioning, communications, fire-alarm, fire-protection, sprinkler, telephone, telegraph and other systems, fire hydrants and fire hoses, and their respective wires, mains, switches, conduits, lines, tubes, valves, pipes, motors, cables, fixtures and other equipment. The phrase "utility, mechanical, electrical and other systems" shall specifically exclude any underground utilities, including storm water underground utilities in accordance with Section 16(f).

(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, "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 or her duly designated representative or representatives.

(k) 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.

(l) 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, without disturbance 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 obligations hereunder shall continue only so long as it remains the owner of the Premises.

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

(n) Intentionally Deleted.

(o) Intentionally Deleted.

(p) The Lessee is not acquiring an ownership interest in the Premises under this Agreement. Capital expenditures in connection with the Premises have been, or are expected to be made, in whole or in part by the Port Authority from "exempt facility bonds" (within the meaning of Section 142(a) of the Internal Revenue Code of 1986, as amended) issued by the Port Authority from time to time (such capital expenditures are hereinafter called "the Property"). The Lessee hereby irrevocably elects not to claim for purposes of federal, state or local taxation of income any depreciation or investment credits, for which it may be eligible with respect to the Property. The Lessee further agrees that this irrevocable election shall be binding upon its successors in interest, if any, under this Agreement, and as a condition of any permitted sale or assignment of the interest of the Lessee under this Agreement, every successor in interest shall furnish an executed irrevocable election in the form of the immediately preceding sentence to the Port Authority. The foregoing shall not grant or be deemed to grant to the Lessee the right to sell or assign, in any manner, its interest under this Agreement.

(q) Neither this Agreement nor a Memorandum of Lease may be recorded of record.

(r) It is understood that the election set forth in paragraph (p) of this Section 34 shall not apply to any personal property of the Lessee (including equipment and trade fixtures) removable without material damage to the Premises leased to the Lessee pursuant to this Agreement which are installed by the Lessee in or on the Premises leased to the Lessee pursuant to this Agreement and which shall be deemed to be and remain the property of the Lessee.

(s) Unless otherwise specified, whenever in this Agreement the consent of the Port Authority is required to be obtained, the giving of the consent shall be in the sole discretion of the Port Authority.

(t) This Agreement shall be governed by the laws of the State of New Jersey without regard to conflict of law principles. The parties irrevocably and unconditionally consent and submit to the exclusive jurisdiction and venue of the state and federal courts in the State of New Jersey (in the District in which the Facility is located).

(u) The Port Authority shall not be deemed to have modified or waived any of its rights or remedies hereunder unless such modification or waiver is in writing and signed by the Port Authority, and then only to the extent specifically set forth therein. A waiver in one specific event shall not be deemed to apply either as a waiver or bar to any right or remedy stemming from a subsequent event.

(v) The Lessee shall be responsible for the provision of parking facilities for all of Lessee's employees working in office buildings, processing buildings and yards located at the Facility; provided, however, that the Lessee shall not be responsible for providing parking facilities for ILA workers discharging or loading vessels or draying vehicles.

Section 35. Premises

(a) The Port Authority shall deliver the Premises to the Lessee in its presently existing "as is" condition and the Lessee agrees to and shall take the Premises in its "as is" "where is" condition, without any representations or warranties of any kind whatsoever, and except as provided (i) in Section 1A(e)(i) with respect to Building 264, and (ii) in Section 1A(b) with respect to the grading of former Building 291, the Port Authority shall have no obligations under this Agreement for finishing work or preparation of any portion of the Premises for the Lessee's use. The Lessee acknowledges that pursuant to Lease 265, Lease 266 and Lease 291, it has been in continuous occupancy of all of the Premises except for the New Parcels prior to the commencement of this Lease and is fully familiar with the Premises.

Notwithstanding the foregoing, however, the Port Authority represents that the New Parcels (including all buildings and areas located thereon) that will be incorporated into the Premises subsequent to the Lease Commencement Date shall be delivered in a condition that is in compliance with all applicable codes and requirements. Further, the Port Authority represents that the fire protection systems and sprinkler systems in all buildings existing on the Premises shall be in working condition and compliant with all applicable codes and regulations upon the delivery of the Premises to the Lessee.

(b) Except as set forth in paragraph (a) of this Section 35, 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 a likelihood 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.

(c) 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, ice, 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. Notwithstanding the foregoing, the Port Authority shall at all times remain liable for its intentional tortious acts and/or gross negligence.

Section 36. Force Majeure

(a) Neither the Port Authority nor the Lessee shall be liable for any failure, delay or interruption in performing its respective obligations hereunder due to causes or conditions beyond its control, including, without limitation thereto, subject to the provisions of paragraph (m) of Section 20, strikes, boycotts, picketing, slow-downs, work stoppages or labor troubles of any other type (whether affecting the Port Authority, the Lessee or their respective contractors or subcontractors), embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior or applicable governmental authority, weather conditions, tides, riots, rebellion, sabotage or any other circumstances for which it is not responsible and which are not within its control. 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; provided, however, that the provisions of this paragraph shall not apply to failures by the Lessee to pay the Rental specified hereunder, and shall not apply to any other charges or money payments.

(b) The Port Authority shall be under no obligation to supply any service or services if and to the extent and during any period that the supplying of any such service or services or the use of any component necessary therefor shall be prohibited or rationed by any federal, state or municipal law, rule, regulation, requirement, order or direction and if the Port Authority deems it in the public interest to comply therewith, even though such law, rule, regulation, requirement, order or direction may not be mandatory on the Port Authority as a public agency.

(c) No abatement, diminution 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 37. Brokerage

The Lessee represents and warrants that no broker has been engaged, hired or contracted 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 the Port Authority harmless of and from any and every claim for commission or brokerage made by any and all persons, firms or corporations whatsoever who allege to have acted for the Lessee for services in connection with the negotiation and execution of this Agreement.

Section 38. Non-Liability of Individuals

No Commissioner, director, officer, agent or employee of either party to this Agreement shall be held personally liable to the other party under any term or provision of this Agreement or because of its execution or attempted execution or because of any breach or alleged breach thereof.

Section 39. 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, internet, telegraph, cable, or electrical guard or watch service.

(b) The Lessee shall promptly pay all utility bills covering its own consumption. Payment of water bills shall include any factor which may have been included by the appropriate governmental agency as a sewer-rent or other charge for the use of a sewer system. In the event that any such utility bill or bills shall remain unpaid for a period of six (6) months after the same becomes due and payable, or in the event that any such bill remains unpaid at the date of expiration or earlier termination of the letting under this Agreement, the Port Authority may pay the same and any interest or penalties thereon, and the total payment or payments shall constitute an item of Additional Rental, payable to the Port Authority on demand. Where sewage is contained in tanks periodically cleaned by a contractor paid by the Port Authority, the Lessee shall pay such portion of the contract charge as may be reasonably determined by the Port Authority, on demand.

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

(d) If during the Term of this Agreement, 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 and/or used by the Lessee at the Premises or the structures or buildings, which, or a portion or portions of which, are included in the Premises, then 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 (collectively, an "Interruption") in any water or gas service, whether 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 constructed to be an eviction of the Lessee, or shall constitute grounds for any diminution or abatement of the Rental payable under this Agreement, or grounds for any claim by the Lessee for damages, consequential or otherwise.

(f) Without in any way 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), whether master meters or not, are located at or on the Premises.

Section 40. Right of Termination - Ownership and Control

(a) The Lessee hereby represents, knowing that the Port Authority is relying on the accuracy of such representation, that it is a corporation incorporated and existing under the laws of the State of New Jersey, and that the requisite corporate consents to enter into this Agreement have been obtained. The Lessee hereby represents that all of the common stock and other securities of the Lessee is owned by Gary LoBue and August LoBue.

(b) The Lessee recognizes the fact that a change in Control (as defined in Section 18 hereof), Transfer of securities in the Lessee or of a substantial part thereof, entry into any management, services agreement or similar type of agreement for operations on the Premises, or any other act or transaction involving or resulting in a change in the ownership or distribution of Lessee's securities or with respect to the identity of the parties in Control of the Lessee or the Premises, or the degree thereof (except as provided in Section 18), is for practical purposes a Transfer or disposition of the rights obtained by the Lessee through this Agreement. The Lessee further recognizes that because of the nature of the obligations of the Lessee hereunder, the qualifications and identity of the Lessee and its security holders are of particular concern to the Port Authority. The Lessee also recognizes that it is because of such qualifications and identity that the Port Authority is entering into this Agreement

and, in doing so, is willing to accept and rely on the Lessee for the faithful performance of all obligations and covenants hereunder. Therefore, the Lessee represents and agrees for itself, its present owners and any successor in interest thereof, respectively, that without the prior written approval of the Port Authority, there shall be no Transfer of any securities in the Lessee by its present owners to any other Person; nor shall the present owners suffer any transfer of such securities to be made; nor shall there be or be suffered to be made by the Lessee or by any owner of securities therein, any other change in the ownership of such securities or in the relative distribution thereof, or with respect to the identity of the parties in Control of the Lessee or the degree thereof, by any other method or means, whether by increased capitalization, merger with another corporation, corporate or other amendments, issuance of additional new securities or classification of securities or otherwise; and the Lessee further represents and agrees for itself and its present owners, and any successor in interest thereof, respectively, that the direct ownership and Control of the Lessee shall be and remain as represented in paragraph (a) of this Section.

(c) The Lessee acknowledges the Lessee's assurance of faithful performance of these provisions is a special inducement for the Port Authority to enter into this Agreement. Noncompliance on the part of the Lessee with the provisions contained in this Section shall be and be deemed an Event of Default under Section 24 of this Agreement, and the Port Authority shall have the right to terminate this Agreement and the letting hereunder pursuant to the provisions of said Section 24 hereof.

(d) The foregoing right of termination shall be in addition to all other rights of termination the Port Authority has under this Agreement and the failure of the Port Authority to exercise its right of termination under this Section at any time in which it may have such right shall not affect, waive or limit its right to exercise said right of termination at any subsequent time.

(e) The phrase "direct or indirect beneficial ownership" shall include without limiting the generality thereof the direct or indirect power through contract, arrangement, understanding, relationship or otherwise to dispose of or to direct the disposal of, or to vote or to direct the voting of, any voting security of an entity.

(f) The term "security" shall include any stock, any limited liability company interest, any bond which carries voting rights, or rights or options to subscribe to, purchase, convert or transfer into or otherwise acquire equity securities, or any other obligation of an entity the holder of which has any voting rights including but not limited to the right to vote for the election of members of the board of directors or board of managers of said entity and shall include any security convertible into a voting security and any right, option or warrant to purchase a voting security.

(g) The Lessee shall promptly advise the Port Authority of any change in the representations made in this Section 40 not later than fourteen (14) days thereafter.

Section 41. Condition Precedent.

The Lessee and the Port Authority acknowledge that, simultaneously with the execution of this Agreement, the Lessee and the Port Authority contemplate the execution and delivery of a Surrender and Termination Agreement (the "Lessee Surrender Agreement"), which execution and delivery shall constitute a condition precedent to the execution and delivery of this Agreement. Further, (i) the execution and delivery of a Processing Agreement between the Lessee and WWL, (ii) the execution and delivery of a Surrender and Termination Agreement between WWL and the Port Authority, and (iii) the execution and delivery by WWL of a Contract of Rental Guaranty to the Port Authority, shall also constitute conditions precedent to the execution and delivery of this Agreement.

Section 42. Security

(a) Upon the execution of this Agreement by the Lessee and delivery hereof to the Port Authority, the Lessee shall simultaneously deliver to the Port Authority, as security for the Lessee's full, faithful and prompt performance of and compliance with all of its obligations under this Agreement, a clean irrevocable letter of credit issued by a banking institution reasonably satisfactory to the Port Authority and having its main office within the Port of New York District, in favor of the Port Authority in the amount of $2,400,000.00, allowing for partial and complete draws upon presentation of a site draft.

(b) The letter of credit shall be replaced with a replacement or amended letter of credit in an adjusted amount each time the parties execute any supplements, amendments or

spreaders to this Lease that add to or surrender portions of the Premises, which adjusted amount shall increase upon addition of property and decrease upon surrender of property.

(c) 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 and until the completion of a final inspection to be conducted by the Port Authority of the Premises, which inspection shall be not less than six (6) months and not more than twelve (12) months following the expiration or termination of this Agreement (the "Inspection"), and provision of a letter from the Port Authority directly to the banking institution requesting the continuation of the letter of credit (such continuance may be by provision for automatic renewal or by substitution of a subsequent satisfactory letter of credit), provided, however, that in the event any portion of the Premises are re-let by the Port Authority to another tenant, the Inspection shall be conducted as to that portion of the Premises prior to such re-letting. Subsequent to such Inspection, the Port Authority agrees to provide a punch list of those certain objectionable items with respect to the Inspection of each portion of the Premises. Following the Inspection, the Port Authority agrees to release the letter of credit less the aggregate cost (whose determination shall be in the opinion of the Port Authority) of the objectionable items on the punch list and less any other due costs due the Port Authority under this Agreement. Notwithstanding the foregoing, in the event of a termination based upon an Event of Default under this Agreement, all of the Port Authority's rights and remedies in accordance with this Agreement with respect to such Default shall control. Upon notice of cancellation of a letter of credit, the Lessee agrees that unless, by a date not less than twenty (20) days prior to the scheduled expiry thereof, the letter of credit is replaced by another letter of credit reasonably satisfactory to the Port Authority, the Port Authority may draw down the full amount thereof and thereafter the Port Authority will hold the same as security under this Agreement.

(d) Failure to provide such a letter of credit at any time during the Term, 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, on demand of the Port Authority and within five (5) business days thereafter, shall bring the letter of credit back up to its full amount. In addition to any and all other remedies available to it, the Port Authority shall have the right, at its option, at any time and from time to time, with or without notice, to draw upon the letter of credit or any part thereof in whole or partial satisfaction of any of its claims or demands against the Lessee arising out of or with respect to the Lessee's obligations under this Agreement. There shall be no obligation on the Port Authority to exercise such right and neither the existence of such right nor the holding of the letter of credit itself shall cure any default or breach of this Agreement on the part of the Lessee. After the expiration or earlier termination of the letting under this Agreement (as it may have been amended or extended or both), and upon condition that no default under this Agreement (as it may have been amended or extended or both), shall have occurred and upon written request therefor by the Lessee, the Port Authority will return the letter of credit to the Lessee less the amount of any and all unpaid claims and demands (including estimated damages) of the Port Authority by reason of any default or breach by the Lessee of this Agreement or any part thereof.

(e) For purposes of the provisions set forth in this Agreement, the Lessee hereby certifies that its I.R.S. Employer Identification No. is

Section 43. 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 herein below 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 (0.8%) of such unpaid amount for each late charge period. There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the Port Authority as the result of Port

Authority audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under this Agreement. Each late charge shall be payable immediately upon demand made at any time therefor by the Port Authority. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the Port Authority to payment of any late charge or late charges payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be and become Additional Rental, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the Rental 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 Section 24 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 44. Intentionally Deleted.

Section 45. Port Authority Costs Following Termination

Notwithstanding anything appearing to the contrary in this Agreement, in the event the Port Authority exercises its right of termination under the provisions of Section 24 of 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, the collection of all amounts due to the Port Authority, the restoration of the Premises (on failure of the Lessee to have it restored), the preparation of the Premises for use and occupancy by a succeeding lessee, the care and maintenance of the Premises during any period of nonuse of the Premises; the foregoing shall include, without limitation, personnel costs and reasonable legal fees and expenses (including but not limited to the cost to the Port Authority of the legal services of outside counsel), repairing and altering the Premises and putting the Premises in working order.

Section 46. Holdover Rent

Unless otherwise notified by the Port Authority in writing at least ninety (90) days prior to the expiration or earlier termination of the Term of this Lease, in the event that the Lessee remains in possession of the Premises after the expiration or earlier termination of the Term of the Lease, the Lessee shall be deemed a "holdover tenant" and upon notice from the Port Authority shall be obligated to pay holdover rental in the amount of 200% of the last due annual Rental all as in accordance with law as a result of the Lessee's status as a holdover tenant. Nothing herein contained will be deemed to give the Lessee any right to remain in possession of the Premises after the expiration or earlier termination of the Term of the Lease.

Section 47. Audit Fee

In the event that upon conducting an examination and audit under the provisions of the Lease (and as it may be hereinafter amended), the Port Authority determines that unpaid amounts are due to the Port Authority by the Lessee (the "Audit Findings"), the Lessee will be obligated, and hereby agrees, to pay to the Port Authority a service charge in the amount equal to five percent (5%) of the Audit Findings. Each such service charge will be payable immediately upon demand (by notice, bill or otherwise) made at any time therefor by the Port Authority. Such service charge(s) will be exclusive of, and in addition to, any and all other moneys or amounts due to the Port Authority by the Lessee under the Lease or otherwise. No acceptance by the Port Authority of payment of any unpaid amount or of any unpaid service charge will be deemed a waiver of the right of the Port Authority of payment of any late charge(s) or other service charge(s) payable under the provisions of the Lease with respect to such unpaid amount. Each such service charge will be and become fees, recoverable by the Port Authority in the same manner and with like remedies as if it were originally a part of the Rentals to be paid. Nothing in this section is intended to, or will be deemed to, affect, alter, modify or diminish in any way (i) any rights of the Port Authority under the Lease, including, without limitation, the Port Authority's rights to terminate the Lease or (ii) any obligations of the Lessee under the Lease. This provision shall not apply to security matters.

Section 48. Waiver of Jury Trial

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

Section 49. Counterparts

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

Section 50. Environmental Responsibilities

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

(1) "Environmental Damage" and "Environmental Damages" shall mean any one or more of the following: (i) the presence on, about, under or migrating from the Premises of any Hazardous Substance (a) whose presence occurred during the "Term" which definition of "Term" shall for purposes of this Section include periods prior to the letting under this Agreement during which the Lessee was in occupancy of the Premises under Lease 265, Lease 266 and Lease 291, as applicable) or (b) resulting from any act or omission of the Lessee or Lessee's Representative (as defined herein) during the Term, and/or (ii) the disposal, release or threatened release of any Hazardous Substance on, about, under or migrating from the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and/or (iii) the presence of any Hazardous Substance on, about or under other property at the Facility or elsewhere as a result of the Lessee's use and occupancy of the Premises or a migration of a Hazardous Substance from the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and/or (iv) any personal injury, including wrongful death, property damage and/or natural

resource damage arising out of or related to any such Hazardous Substance, and/or (v) the violation of any Environmental Requirements pertaining to any such Hazardous Substance, the Premises and/or the activities thereon.

(2) "Environmental Requirement" and "Environmental Requirements" shall mean all applicable present and future laws, statutes, enactments, resolutions, regulations, rules, treaties, ordinances, codes, licenses, appropriate and applicable guidance documents, permits, orders, approvals, plans, authorizations, concessions, franchises, requirements, and similar items of all Governmental Authorities and all applicable judicial, administrative and regulatory decrees, common law standards, 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 surface or subsurface strata, the sewer or septic system, or relating to the manufacture, processing, distribution, generation, use, treatment, storage, disposal, transport or handling of Hazardous Substances;

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

(iii) All requirements pertaining to the protection of natural resources, species or ecological amenities.

(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, special nuclear byproduct material, asbestos in any form, asbestos containing material, any chemicals, materials, waste or other substance that are listed, designated, classified, determined to be or defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "pollutants,"

"contaminants," "toxic substances," "toxic pollutants," "hazardous constituents," or words of similar import, under or pursuant to any Environmental Requirement and inclusive of any mixture or solution thereof, urea formaldehyde foam insulation, polychlorinated byphenyls ("PCBs"), chemicals known to cause cancer or reproductive toxicity, petroleum, petroleum products and petroleum based derivatives, 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. When an Environmental Requirement defines any of the foregoing terms more broadly than another, the broader definition shall apply.

(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, any and all risks of any kind whatsoever caused by, arising out of or in connection with, the conditions of the Premises from and after the commencement of the Term, including without limitation all Environmental Requirements and all Environmental Damages. Except for Environmental Damages arising from the sole gross negligence or intentional tortious 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 losses, damages, judgments, fines, penalties, payments in lieu of penalties, settlements, and legal expenses incurred by the Port Authority in connection therewith). If so directed, the Lessee shall at its own expense defend any suit based upon the foregoing, and in handling such suit 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. Lessee shall not be liable for the condition of the Premises under this Section existing or created prior to the commencement of the Term, unless the Lessee exacerbates such condition as further described in paragraph (e) of this Section 50.

(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, upon notice from the Port Authority, promptly take all actions to completely remove and remediate: (1) any Hazardous Substance present on, about, under or migrating from the Premises whose presence occurred during the Term or resulted from any act or omission of the Lessee or Lessee's Representative (as defined herein) during the Term, (2) any Hazardous Substance disposed of or released on the Premises during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, and (3) any Hazardous Substance present on, about or under other property at the Facility or elsewhere whose presence resulted from the Lessee's use and occupancy of the Premises or which migrated from the Premises to such other property during the Term or thereafter if the Hazardous Substance came to be present on, about or under the Premises during the Term, which any Governmental Authority or any Environmental Requirements or any violation thereof require to be removed and/or remediated, or which in the sole opinion of the Governmental Authority and Port Authority are necessary to mitigate Environmental Damages (which determination in the case of the Port Authority shall not be made in an arbitrary or capricious manner). Such removal and remediation shall include, but not be 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. Any soil remediation may be to applicable limited restricted and/or restricted (nonresidential-industrial) soil standards set forth in the applicable Environmental Requirements, and may utilize institutional and engineering controls, provided that none of the foregoing controls would either prohibit nor limit the use of the Premises or the Facility for the purposes set forth in Section 8 hereof now or in the future. Lessee further agrees to execute any declaration of environmental restrictions, deed notice, or other document

necessary to effectuate the implementation or recordation of institutional or engineering controls, as applicable, and, in the event institutional or engineering controls are placed on the Premises, Lessee shall be fully responsible for and shall (i) maintain such controls, (ii) conduct any compliance monitoring as required under all applicable Environmental Requirements, (iii) obtain any permits in connection with such controls required by applicable Environmental Requirements, (iv) establish all required funding sources in connection with the maintenance of such institutional or engineering controls, and (v) file with applicable Governmental Agencies all applicable certifications and reports. The Lessee agrees that with respect to any of its obligations set forth above in this paragraph it will not make any claim against the Port Authority and/or the City of Newark and/or the State of New Jersey for contribution under any Environmental Requirement. Notwithstanding the foregoing, the Lessee shall not be responsible for any Hazardous Substance that migrates onto, about, or under the Premises from off-Premises, except as provided in paragraph (e) of this Section. 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 any of the foregoing may be filed by the Port Authority with the appropriate Governmental Authority on behalf of the Lessee and at the Lessee's cost and expense in the event Lessee fails to sign and file same, after reasonable notice to Lessee and Lessee's

failure to cure. Further, the Lessee agrees unless directed otherwise by the Port Authority, to provide the Manager of the Facility with copies of all information, documentation, records, correspondence, notices, certifications, reports, test results and all other submissions provided by the Lessee to a Governmental Authority at the same time such are provided to a Governmental Authority and by a Governmental Authority to the Lessee at the time the same are provided to the Lessee with respect to any Environmental Requirements.

(e) Notwithstanding any other provision of this Section 50, Lessee shall be responsible for all Environmental Damage involving any Hazardous Substance whose presence on, about, under or migrating from the Premises occurred prior to the commencement of the Term 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 (which shall not be arbitrary or capricious) regarding any Hazardous Substance on, about or under the Premises, including specifically those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities (which agreements have been provided by the Port Authority to the Lessee or are subsequently provided to Lessee in the future), or construction guidelines, all of the foregoing which have been or may be established by the Port Authority for the Facility and/or the Premises and submitted to the Lessee, and/or are subsequently provided to Lessee in the future, and/or (2) any grossly negligent act or omission by the Lessee or the Lessee's Representative with respect to such Hazardous Substance. For purposes of this Section 50, "Lessee's Representative" shall mean its officers, employees, shareholders, members, 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, or are on the Premises without Lessee's consent but due to Lessee's failure to undertake adequate security measures.

(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 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 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 all of its costs thereof.

(g) Notwithstanding any other provision of this Section, and without limiting the generality of subparagraph (e) of this Section, the Lessee's obligations, undertakings and responsibilities under this Section 50 shall not apply to any Environmental Damage involving any Hazardous Substance which migrated or shall migrate onto the Premises prior to or during the Term (hereinafter called the "Migrated Hazardous Substance"), except that Lessee shall be responsible for such Migrated Hazardous Substance if any clean-up, remediation or other response action, or indemnification or other action under this Section 50 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; (2) the failure by the Lessee or the Lessee's Representative (which shall not be arbitrary or capricious) to observe and comply with any Port Authority requirements, directives and procedures regarding any Hazardous Substance on, about or under the Premises, including specifically those set forth in any design guidelines, best management practices, agreements (including voluntary agreements) with Governmental Authorities (which agreements have been provided by the Port Authority to the Lessee or are subsequently provided to Lessee in the future), or construction guidelines, all of the foregoing which have been or may be established by the Port Authority for the Facility and submitted to the Lessee; and/or (3) 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, under or migrating from the Premises occurred prior or subsequent to the commencement of the Term; (2) whether any Hazardous Substance disposed of or released from the Premises or which migrated from the Premises came to be present on, about or

under the Premises prior or subsequent to the commencement of the Term; and (3) whether the Lessee exacerbated any pre-existing environmental condition so as to cause a Hazardous Substance to first become regulated during the Term. For purposes of this 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 paragraph shall survive the expiration or termination of this Agreement.

Section 51. Record-Keeping Obligations

(a) The Lessee will, for the Term of this Agreement and for three (3) years thereafter: (i) maintain books, records and accounts with respect to the business and operations of the Lessee on a separate stand-alone basis from any other business operations of the principals of Lessee and any other direct or indirect subsidiaries thereof, in accordance with good business practice and applicable law; and (ii) make available to the Port Authority, during normal business hours upon the Port Authority's reasonable prior notice to the Lessee, at the office of the Lessee or one of its agents or advisors solely for review by the Port Authority and its agents at such location and without taking any copies, that portion of such books, records and accounts relating to operations and exclusive of security matters, at the Premises leased under the Lease or as may reasonably be required for the Port Authority to verify calculations relating to throughput rentals and reimbursement requests made from time to time. In no event shall this provision be deemed to constitute a statute of limitations or a restriction on the Port Authority's right to commence suit against the Lessee in connection with this Agreement, and the loss or destruction of documents by Lessee or its agents or representatives shall not constitute a defense to any such suit.

(b) The Port Authority agrees that (i) all information delivered pursuant to this paragraph (b), including, without limitation, the documents delivered pursuant to clause (a) above, and (ii) all notes, reports and analyses prepared by the Port Authority, its representatives or its advisors in connection with their review of materials provided or made available pursuant to this section, including, without limitation, the books and records and other materials provided or made available pursuant to paragraph (a) above, will, to the

fullest extent permitted by applicable law, be treated confidentially and protected from disclosure by the Port Authority, including, without limitation, pursuant to any available exceptions or exemptions under the Port Authority's "Freedom of Information Policy and Procedure". If the Port Authority receives any request to disclose any of the information provided hereunder, the Port Authority agrees to provide the Lessee with prior notice of such requirement so that the Lessee may seek a protective order or other appropriate remedy, and/or waive compliance with the terms of this provision. If such protective order or other remedy is not obtained, or if the Lessee waives compliance with the provisions hereof, the Port Authority agrees to disclose only that portion of the information that it is advised by counsel is legally required and it will exercise its commercially reasonable efforts to obtain assurance that confidential treatment will be accorded to such information.

Section 52. Entire Agreement

Except as otherwise provided herein, this Agreement, together with all schedules and exhibits hereto, constitutes the entire agreement between the Port Authority and the Lessee on the subject matter, and shall supersede and replace Lease 265, Lease 266 and Lease 291 in their entirety. This Agreement 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.

Section 53. OFAC Representations

Lessee hereby represents and warrants to the Port Authority that the Lessee is not, and shall not become, a person or entity with whom the Port Authority is restricted from doing business under the regulations of the Office of Foreign Asset Control ("OFAC") of the United States Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order on Terrorist Financing Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit or Support Terrorism), or other governmental action and is not engaging, and shall not engage, in any dealings or transactions or be otherwise associated with such persons or entities. Lessee acknowledges that the Port Authority is entering into this Agreement in reliance on the

foregoing representations and warranties and that such representations and warranties are a material element of the consideration inducing the Port Authority to enter into and execute this Agreement. In the event of any breach of the foregoing representations and warranties by Lessee, the Port Authority shall have the right, in addition to any and all other remedies provided under this Agreement or at law or in equity, to immediately terminate this Agreement upon written notice to Lessee. In the event of any such termination by the Port Authority, Lessee shall, immediately on receipt such termination notice, have no further right to access the Premises and shall turnover to the Port Authority all books and records in Lessee's possession or control with respect to the Premises. Termination on the aforedescribed basis shall be deemed a termination for cause.

Section 54. Estoppel Certificate.

Lessee agrees to periodically furnish within ten (10) days after so requested by the Port Authority a certificate signed by Lessee certifying (a) that this Lease is in full force and effect and unmodified (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), (b) as to the Lease Commencement Date and the date through which Base Rental and Additional Rental have been paid, (c) that Lessee has accepted possession of the Premises, (d) that except as stated in the certificate no Rental has been paid more than thirty (30) days in advance of its due date, (e) that the address for notices to be sent to Lessee is as set forth in this Lease (or has been changed by notice duly given and is as set forth in the certificate), (f) that except as stated in the certificate, Lessee, as of the date of such certificate, has no charge, lien, or claim of offset against rent due or to become due, (g) that except as stated in the certificate, the Port Authority is not then in default under this Lease, (h) that there are no renewal or extension options in favor of Lessee, and (i) as to such other matters as may be reasonably requested by the Port Authority.

Section 55. Termination of Lease 265, Lease 266 and Lease 291; Survival of Obligations; Release.

(a) As set forth in Section 1 of this Lease, Lease 265, Lease 266 and Lease 291 are hereby terminated, as if the expiration dates of Lease 265, Lease 266 and Lease 291 are the date of this Lease. The Lessee hereby surrenders the Lease 265 Surrendered Area and the Lease 266 Surrendered Area (as defined

in Section 1) to the Port Authority. The Port Authority and the Lessee acknowledge that the remainder of the 265 Premises, the remainder of the 266 Premises, the 291 Premises, and the New Parcels are the subject of and are incorporated into the leasehold Premises created by this Lease or will be by spreader agreement, and are subject to the terms and conditions of, and governed by, this Lease.

(b) The Port Authority and Lessee acknowledge that the Port Authority has the right to conduct an audit under Leases 265, 266 and 291 (the "Close-Out Audit"). The Port Authority and the Lessee do hereby mutually release one another from any and all rights, claims, liabilities, damages, causes of action, suits and demands arising under Lease 265, Lease 266, Lease 291, the Lease 265 Premises, the Lease 266 Premises, or the Lease 291 Premises, relating to (a) any claim for security costs, including jersey barriers, (b) any claims regarding berth 52, and the point of first rest at Elizabeth Port Authority Marine Terminal, (c) any claims with respect to late charges associated with the audit performed by the Port Authority ending November 30, 2006 in the amount of $66,089.00, and (d) any claim with respect to the following two matters under the Close-Out Audit: (i) double counting by Lessee as to vehicles received at or shipped from any of the Port Authority's marine terminal facilities for the benefit of WWL, and (ii) FAPS Vehicles received in containers: any other items under the Close-Out Audit are not released. Provided, however, that any and all obligations, claims, liabilities, damages, losses, causes of action, suits, demands and expenses arising out of the Condition Survey pursuant to the Lessee Surrender Agreement, and any environmental matters relating to the Lease 265 Premises, the Lease 266 Premises and/or the Lease 291 Premises (including without limitation, environmental matters governed by Special Endorsement 17 of Lease 265, Special Endorsement 12 of Lease 266, and/or Special Endorsement 13 of Lease 291, as the same may have been supplemented and amended) shall survive the termination of Lease 265, Lease 266 and Lease 291, and shall not be deemed released hereunder.

(c) Notwithstanding the provisions of paragraph (b) of this Section 55, any lease provisions or obligations that would have survived the expiration date of Lease 265 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 265 Premises.

(d) Notwithstanding the provisions of paragraph (b) of this Section 55, any lease provisions or obligations that would

have survived the expiration date of Lease 266 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 266 Premises.

(e) Notwithstanding the provisions of paragraph (b) of this Section 55, any lease provisions or obligations that would have survived the expiration date of Lease 291 shall advance and survive from the date hereof unless otherwise noted, including any environmental matters relating to the Lease 291 Premises.

Section 56. Negotiated Agreement. This Lease has been negotiated by the parties and their respective counsel, and the parties agree that no presumption against the drafter can be applied against either party.

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

ATTEST:

By _____

Title: SECRETARY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

By _____

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

(Seal)

ATTEST:

by: _____

(TITLE) Secretary

FAPS, INC.

By _____

Gary LoBue

(Title) President

(Corporate Seal)

APPROVED:
FORM TERMS

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

On the 1 day of September, 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared

RICHARD M. LARRABEE
DIRECTOR, PORT COMMERCE DEPT.

of the PORT AUTHORITY OF NEW YORK AND NEW JERSEY, 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 instruments, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

TOBY J. RUSSELL
Notary Public, State of New York
No. 02RU6043952
Qualified in New York County
Commission Expires June 26, 2010

STATE OF NEW JERSEY)
: ss. :
COUNTY OF ESSEX)

On the 22nd day of July, 2009, before me, the undersigned, a Notary Public in and for said state, personally appeared Gary LoBue, President of FAPS, INC., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me the executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Maria Elizabeth Soares
Notary Public

MARIA ELIZABETH SOARES
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Aug. 12, 2012

Exhibit F

The Vehicle Processing/Storage facility shall be a vertically constructed building of approximately 200,000 sq. ft. for the processing of vehicles or storage of vehicles or both as shall be more specifically agreed to between the parties hereto or as otherwise agreed to in the Consolidation Agreement.; to be constructed within the bold line as shown on Exhibit A.

EXHIBIT G
[Form Agreement/Waiver for MAVG]

[Date]

FAPS, Inc.
371 Craneway Street
Port Newark, New Jersey 07114
Attn: Gary LoBue

Re: Letter Agreement between _____ ("Customer") and FAPS, Inc.
Relating to FAPS's handling of Customer's vehicles
And counting such Vehicles toward FAPS's MAVG

Dear Mr. LoBue:

This letter shall memorialize the agreement between FAPS and Customer (defined as a tenant of the Port Authority of New York and New Jersey ("Port Authority") other than FAPS, at any of the Port Authority's marine terminal facilities) relating to FAPS's handling of Customer's vehicles and the counting of such vehicles toward FAPS's "Minimum Annual Vehicle Guarantee" ("MAVG").

In addition to any other terms agreed to between Customer and FAPS, Customer hereby agrees that all vehicles handled by FAPS on behalf of Customer, to be [loaded onto] [discharged from] Vessel ____, expected to dock at (Location) _____ on or about _____, shall be counted toward FAPS's MAVG, in accordance with FAPS's lease agreement with the Port Authority. Furthermore, Customer acknowledges and agrees that such vehicles shall not be counted toward Customer's MAVG (or equivalent requirement(s)) in Customer's lease agreement with the Port Authority.

FAPS and Customer shall defend, indemnify and hold harmless the Port Authority, its commissioners, officers, agents, employees and contractors from all claims arising out of this Letter Agreement.

Very truly yours,

[CUSTOMER]

Acknowledged and agreed to:
FAPS, Inc.

_____
Gary LoBue

Exhibit H

PORT AUTHORITY MARINE TERMINALS
PAMT FMC NO. PA-10

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

FMC Schedule No. PA 10

Naming
Rules and Regulations
Applying At

Port Authority Marine Terminals

And

Rates and Charges
Applicable

For the Use of Public Areas

At
Port Authority Marine Terminals

ADOPTION NOTICE

The Port Authority of New York and New Jersey hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed and posted by it, terminal tariff PAMT FMC NO. PA10 including all revisions thereto, filed with the Federal Maritime Commission.

NOTICE TO TARIFF USERS

This document is compiled to reflect FMC Schedule No. PA10 as electronically filed with the U. S. Federal Maritime Commission under organization No. 002021. The official tariff filing is that contained in the FMC-ATFI system.

This "paper tariff" is issued for the convenience only of tenants and customers of the Port Authority of New York and New Jersey. If any conflict between the provisions of this "paper tariff" and the electronically filed version appear, the electronically filed version shall control. Users of the "paper tariff" should verify any information contained herein by referring to the electronically filed version in the FMC-ATFI system.

Issued by:

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

Published: May 2009

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SUBRULE 34-001 ISSUED 30 DECEMBER 1993 EFFECTIVE 31 JANUARY 1994

No provision in this tariff limits or otherwise relieves THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY from liability for its own negligence or imposes on others the obligation to indemnify or hold harmless THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY from liability for its own negligence.

SECTION A

SUBRULE 34-005 ISSUED 30 DECEMBER 1993 EFFECTIVE 31 JANUARY 1994
EXPLANATION OF TERMS

As used in these Rates, Rules, Regulations and Charges, the following terms shall have the following meanings except that terms and or definitions which define a specific service for which a charge is made will be found with the item.

NOTE: For the definition of:

Dockage	See SUBRULE 34-305
Wharfage	See SUBRULE 34-505
Wharf Demurrage	See SUBRULE 34-640
Free Time	See SUBRULE 34-610

SUBRULE 34-010 ISSUED 30 DECEMBER 1993 EFFECTIVE 31 JANUARY 1994
BUSINESS HOURS

The hours between 8:00 AM and 12:00 Noon and between 1:00 PM and 5:00 PM, exclusive of Saturdays, Sundays and holidays. Services performed during other than business hours shall be the subject of special agreement with the Port Authority.

SUBRULE 34-015 ISSUED 30 DECEMBER 1993 EFFECTIVE 31 JANUARY 1994
EXECUTIVE DIRECTOR

The Executive Director of the Port Authority of New York and New Jersey or his successor in office or duties either personally or through his duly authorized representative.

SUBRULE 34-020 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS:

B. M.	Board Measure
MFBM	Thousand Feet Board Measure
BMF	Board Measurement Feet
Cu. Ft.	Cubic Feet
Ct. T	Cubic Ton - 40 Cubic Feet
Etc.	Etcetera
Lbs.	Pounds
N.J.	New Jersey
N.O.S.	Not otherwise specified
N. Y.	New York
Concl.	Concluded
CENTS	Cent
$	Dollars
Fahrenheit	Degrees Fahrenheit

%	Percent
A	Increase
C	Change in wording which results in neither increase nor reduction in rate
D	Cancellation
R	Reduction
TEU	Twenty foot Equivalent Unit
X	Addition
N.I.	New Item
O/T	Other than
Cont'd.	Continued
D. O. T.	Department of Transportation
USCG	United States Coast Guard
FMC	Federal Maritime Commission

METRIC CONVERSION TABLE

SUBRULE 34-022 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994

Multiply	By	To Find
Short Tons	.907	Metric Tons
Long Tons	1.016	Metric Tons
Metric Tons	1.102	Short Tons
Metric Tons	.984	Long Tons
Pounds	.4536	Kilograms
Kilograms	2.2046	Pounds
Measurement Ton (US) (40 cubic feet)	1.133	Cubic Meters
Cubic Meters	.883	Measurement Tons (40 CF)
Cubic Meters	.424	MFBM's
MFBM's	2.36	Cubic Meters
Linear Feet	.3048	Meters
Meters	3.281	Feet

Metric Equivalents

60 Fahrenheit	=	15.6 Celsius
1 linear foot	=	0.3048 meters
1 mile per hour	=	1.61 kilometers/hr.
1 cubic foot	=	.0283 cubic meters
1 pound	=	.4536 kilograms
1 barrel (42 gals.)	=	158.986 liters
1 short ton	=	.9072 metric tons
1 long ton	=	1.0160 metric tons
80 Fahrenheit	=	26.7 Celsius

SUBRULE 34-025 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
EXPLOSIVES, DANGEROUS ARTICLES AND COMBUSTIBLE LIQUIDS

The substances so defined in Part 146 of Title 46 of the Code of Federal Regulations in effect on July 1, 1968 and, as amended from time to time except that the term "Dangerous Articles" shall also include sisal, hemp and other baled fibers. Other terms appearing in these Regulations, which are defined in aforesaid Part 146, shall have the meanings set forth in the definitions in said Part 146.

SUBRULE 34-030 ISSUED 24 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2007
MANAGER

The Manager of a Port Authority marine terminal or his successor in office or duties acting either personally or through his duly authorized representative. The addresses and office phone numbers of these individuals are as follows:

Manager – New Jersey Marine Terminals
260 Kellogg St
Port Newark, NJ 07114

Office Phone – 973/690-3483

Manager – New York Marine Terminals
90 Columbia St.
Brooklyn, NY 11201

Office Phone – 718/330-2972

SUBRULE 34-035 ISSUED 24 JANUARY 1994 EFFECTIVE 1 JULY 2004
MARINE TERMINALS

Developments operated, managed, controlled, or leased by the Port Authority consisting of one or more piers, wharves, docks, bulkheads, slips, basins, vehicular roadways, intermodal container transfer facilities, railroad connections, side tracks, sidings or other buildings, structures, facilities or improvements, necessary or convenient to the accommodation of steamships or other vessels and their cargoes or passengers.

SUBRULE 34-036 ISSUED 1 JULY 2004 EFFECTIVE 1 JULY 2004
CONTAINER or CARGO CONTAINER

A box made of aluminum, steel or fiberglass used to transport cargo by ship, rail, truck or barge. Common dimensions are 20'X8'X8' (called a TEU or twenty-foot equivalent unit used as a universal measurement for container volumes) or 40' X 8' X 8'.

SUBRULE 34-037 ISSUED 1 OCTOBER 2006 EFFECTIVE 1 NOVEMBER 2007
NON-INTERMODAL RAILROAD CAR

An empty or loaded railroad car, which enters the marine terminal for the purpose of storage and/or the transfer of cargo, and is not being loaded or unloaded at an Intermodal Container Transfer Facility.

SUBRULE 34-038 ISSUED 1 NOVEMBER 2007 EFFECTIVE 1 NOVEMBER 2007
RAILROAD CAR

A wheeled vehicle adapted to the rails of railroad.

SUBRULE 34-040 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
PORT COMMERCE DEPARTMENT

The Port Commerce Department of the Port Authority of New York and New Jersey.

SUBRULE 34-045 ISSUED 24 JANUARY 1977 EFFECTIVE 31 JANUARY 1994
MARINE TERMINAL HIGHWAY

Those portions of a marine terminal designated and made available temporarily or permanently by the Port Authority for the public for general or limited highway use.

SUBRULE 34-046 ISSUED 1 NOVEMBER 2007 EFFECTIVE 1 NOVEMBER 2007
MOVEMENT OF OVERWEIGHT OR OVERHEIGHT CARGO ON MARINE TERMINAL HIGHWAYS

Gross Vehicle Weight of containerized shipments (tractor, chassis, container, cargo, etc.) shall not exceed 128,000 lbs and shall not exceed manufacturer safe working loads.

Vehicles exceeding 16'3" are considered over-height and require approval for shipment through the New Jersey Marine Terminals from the Office of the Manager, New Jersey Marine Terminals.

SUBRULE 34-050 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
PUBLIC VEHICULAR PARKING AREA

Those portions of the terminal designated and made available temporarily or permanently by the Port Authority to the public for the parking of vehicles.

SUBRULE 34-055 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
PERMISSION

Permission granted by the Manager, unless otherwise specifically provided.

SUBRULE 34-060 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
PORT AUTHORITY

The Port Authority of New York and New Jersey

SUBRULE 34-065 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
REGULATIONS

The Rules and Regulations set forth in this tariff hereof and any future amendments and supplements.

SUBRULE 34-066 ISSUED 1 MAY 2009 EFFECTIVE 1 MAY 2009
TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL (TWIC)

A TWIC is a federally issued biometric based smart card that contains a numeric code that is associated with your fingerprint pattern, which links the card to you. It also has your photograph and special security

features to prevent unauthorized reproduction of the TWIC and to protect the limited personal information that is embedded in the card.

SUBRULE 34-070 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SCHEDULE OF RATES

The Rates included in FMC No. PA-010 and set forth in this tariff and adopted by the Port Authority on February 3, 1966 and any future amendments and supplements.

SUBRULE 34-075 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
TERMINAL

Brooklyn-Port Authority Marine Terminal, Elizabeth-Port Authority Marine Terminal, Howland Hook Marine Terminal, Port Newark and the Auto Marine Terminal.

SUBRULE 34-080 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
TRAFFIC

Pedestrians, animals and vehicles.

SUBRULE 34-085 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
VEHICLE

Automobiles, trucks, buses, motorcycles, horse drawn vehicles, bicycles, push carts and any other device in or upon or by which any person or property is or may be transported, carried or devises running only on stationary rails or tracks.

SUBRULE 34-086 ISSUED 1 OCTOBER 2006 EFFECTIVE 1 OCTOBER 2006
FLOATING CRANE OR CRANE BARGE

A non-self propelled vessel that has a cargo crane or cargo crane superstructure permanently affixed to the structure or body of the vessel.

SECTION B

GENERAL TERMINAL RULES AND REGULATIONS

SUBRULE 34-090 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MARINE TERMINALS, CONDITION FOR USE OF

Any permission granted by the Port Authority directly or indirectly, expressly or by implication, to any person or persons to enter upon or use a terminal or any part thereof (including) watercraft operators, crew members and passengers, spectators, sightseers, pleasure and commercial vehicles, officers and employees of lessees and other persons occupying space at such terminal, persons doing business with the Port Authority, its lessees, sublessees and permitees, and all other persons whatsoever whether or not of the type indicated, is conditioned upon compliance with the Port Authority Rules and Regulations; and entry upon or into a terminal by any person shall be deemed to constitute an agreement by such person to comply with said Rules and Regulations; provided, however, that unless provision is made in the lease for application of said Rules and Regulations to the leased premises, such Rules and Regulations shall not apply to such leased premises.

SUBRULE 34-095 ISSUED 24 JANUARY 1994 EFFECTIVE 1 MAY 2009
PUBLIC WHARVES, AUTHORITY TO USE

No person shall enter upon any public wharf, public mooring facility, public cargo facility or public storage area or facility at any Port Authority Marine Terminal except:

(a) Such persons and their bona fide employees as may be authorized by law and permitted by the Port Authority to engage in the activities for which said areas have been provided by the Port Authority;

(b) Duly authorized representatives or employees of the Port Authority or its contractors;

(c) Representatives of employees of local, state and Federal Government or political subdivisions thereof duly authorized by law to enter thereon;

(d) In accordance with 33 CFR Part 101.514, effective March 23rd 2009, all personnel, with the exception of federal officials, law enforcement or emergency workers engaged in official duties, requiring unescorted access to secure and/or restricted areas (which includes vessels and their berths) will be required to display a Transportation Worker Identification Credential (TWIC) at all times when in a secure or restricted area, above the waist and on the outermost garment; ID Card holders or pouches must use clear plastic and the TWIC must not be obscured in any way. All personnel, requiring access to the Port Authority's owned and/or operated facilities will also be required to carry their respective employer's or trade association identification card. All personnel requiring escorted access must contact the Manager;

(e) Other persons granted permission to enter thereon by the Manager of a Marine Terminal at which such public wharf, area or facility is located.

SUBRULE 34-096 ISSUED 1 OCTOBER 2006 EFFECTIVE 1 OCTOBER 2006
AUTHORIZATION TO USE AND PENALTY CHARGES ON SCHEDULE OF RATES

Failure to obtain authorization prior to the use of any areas of the Marine Terminals and/or failure to comply with the Rules and Regulations under Port Authority Marine Terminals FMC Schedule No. PA 10 will result in penalty charges assessed at twice the rate of the applicable stated fee. In addition, failure to comply with any of the Rules and Regulations covered in this document may result in future denial of port use.

SUBRULE 34-097 ISSUED 1 OCTOBER 2006 EFFECTIVE 1 OCTOBER 2006
CERTIFICATION OF NON-SELF PROPELLED VESSELS

Prior to using or docking at a public berth, all non-self propelled vessels must have a Certificate of Documentation or other vessel certification on file with the Port Authority Manager of the Terminal. The certification must be submitted in writing by an executive officer of the company accepting billing responsibility and liability for the vessel. The certification must specify, at a minimum, the vessel owner, vessel name and markings used in identifying the vessel, and the overall length of the vessel. Any non-self propelled vessel found moored at a public berth without the aforementioned certification will be subject to subrule 34-096 and overall length of the vessel shall be determined by Port Authority field measurements by the Harbormaster or other Port Authority staff.
Any changes of ownership or billing responsibility and liability must be made to the Port Authority Manager of the Terminal within 5 business days of such changes. Failure to so advise the Port Authority of such changes will make the entities of record liable for all pertinent charges associated with the vessel.

SUBRULE 34-098 ISSUED 1 MAY 2009 EFFECTIVE 1 MAY 2009
SUSPENSION OF ACCESS PRIVLEDGES

In recognizing the efforts of the Transportation Security Administration regarding the issuance of a Transportation Workers' Identification Credential (TWIC); the Port Authority of New York and New Jersey intends to maintain the security of its facilities by reserving the right to suspend access privileges if the individual is convicted of any of (but not necessarily limited to) the following crimes: Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon, drugs and/or other controlled dangerous substances; Extortion; Identity Fraud to include false identification; Bribery; Perjury; Smuggling; Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, et esq., or a State law that is comparable; Robbery/Theft/Burglary and related offenses; Criminal Trespass of Port Authority Property and/or its facilities; Terrorism/Terrorist Threats and/or other related offenses; Arson; Human Trafficking; Conspiracy or attempt to commit the above listed crimes

SUBRULE 34-100 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
VEHICLE LOADING OR UNLOADING

No person permitted to enter upon a public wharf, public mooring facility, public cargo facility or public storage area or facility at any Port Authority Marine Terminal, shall, while upon such area, hire any other person, there present, to perform loading or unloading of vehicles (other than railroad cars) unless such other person shall be a person authorized by law to perform such work at such place as an independent contractor.

SUBRULE 34-105 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
COMPLIANCE WITH GOVERNMENTAL REGULATIONS

All users of a terminal shall observe and comply with (and compel its and their officers, employees and agents and others doing business with it and them to observe and comply with) all governmental laws, rules, regulations, requirements, orders and directions which pertain or apply to the use of a terminal or to any of its or their operations at a marine terminal.

SUBRULE 34-106 ISSUED 1 MAY 2009 EFFECTIVE 1 MAY 2009
SECURITY OF OPERATIONS AND FACILITY

Except when security guard services are provided as part of a Port Authority berth assignment permit, all users of a marine terminal or areas in, on, or immediately adjacent to (including but not limited to vessels alongside) a marine terminal shall be fully responsible for and shall provide for all security necessary for all aspects of their operations, including but not limited to cargo and cargo handling, personnel matters, and all security-related documentation required by governmental entities. By using a marine terminal or areas in, on, or immediately adjacent to a marine terminal, the user acknowledges and accepts the responsibility for providing such security. Each such user shall indemnify and hold harmless the Port Authority, its commissioners, officers and/or employees from any and all liability, claims and demands relating in any way to compliance or noncompliance with the requirements of this section.

SUBRULE 34- 107 ISSUED 1 MAY 2009 EFFECTIVE 1 MAY 2009
HELICOPTER FLY-IN/FLY-OUT

No person shall fly-in a helicopter to a public berth area to be loaded on to a vessel for export or fly-out from a public berth without permission of the Manager of the Marine Terminal. All fly-in/fly-outs must comply with the Helicopter Procedure, which will be provided when the initial notification is made upon the filing of the berth application using the FIRST© Berth Application system.

SUBRULE 34-110 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
RESTRICTED AREA USE

No person shall enter any restricted area of a terminal posted as being closed to the public, except
(a) persons assigned to duty therein;
(b) authorized representatives of the Port Authority; and
(c) persons having permission of the Manager.

SUBRULE 34-115 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
LOST ARTICLES

Any person finding lost articles at a terminal shall deposit them at the office of the Manager. Articles unclaimed by the owners in ninety days will be turned over to the finders thereof, unless found by Port Authority employees.

SUBRULE 34-120 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
COMMERCIAL ACTIVITY PROHIBITED

No person shall carry on any commercial activity at a terminal without the consent of the Port Authority. Applications for the right to conduct commercial strapping, reconditioning, weighing or sampling operations at a terminal shall be made to the Manager.

SUBRULE 34-125 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BILL POSTING PROHIBITED

No person shall post, distribute or display signs, advertisements, circulars or printed or written matter at a terminal without permission.

SUBRULE 34-130 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
ASSIGNMENT OF RAILROAD CARS

The Manager shall have, in his sole discretion, when he deems it in the interest of overall efficient use of a terminal, the right to assign railroad cars using the tracks at a terminal to any specified location at a terminal and to limit the number of such cars permitted within any area at a terminal. The Port Authority shall not be responsible for loss or damage or increased charges for transportation, switching or demurrage incurred as a result of such assignment or limitation by the Manager.

SUBRULE 34-131 ISSUED 1 OCTOBER 2006 EFFECTIVE 1 OCTOBER 2006
REPORTING OF NON-INTERMODAL RAIL CARS AND USE OF RAIL TRACK ACTIVITY

On a daily basis the Trainmaster, or other designated responsible individual, of each railroad operator responsible for transport of the railroad cars must submit in writing to the Manager the scheduled activity of non-intermodal rail cars and the use of terminal rail track for that night prior to commencing rail operations at the New Jersey Marine Terminals. On the following day, the Trainmaster, or other designated responsible individual, of each railroad operator responsible for transport of the railroad cars must submit in writing to the Manager the actual activity of non-intermodal rail cars and the use of terminal track for the previous night. In the event of a holiday, this information must be provided on the first working day thereafter. Such report shall include, but not be limited to, the total number of rail cars transported to and from the terminal, the name of the tenant the rail cars were transported to and or from, the number of rail cars transported to and or from each such tenant, the cargoes transported in the rail cars, the weight of the cargoes transported, and the time and date of each transport. The railroad operator shall be responsible for providing these reports on a timely basis. Failure to submit such reports shall, upon written notice from the Manager, require the railroad operator to obtain prior authorization for each and every use of any areas of the terminal.

SUBRULE 34-132 ISSUED 1 NOVEMBER 2007 EFFECTIVE 1 NOVEMBER 2008
RAILROAD CAR, UNAUTHORIZED STORAGE

Unless otherwise provided in a lease or other agreement, no tenant shall allow its non-intermodal railroad cars to be serviced, stored or remain on a marine terminal in an area that is outside its leasehold. Without first obtaining the specific written permission of the Manager, such person or tenant shall be assessed the charge of Twenty Dollars and eighty ($20.80) per railroad car per day.

SUBRULE 34-135 ISSUED 24 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
SPACE, UNLEASED

Unless otherwise provided in a lease or other agreement, no person shall use any open or covered area of a terminal for storage of cargo or other property without the permission of the Manager. When the Manager deems that such use will not interfere with the operation of a terminal and such permission is granted, the charge for use of open area shall be at a rate of fifteen and one tenth cents (15.1 cents) per square foot for a period of ten (10) days or less provided, however, that there shall be a minimum charge of One Thousand One Hundred Twenty Five Dollars ($1,125.00) for any such period; the charge for use of covered area shall be at the rate of thirty one and five tenth cents (31.5 cents) per square foot for a period of ten (10) days or less provided, however, that there shall be a minimum charge of One Thousand One Hundred Twenty Five Dollars ($1,125.00) for any such period. Additionally, the user of the area shall when applicable be responsible for its apportioned share of utility charges for the subject property. These charges shall be apportioned based on the users occupied area.

If, not withstanding the above prohibition, a person uses such areas for storage as aforesaid, without first obtaining such permission, then the Manager shall have authority to order the cargo or other property

removed at the expense of the owner or consignee thereof, and the above rate shall apply for the time said cargo or other property has been so stored.

SUBRULE 34-140 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SANITATION

No person shall place, discharge, or deposit in any manner, offal, garbage, or any other refuse in or upon a terminal, including the waters thereof.

SUBRULE 34-145 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CARGO MOVEMENTS: IMPROPER HANDLING PROHIBITED

No cargo, goods or merchandise shall be moved across or upon or placed upon or allowed to remain upon any pier, bulkhead, platform, wharf, or other place at a terminal of such a nature or in such quantity or in such a manner as to endanger unreasonably or to be likely to endanger unreasonably person or property.

SUBRULE 34-150 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CARGO HANDLING

All stevedoring work, and the handling of cargo to and from a terminal, must be performed in a manner and with equipment satisfactory to the Port Authority from a safety standpoint, but the Port Authority assumes no responsibility for the performance of such work.

SUBRULE 34-155 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
REFUSE REMOVAL

All litter, dunnage and refuse of all kinds shall be cleaned and disposed of by the persons responsible therefore. Otherwise the work will be performed by the Port Authority and the cost thereof charged against such persons.

SUBRULE 34-160 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
EXPLOSIVES, DANGEROUS ARTICLES AND COMBUSTIBLE LIQUIDS

No watercraft carrying explosives (other than ammunition for small arms or any explosives required by law to be carried by such watercraft) or inflammable liquids in bulk (having a flash point of 80 Fahrenheit or lower, open cup test) will be permitted to moor at a terminal, unless permission has been obtained in advance from the Port Authority.

SUBRULE 34-165 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
GAS FREE CERTIFICATION

No watercraft last used for the bulk transportation of inflammable liquids (having a flash point of 80 Fahrenheit or lower, open cup test), or inflammable compressed gases, shall be berthed at a terminal unless written permission has first been obtained from the Manager.

SUBRULE 34-170 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
FISSIONABLE MATERIALS

No person shall store, keep, handle, use, dispense, or transport at, in, or upon a terminal, any special nuclear material, including, but not limited to Uranium 233, Uranium 235, Plutonium 239; any source material, including, but not limited to uranium, thorium, any irradiated fuel elements; any new reactor fuel or elements; any radioactive waste material; any radioactive material moving under special Bureau of Explosives permit or Special AEC permit and escort; without twenty-four hour prior notice and the specific permission to move such material through the facility by the facility manager; provided no permission or notice is required for the movement of medical or industrial isotopes other than those specifically included in the aforementioned, when packaged, marked, labeled and limited as to quantity and radiation emissions in accordance with Hazardous Materials Regulations of the D.O.T. and USCG Regulations relating to the "Transportation of Explosives and other Dangerous Articles".

SUBRULE 34-175 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
DANGEROUS ARTICLES - HANDLING LIMITATIONS

Dangerous articles as defined by the Hazardous Materials Regulations of the D.O.T. and USCG Regulations titled, "Transportation of Explosives and other Dangerous Articles" in quantities exceeding the amounts indicated in the accompanying table shall not be handled, stored or transferred at a terminal without the permission of the Port Authority. Application for such permission shall be made to the Manager at least twenty-four hours prior to the time any such movement is contemplated.

Table of Limitations

1.	Explosives - classes A, B and C	Any amount
2.	Flammable liquids, in containers	One ton
3.	Oxidizing materials	10 tons
4.	Flammable solids	10 tons
5.	Compressed gases, flammable	One ton
6.	Compressed gases (chlorine, anhydrous ammonia, fluorine)	Any amount
7.	Compressed gases, other than 5 and 6 above	Ten tons
8.	Poisons (Class A) gases	Any amount
9.	Poisons (Class C) tear gas	Any amount
10.	Poisons (Class B) Liquids - bromine, methyl bromide	Any amount
11.	Corrosive Liquids, acids	Over one ton
12.	Combustible liquids in containers	Over ten tons

SUBRULE 34-180 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
EXPLOSIVE MATERIALS

No person shall store, keep, handle, use, dispense or transport at, in or upon a terminal, any dynamite, nitroglycerin, black powder, fireworks, blasting caps or other explosives, gasoline, alcohol, ether, liquid shellac, kerosene, turpentine, formaldehyde or other inflammable or combustible liquids, ammonium nitrate, sodium chlorate, wet hemp, powdered, metallic magnesium, nitro-cellulose film, peroxides, or other readily inflammable solids or oxidizing materials, hydrochloric acid, sulfuric acid or other corrosive liquids, prussic acid, phosgene, arsenic, carbolic acid, potassium cyanide, tear gas, lewisite or any other poisonous substances, liquids or gas, or any compressed gas, or any radio-active article, substance or material, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably persons or property.

SUBRULE 34-185 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
NUCLEAR WEAPONS

No person shall, at any time, store, keep, handle, use or transport at, in or upon a terminal any weapon of war employing atomic fission or radioactive force.

SUBRULE 34-190 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
DANGEROUS ARTICLES - HANDLING

Unless permission is first obtained dangerous articles shall only be received between the hours of 8:00 A.M. and 5:00 P. M. and shall only be handled or floored as follows:

(a) Maximum separation shall be provided for all dangerous articles to prevent impact with vehicles.

(b) Flammable liquid (red D.O.T.--Hazardous Material label) in excess of five gallons shall not be stored or handled in cargo sheds, but shall be transferred directly between ship and truck, provided flammable liquids may be temporarily stored in assigned upland areas when protected from vehicle impact and floored not less than 75 ft. distance to other buildings. Flammable liquids or solids subject to effects of excess heating from sun's reaction (nitro-cellulos carbon bisulfide) shall be shaded with tarpaulin or suitable noncombustible sun sheds.

(c) Inflammable liquids and compressed gases shall be so handled and floored upon terminal premises as to provide maximum separation from freight consisting of acids or other corrosive liquids.

(d) Inflammable solids or oxidizing materials shall be so arranged as to prevent moisture or acids and other corrosive liquids from coming in contact therewith.

(e) Acids and other corrosive liquids shall be so handled and floored as to prevent contact with other dangerous articles and organic materials in the event of leakage.

(f) Poisons shall be so handled and floored as to prevent their contact with acids, corrosive liquids or inflammable liquids.

(g) All dangerous articles shall be arranged in such a manner as to retard the spread of fire. This shall be accomplished by interspersing piles of dangerous freight between piles or inert of less combustible materials.

SUBRULE 34-191 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
DANGEROUS ARTICLES - HANDLED CONTAINERS

1. Containers transporting dangerous articles as defined under U.S. Coast Guard regulations shall be properly identified, stored in a location designated by the manager and handled as follows:

(a) Dangerous cargo containers, liquid or dry, shall be stored in such a manner as to be readily accessible to fire department operations. They shall be stored on an access aisle and never enclosed by other containers.

(b) The storage area shall be within 500 feet of a fire hydrant.

(c) A portable 150 pound dry chemical fire or CO2 extinguisher shall be provided and stationed no more than 100 feet from the storage area.

(d) Storage areas for dangerous cargo containers shall be kept clear of rubbish and other debris.

(e) Containers under refrigeration or heating, employing fuel-fire eaters or engine-driven refrigeration machinery, shall be separated from other containers, and a 150 pound wheeled dry chemical extinguisher shall be stationed within 100 feet of such containers.

2. The transfer of flammable or combustible liquids from tank vehicles to portable cargo tanks either aboard ship or on the wharf shall not be conducted except under specific permission of the manager and under conditions established by him as a part of the permission. A standby fire watch with a 150 pound portable dry chemical fire extinguisher shall be available during any transfer operation.

3. For the purpose of these regulations liquid containers previously containing a flammable liquid, combustible liquid, flammable gas, poison class A or any other similar dangerous article will be treated as a loaded container.

SUBRULE 34-195 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SISAL, HEMP OR BALED FIBERS - HANDLING

Sisal, hemp or other baled fibers shall not be handled, loaded or unloaded at a terminal without permission. These materials shall unless permission is secured, be unloaded to lighters (covered barge); if such materials are unloaded onto a mooring facility with such permission, then shall be removed therefrom immediately after unloading unless the Manager otherwise permits. Stacks shall not be higher than twelve feet, or when palletized, three pallets high, except by permission of the Manager. The sides exposed to aisles or driveways shall be protected with tarpaulins when the Manager shall so direct. Access to the areas where such material is stored shall be limited to the working personnel and watchmen only.

SUBRULE 34-200 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CARGO - WET OR FIRE DAMAGED

Wet or fire damaged cargo shall not remain on any wharf or other portion of a terminal without permission.

SUBRULE 34-205 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
RESPONSIBILITY FOR INJURIES AND DAMAGE

Any person causing any damage to Port Authority property shall be required to pay to the Port Authority on demand the full cost of repairs, or to reimburse the Port Authority for the full amount of the damage.

SUBRULE 34-210 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
LOSS OR DAMAGE - PORT AUTHORITY NOT LIABLE

The Port Authority shall not be liable for loss or damage to any watercraft or to any merchandise or cargo at the terminal.
This provision subject to SUBRULE 34-001.

SUBRULE 34-215 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SAFETY AND FIRE PREVENTION

No person shall store, handle, dispense, keep or use any gasoline distillate or other liquid petroleum products, other than lubricating oils, at a terminal except at such places and under such condition as may be especially designated by the Executive Director; provided, however, that any retail sale or delivery of such products in bulk shall be made from any by means of pipe and hose equipped and provided with connections and valves, as approved by the Manager, and at such places as may be so designated therefore.

Such gasoline, distillate or other liquid petroleum products shall not be handled or delivered between sunset or sunrise, unless the premises are lighted only by incandescent electric lights, properly protected.

SUBRULE 34-220 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
FUELING WATERCRAFT

Nothing herein contained shall prevent dispensing of such products provided at retail from barges to watercraft direct, provided such barges are moored at such places as the Manager may direct.

SUBRULE 34-225 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
FIRE HAZARDOUS VEHICLES OR EQUIPMENT PROHIBITED

No person shall use any donkey engine or other steam engine anywhere within a terminal area without an approved spark arrestor attached to the smoke stack of such engine, and no person shall operate any tractor, truck or other equipment driven by internal combustion engines within a terminal, if the construction or condition of such equipment constitutes a fire hazard in the opinion of the Manager.

SUBRULE 34-230 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
INDIVIDUALS PROHIBITED FROM ENDANGERING OTHERS AT TERMINAL

No person shall, in or upon a terminal do or omit to do any act if the doing or omission thereof endangers unreasonably or is likely to endanger unreasonably person or property.

SUBRULE 34-235 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
LIFE SAVING EQUIPMENT, USE OF

No person shall remove, tamper with, or handle life preservers, emergency ladders and fire fighting equipment at a terminal except for emergencies for which they are intended.

SUBRULE 34-240 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SMOKING OR OPEN FLAMES PROHIBITED

No person shall smoke or carry lighted cigars, cigarettes, pipes, matches or use any naked flame or bonfire in or upon any portion or area of a terminal used for the loading, unloading, handling or holding of cargo, or on the open deck.

SUBRULE 34-245 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
TRAFFIC AND PARKING

No vehicles, unless engaged in the transportation of passengers or property shall be allowed in any mooring facility; provided however, that nothing in this paragraph shall be construed to prohibit access to the mooring facilities by vehicles on emergency calls or by vehicles owned or operated by the Port Authority.

SUBRULE 34-250 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
ENGINE REFUELING RULES

No internal combustion engine fuel tank shall be filled or refilled with gasoline at or on any mooring facility or inside any building at a terminal.

SUBRULE 34-255 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
VEHICLE REFUELING RULES

Vehicles and equipment using gasoline or diesel oil as fuel shall be refueled from:

(a) UL approved safety cans fitted with a flexible spout for easy pouring, or

(b) Approved underground storage and dispensing systems. Any other method of refueling must be approved by the Manager.

SUBRULE 34-260 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
ABANDONED VEHICLES.

Any vehicle of any description which shall be left unclaimed for a period of twenty-four (24) hours at a terminal may be parked, garaged or stored at the risk and expense of the owner.

SUBRULE 34-265 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
ABANDONED VEHICLES - DISPOSITION

Any such vehicle not claimed by the owner thereof at the expiration of thirty (30) days shall be disposed of by the Port Authority in the manner provided by law.

SUBRULE 34-270 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
VEHICLES - SPEED LIMITS

Vehicles at a terminal shall be operated in strict compliance with speed limits prescribed by the Port Authority as indicated by posted traffic signs.
No vehicle shall be driven on any mooring facility at a greater speed than twelve (12) miles per hour. (See Note 1)
Note 1 - For speed limits at Port Newark and Elizabeth Port Authority Marine Terminal see maps in the appendix. (Available from Port Authority of New York and New Jersey - Tariff PA -010)

SUBRULE 34-275 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
PARKING

No person shall park a vehicle within any public vehicular parking area except upon the payment of such parking fees and charges as may from time to time be prescribed by the Port Authority.

SUBRULE 34-276 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
VEHICLE PARKING - UNAUTHORIZED

Vehicles at a terminal shall be parked in strict compliance with posted signs.
Vehicles parked in violation of posted signs, in addition to other penalties, may be towed away and stored at the risk and expense of the owner thereof.

SUBRULE 34-280 ISSUED 24 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MATERIALS HANDLING EQUIPMENT - PERMIT TO USE

No motorized equipment except over-the-road trucks (not including straddle lift trucks) used or to be used in the handling of waterborne freight in or upon a public wharf, public mooring facility, public cargo facility or public storage area or facility at any Port Authority Marine Terminal shall be operated in or upon any such public wharf, facility or area except by persons authorized by the Manager of the Marine Terminal who may require that there be displayed on such motorized equipment identifying symbols or numbers.

SUBRULE 34-290 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994

(This legislation was enacted by the States of New York and New Jersey, effective June 13, 1951.)
(See Chapter 207, Laws of New York, 1952, and Chapter 205, Laws of New Jersey, 1951.)

LAWS OF NEW JERSEY, 1951

CHAPTER 239

AN ACT prescribing proceedings and penalties for violation of certain rules and regulations of the Port of New York Authority within the State of New Jersey.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Port of New York Authority (hereinafter called the "Port Authority") having duly adopted the following rules and regulations governing traffic on air terminal highways and marine terminal highways in the air terminal and marine terminals operated by it within the territorial limits of the State of New Jersey, hereinafter set forth in this section, the penalties and procedures for their enforcement prescribed in sections two, three and four shall apply to violations thereof.

RULES AND REGULATIONS

Governing Traffic on Highways in Port Authority
Air and Marine Terminals

The following terms are used herein shall have the indicated meanings:
"Air terminals" shall mean developments operated by the Port Authority consisting of runways, hangars, control towers, ramps, wharves, bulkheads, buildings, structures, parking areas, improvements, facilities or other real property necessary, convenient or desirable for the landing, taking off, accommodation and servicing of aircraft of all types, including but not limited to airplanes, airships, dirigibles, helicopters, gliders, amphibians, seaplanes, or any other contrivance now or hereafter used for the navigation of or flight in air or space, operated by carriers engaged in the transportation of passengers or cargo, or for the loading, unloading, interchange or transfer of such passengers of their baggage, or such cargo, or otherwise for the accommodation, use or convenience of such passengers, or such carriers or their employees, or for the landing, taking off, accommodation and servicing of aircraft owned or operated by persons other than carriers.

"Air terminal highway" shall mean and include those portions of an air terminal designated and made available temporarily or permanently by the Port Authority to the public for general or limited highway use.

"Marine terminals" shall mean developments operated by the Port Authority consisting of one or more piers, wharves, docks, bulkheads, slips, basins, vehicular roadways, railroad connections, side tracks, sidings or other buildings, structures, facilities or improvement, necessary or convenient to the accommodation of steamships or other vessels and their cargoes or passengers.

"Marine terminal highway" shall mean and include those portions of a marine terminal designated and made available temporarily or permanently by the Port Authority to the public for general or limited highway use.

"Traffic" shall mean and include pedestrians, animals and vehicles.

No vehicle shall be operated on any air terminal highway or marine terminal highway carelessly or negligently, or in disregard of the rights of safety of others, or without due caution and circumspection, or at a speed or in a manner so as to endanger unreasonably or to be likely to endanger unreasonably persons or property, or while the operator thereof is under the influence of intoxicating liquors or any narcotic or habit-forming drug, nor shall any vehicle be operated thereon if it is so constructed, equipped or loaded as to endanger unreasonably or to be likely to endanger unreasonably persons or property.

All persons on any air terminal highway or marine terminal highway must at all times comply with any lawful order, signal or direction by voice or hand of any member of the Port Authority Police force. When traffic is controlled by traffic lights, signs, or by mechanical or electrical signals, such lights, signs, and signals shall be obeyed unless a Port Authority police officer directs otherwise.

Unless otherwise directed, all vehicles on any air terminal highway or marine terminal highway shall at all times stay to the right of the center of the roadway, except in the case of one-way roadways; slow-moving vehicles shall remain as close as possible to the right-hand edge or curb of the roadway; and where a roadway is marked with traffic lanes, vehicles shall not cross markings.

No person shall operate a motor vehicle on an air terminal highway or marine terminal highway unless he is duly authorized to operate such vehicle on State and municipal highways in the State in which such air terminal highway or marine terminal highway is located, or unless he is especially authorized by the Port Authority to operate motor vehicles on such air terminal highway or marine terminal highway. No motor vehicle shall be permitted on any air terminal highway or marine terminal highway unless it is registered in accordance with the provisions of the law of the State in which such air terminal highway or marine terminal highway is located, or unless it is especially authorized by the Port Authority to be operated on such air terminal highway or marine terminal highway.

The operator of any vehicle involved in an accident on an air terminal highway or marine terminal highway which results in injury or death to any person or damage to any property shall immediately stop such vehicle at the scene of the accident, render such assistance as may be needed, and give his name, address and operator's license and registration number to the person injured or to any officer or witness of the injury. The operator of such vehicle shall make a report of such accident in accordance with the law of the State in which such accident occurred.

No person shall transport on any air terminal highway or marine terminal highway any dynamite, nitro-glycerin, black powder, fireworks, blasting caps or other explosives, gasoline, alcohol, ether, liquid shellac, kerosene, turpentine, formaldehyde or other inflammable or combustible liquids, ammonium nitrate, sodium chlorate, wet hemp, powdered metallic magnesium, nitrocellulose film, peroxides, or other readily inflammable solids or oxidizing materials, hydrochloric acid, sulfuric acid or other corrosive liquids, prussic acid, phosgene, arsenic, carbolic acid, potassium cyanide, tear gas, lewisite, or any other poisonous substances, liquids, or gases, or any compressed gas, or any radioactive article, substance or material, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably persons or property; nor shall any person park any vehicle, or permit the same to remain halted on any air terminal highway or marine terminal highway containing any of the foregoing, at such time or place or in such manner or condition as to endanger unreasonably or as to be likely to endanger unreasonably person or property.

No person shall park a vehicle or permit the same to remain halted on any air terminal highway or marine terminal highway except at such places and for such periods of time as may be prescribed or permitted by the Port Authority.

If the violation within the State of any of the rules and regulations set forth in section one hereof, would have been a violation of law or ordinance if committed on any public road, street, highway or turnpike in the municipality in which such violation occurred, it shall be tried and punished in the same manner as if it had been committed in such municipality.

Notwithstanding the provisions of section two hereof, if the violation within the State of the rule and regulation numbered by seven and set forth in section one hereof shall result in injury or death to a person or persons or damage to property in excess of the value of five thousand dollars ($5000.00), such violation shall constitute a high misdemeanor.

Except as provided in sections two and three hereof, any violation within the State of any of the rules and regulations set forth in section one hereof, shall be punishable by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding sixty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the county district court, or any criminal judicial district court, municipal court, or existing police, magistrate's or recorder's court, in the county where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or a holiday shall be as valid as if served on any other day of the week.

The penalties above prescribed shall not preclude the Port Authority from excluding from any air terminal highway or marine terminal highway, permanently or for a specific time, all vehicles violating any of the rules and regulations set forth in section one hereof, as well as other vehicles owned or operated by the owner or operator of such vehicles.

Nothing herein contained shall be construed to affect, diminish or impair the power of this State to enact any law, or to impair or diminish, or as recognition of the impairment or diminution of any power of this State legislative or otherwise, with respect to the Port Authority, its properties, or persons or property thereon.

This act shall take effect upon the adoption by the States of New Jersey and New York of concurrent legislation providing that either state, without the consent or concurrence of the other State, may from time to time prescribe, amend, modify or rescind penalties for violations within its territorial limits of any rule or regulation, otherwise authorized, of the Port of New York Authority, and procedures for the enforcement of such penalties; but if the States of New Jersey and New York shall have already enacted such legislation (1), this act shall take effect immediately.

Approved June 19, 1951

LAW OF NEW JERSEY, 1953

CHAPTER 170

AN ACT, prescribing proceedings and penalties for violation of a rule and regulation of the Port of New York Authority relating to smoking at, on or in air or marine terminals owned or operated by the Port of New York Authority within the State of New Jersey:

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

The Port of New York Authority (hereinafter called the "Port Authority") having duly adopted the following rules and regulations, hereinafter set forth in this section, in relation to smoking at, on, or in air terminals and marine terminals operated by it within the territorial limits of the State of New Jersey, the penalties and procedures for its enforcement prescribed in section two shall apply to violations thereof.

(1) No person shall smoke, carry or possess a lighted cigarette, cigar, pipe, match, or other lighted instrument capable of causing naked flame in or about the area, building or appurtenance of an air terminal, owned or operated by the Port Authority, or upon any area, bulkhead, dock, pier, wharf, warehouse, building, structure, or shed of a marine terminal, owned or operated by the Port Authority, where smoking has been prohibited by the Port Authority, where appropriate signs to that effect have been posted, or on the open deck of any ship, lighter, carfloat, scow or other similar floating craft or equipment when berthed or moored at such dock, wharf, pier or to a vessel made fast thereto.

(2) Any violation within the State of the rule and regulation set forth in section one hereof shall be punishable, for a first offense, by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than thirty days or by both such fine and imprisonment; for a second offense, by a fine of not less than twenty-five dollars (25.00) nor more than one hundred dollars ($100.00) or imprisonment for not more than sixty days or by both such fine and imprisonment; for a third or any other subsequent offense, by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00) or by imprisonment for not more than sixty days or by both such fine and imprisonment. Such a violation shall be tried in a summary way and shall be within the jurisdiction of and may be brought in the county district court, or any criminal judicial district court, municipal court, or existing police, magistrates' or recorder's court, in the county where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or a holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or holiday shall be as valid as if served on any other day of the week.

(3) This act shall take effect immediately.

LAWS OF NEW JERSEY, 1953

CHAPTER 171

AN ACT prescribing proceedings and penalties for violations of certain rules and regulations of the Port of New York Authority relating to peddling, soliciting of business, entertaining, begging or loitering at, on or in air, bus or marine terminals owned or operated by the Port of New York Authority within the State of New Jersey.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Port of New York Authority (Hereinafter called the "Port Authority") having duly adopted the following rules and regulations, hereinafter set forth in this section, in relation to peddling, soliciting of business, entertaining, begging or loitering at, on or in air, bus or marine terminals operated by it within the territorial limits of the State of New Jersey, the penalties and procedures for its enforcement prescribed in section two shall apply to violations thereof.

(1) No person, unless duly authorized by the Port Authority, shall, in or upon any area, platform, stairway, station, waiting room or any other appurtenance of an air or bus terminal, owned or operated by the Port Authority, or in or upon any area, bulkhead, dock, pier, wharf, warehouse, building, structure, shed, waiting room or any other appurtenance of a marine terminal, owned or operated by the Port Authority.

(a) sell, or offer for sale any article or merchandise; or
(b) solicit any business or trade, including the carrying of baggage for hire, the shining of shoes or boot blacking; or
(c) entertain any persons by singing, dancing or playing any musical instrument; or
(d) solicit alms.

(2) No person, who is unable to give satisfactory explanation of his presence, shall loiter in or about any toilet, area, station, station platform, waiting room or any other appurtenance of an air or bus terminal, owned or operated by the Port Authority, or in or about any toilet, area, bulkhead, dock, pier, wharf,

warehouse, building, structure, shed, waiting room or any other appurtenance of a marine terminal, owned or operated by the Port Authority.

2. Any violation within the State of these rules and regulations set forth in section one hereof shall be punishable by a fine not exceeding ten dollars ($10.00) or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Such violation shall be tried in a summary way and shall be within the jurisdiction of any may be brought in the county district court, or any criminal judicial district court, municipal court, or existing police, magistrate's or recorder's court, in the county where the offense was committed. The rules of the Supreme Court shall govern the practice and procedure in such proceedings. Proceedings under this section may be instituted on any day of the week, and the institution of the proceedings on a Sunday or holiday shall be no bar to the successful prosecution thereof. Any process served on a Sunday or holiday shall be as valid as if served on any other day of the week.

3. This Act shall take effect immediately.
Approved May 29, 1953

SUBRULE 34-295 LAWS OF NEW YORK ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994

PORT AUTHORITY MARINE TERMINALS

LAWS OF NEW YORK, 1953
CHAPTER 142

AN ACT, prescribing proceedings and penalties for violation of a rule and regulation of The Port of New York Authority in relation to smoking at, on or in air or marine terminals owned or operated by The Port of New York Authority within the State of New York,. Became a law March 24, 1953, with the approval of the Governor.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:
Section 1. The Port of New York Authority (hereinafter called the Port Authority") having duly adopted the following rule and regulation, hereinafter set forth in this section, in relation to smoking at, on, or in air terminals and marine terminals operated by it within the territorial limits of the State of New York, the penalties and procedures for its enforcement prescribed in Section 2 shall apply to violations thereof.

1. No person shall smoke, carry or possess a lighted cigarette, cigar, pipe, match or other lighted instrument capable of causing naked flame in or about any area, building or appurtenance of an air terminal, owned or operated by the Port Authority, or in or upon any area, bulkhead, dock, pier, wharf, warehouse, building, structure or shed of a marine terminal, owned or operated by the Port Authority, where smoking has been prohibited by the Port Authority and where appropriate signs to that effect have been posted, or on the open deck of any ship, lighter, carfloat, scow or other similar floating craft or equipment when berthed or moored at such dock, wharf, pier or to a vessel made fast thereto.

2. Any violation of the rule and regulation set forth in Section 1 hereof shall be punishable as an offense triable in a magistrate's court, for a first offense, by a fine of not more than fifty dollars ($50.00) or imprisonment for not more than thirty days or both; for a second offense, by a fine of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) or imprisonment for not more than 60 days or both; for a third or any other subsequent offense, by a fine of not less than fifty dollars ($50.00) nor more than two hundred dollars ($200.00) or by imprisonment for not more than 60 days or both.

3. This act shall take effect July 1st nineteen hundred fifty-three.

SECTION C

DOCKAGE

SUBRULE 34-305 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
DOCKAGE - DEFINITION OF

The charge assessed against a vessel for berthing at a wharf, pier, bulkhead structure, or bank, or for mooring to a vessel so berthed.

SUBRULE 34-310 ISSUED 25 JANUARY 1994 EFFFECTIVE 31 JANUARY 1994
DAY - DEFFINITION OF

A period of twenty-four hours beginning at midnight, or any fraction thereof, except that for the purpose of computing dockage charges, a day shall mean a period of twenty-four hours from the recorded time of a watercraft's arrival, or any fraction thereof.

SUBRULE 34-315 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
DAY - COMPUTATION

In computing a day of twenty-four hours, for the purpose of determining the charges established in this section, the Port Authority may allow a period not to exceed thirty minutes additional time upon written request of the owner, operator or general agent of the vessel if for any reason the vessel is unable to leave the berth before the expiration of the twenty-four hour period.

SUBRULE 34-320 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MOORING FACILITIES - DEFINITION OF

All piers, wharves, quays, and bulkheads at Port Authority Marine Terminals.

SUBRULE 34-325 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MOORING FACILITIES - INGRESS AND EGRESS

Officers, crew members, stevedores and other persons doing business in connection with watercraft moored at a terminal or its cargo may use the mooring facilities and driveways as a means of access between the watercraft and the public streets only in accordance with the rules prescribed by the Port Authority, except as provided in existing leases.

SUBRULE 34-330 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MOORING FACILITIES - CONDITION FOR USE

The mooring of watercraft at a terminal shall constitute an agreement by the owner, operator and master to conform to the regulations and to all orders and instructions of the Port Authority.

SUBRULE 34-335 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
PUBLIC WHARF - DEFINITION OF

A wharf, pier, quay, or other portion of the terminal, designated and operated temporarily or permanently by the Port Authority as a public wharf for the mooring of watercraft, the loading and unloading of passengers, and the loading, unloading, handling and holding of cargo.

SUBRULE 34-340 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
USE OF PUBLIC WHARVES

No watercraft shall be docked or berthed at or made fast to any public wharf except upon the payment of such wharfage, dockage, mooring charges or other charges as may from time to time be prescribed by the Port Authority.

SUBRULE 34-345 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
WATERCRAFT - DEFINITION OF

All vessels, ships, boats, barges, floating structures or other devices which are or may be used for the carriage, transportation or handling of persons or property on or by water.

SUBRULE 34-350 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY 2004
APPLICATION OF RATES

Rates in this section apply except where otherwise specifically provided in an existing lease or permit.

SUBRULE 34-355 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY 2004
BERTH ASSIGNMENT PERMIT - RIGHTS GRANTED

Berth assignment permits for the use of a berth or berths at a Marine Terminal, unless otherwise provided, shall include only the right to dock and moor watercraft owned or operated by the permittee or by the company or companies of which the cargo, supplies and passengers are under their care, custody, and control, and to use a portion of the cargo facilities in connection therewith.

SUBRULE 34-356 ISSUED 1 JULY 2004 EFFECTIVE 1 JULY 2004
BERTH ASSIGNMENT PERMIT APPLICATION – DEFINED

A request from a vessel or stevedore, or their representative to the Port Authority for permission to use a berth at a Marine Terminal for a specified period of time for the loading and unloading of cargo or passengers

SUBRULE 34-357 ISSUED 1 JULY 2004 EFFECTIVE 1 JULY 2004
DECLARATION OF SECURITY – DEFINED

An agreement executed between the responsible Vessel and Facility Security Officers that provides a means for ensuring that all shared security concerns are properly addressed and security will remain in place throughout the time a vessel is moored to the facility.

SUBRULE 34-360 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY 2004
BERTH ASSIGNMENT PERMIT - APPLICATION

Applications for such permits shall be made electronically via the Port Authority's on-line berth application system at www.firstnynj.com.

The Terms of Use, along with the FIRST Terms of Use and Privacy Statement, constitute a contract with the Port Authority with respect to your use of the FIRST Web site (which includes all information accessible through the uniform resource locator firstnynj.com (other than any information accessible through hyperlinks to other Web sites) and is hereinafter referred to as the "Site"). Your use of the Site will constitute your express acknowledgment of and agreement to the terms, disclaimers and conditions of use contained therein as the same may be hereafter supplemented, modified and amended from time to time.

Applicant will acknowledge receipt of a copy of FMC Schedule No. PA-10 naming Rules, Regulations, Rate and Charges applying to Port Authority Marine Terminals as of March 6, 1966 and supplements thereto, and will agree to comply with all the terms thereof; notwithstanding the same, it will be expressly agreed that the person, firm or corporation signing this application whether on its own behalf of that of another, whether or not as agent, broker or in another capacity, shall by submitting this application become personally and directly liable to the Port Authority for the payment of all charges and for the performance of all terms set forth in the said Schedule.

In this respect, the Port Authority requires the party authorizing and requesting berth applications (Application) for vessels docked at Port Authority Marine Terminals be fully responsible for all vessel expenses accrued. This will include but is not limited to security guard coverage, dockage, wharfage and water, at designated berths. The Port Authority will provide billings for such services.

SUBRULE 34-361 ISSUED 1 JULY 2004 EFFECTIVE 1 NOVEMBER 2008
BERTH ASSIGNMENT PERMIT – APPLICATION FEE

When Berth Assignment Permit Application is submitted electronically via www.firstnynj.com	$ 0.00 per application request
When Berth Assignment Permit Application is not submitted electronically via www.firstnynj.com , at least 4 days prior to the estimated arrival of the vessel	$584.00 per application request

SUBRULE 34-362 ISSUED 1 JULY 2004 EFFECTIVE 1 OCTOBER 2006
SECURITY GUARD SERVICES FOR BERTH ASSIGNMENT PERMIT – DEFINED

The Port Authority assigns a security guard service to cover each berth for each Berth Assignment Permit. Security guards, and any necessary supervisory coverage, are assigned on an hourly basis and are assigned to cover the berth at least one hour prior to the first docking line being secured and at least one hour after the last docking line has been released. The Berth Applicant is responsible for all fees or charges for the security guard services. Overtime rates are charged starting at 12:01 a.m. Saturday morning and ending Sunday night at 11:59 p.m. Overtime rates will also be charged during holidays and when an individual exceeds 40 hours for a given workweek, or eight (8) hours for a given shift is exceeded.

SUBRULE 34-363 ISSUED 1 JULY 2004 EFFECTIVE 1 MAY 2009
SECURITY GUARD SERVICES FOR BERTH ASSIGNMENT PERMIT – FEES

Security Guard Services [straight time]	$ 68.48 per hour [or part thereof]
Security Guard Services [overtime]	$ 83.27 per hour [or part thereof]
Minimum charge [straight time]	$ 547.84 [8 hours]

As per Subrule 34-365, for any changes to a Berth Assignment Permit, within 24 hours of the estimated arrival of the watercraft, the person who received the Berth Assignment Permit will continue to be liable and billed for all necessary charges from the original permit, including but not limited to billings for security guard services.

The Authority may require that any vessel, which expects to have visitors of any kind, hire additional security guards. At elevated MARSEC levels, an additional security guard(s) would be required of all vessels and would serve as the escort.

SUBRULE 34-365 ISSUED 25 JANUARY 1994 EFFECTIVE 1 OCTOBER 2005
BERTH ASSIGNMENT PERMIT - ITEM FOR FILING AND INFORMATION

All persons desiring a berth for any watercraft at a Port Authority Marine Terminal shall, at least four (4) days prior to the estimated arrival of such watercraft, apply for a Berth Assignment Permit (note that an application not filed electronically must be made between the hours of 8:45 AM and 4:00 PM, except on Saturdays, Sundays, and holidays) as follows:

The following information shall be furnished:

(a) Name and address of applicant;
(b) Name of watercraft's owner or operator;
(c) Contact name and 24 hour phone number;
(d) Name of watercraft;
(e) Length of watercraft overall;
(f) Beam of watercraft;
(g) Arrival draft of watercraft;
(h) Gross registered tonnage of watercraft;
(i) Terminal and berth number;
(j) Estimated date and time of arrival of watercraft;
(k) Estimated date and time of departure of watercraft;
(l) Amount of cargo (in tons) to be loaded or discharged;
(m) Type of cargo to be loaded or discharged;..
(n) Name of stevedore
(o) Name of entity responsible for all billings, e.g. dockage, wharfage, etc;
(p) Name of Vessel Security Officer;
(q) Last port of call;
(r) Security level of vessel
(s) 24-hour Contact phone, fax, or email for vessel
(t) Security level of vessel at last port of call
(u) Does vessel have a valid International Ship Security Certificate

When a Berth Assignment Permit Application is not submitted electronically via www.firstnynj.com, at least four (4) days prior to the estimated arrival of such watercraft, it must be submitted to the appropriate address noted below:

For a berth at a New York facility
Manager - New York Marine Terminals
90 Columbia Street
Brooklyn, NY 11201

For a berth at a New Jersey facility
Manager - New Jersey Marine Terminals
260 Kellogg Street
Port Newark, NJ 07114

The request, if made orally, shall promptly be confirmed in writing.

Any changes to the Berth Assignment Permit being made within 24 hours of the estimated arrival of the watercraft cannot be made electronically and must be made through the Facility Manager. For any changes to a Berth Assignment Permit, within 24 hours of the estimated arrival of the watercraft, the person who received the Berth Assignment Permit will continue to be liable and billed for all necessary charges from the original permit, including but not limited to billings for security guard services, dockage, wharfage, and water at designated berths.

SUBRULE 34-370 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH ASSIGNMENT PERMITS - SMALL CRAFT APPLICATIONS

If a berth is desired for working railroad floating equipment, lighters, barges, floating grain elevators and other small craft on a temporary basis, application shall be made to the Manager.

SUBRULE 34-375 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH ASSIGNMENT PERMITS - LOCATION OF BERTH

No watercraft shall be docked or berthed at or made fast to a public wharf or in any dock, slip, basin or other waterway adjacent to any such structure, except at the location assigned to such watercraft by the Port Authority, or in such manner as to endanger unreasonable or be likely to endanger unreasonable persons or property.

SUBRULE 34-380 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SERVICE DURING O/T BUSINESS HOURS

Services performed during other than business hours shall be the subject of special agreement with the Port Authority.

SUBRULE 34-385 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CHARGES - RESPONSIBILITY FOR

Charges for dockage are assessed against watercraft, and the operator, owner and general agent as well as the watercraft shall be liable therefore. All charges are payable in New York funds at the Office of the Treasurer of the Port Authority.

SUBRULE 34-390 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CHARGES - SMALL CRAFT, RESPONSIBILITY FOR

In the case of watercraft of 220 feet in length or under, charges for dockage are assessed against the vessel's agent, owner or operator.

SUBRULE 34-395 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CHARGES - CREDIT

Owners or operators of watercraft desiring to open credit accounts must make arrangements therefore with the Treasurer of the Port Authority. Unless such a credit account is in effect, the owner or operator of the watercraft must pay all charges for mooring watercraft in cash each day at the office of the Manager.

SUBRULE 34-400 ISSUED 25 JANUARY 1994 EFFECTIVE 1 OCTOBER 2005
BERTH USAGE: VERIFICATION OF CARGO

As a condition to use by any watercraft at any of the mooring facilities or any other facilities at a terminal, the Manager or other duly authorized representative of the Port Authority must be permitted to go aboard such watercraft to ascertain the kind and quantity of cargo thereon, any other necessary information, and whether the regulations of the Port Authority are being complied with.

All persons who have received a Berth Assignment Permit **must** submit a completed certified and valid Vessel Billing Instruction within five (5) days of vessel departure. Failure to submit this certified and valid information within the time period will prevent such persons from receiving additional Berth Assignment Permits until such time as the necessary information is submitted and accepted by the Port Authority.

SUBRULE 34-405 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - SECURING WATERCRAFT

All persons are prohibited from making fast any rope or mooring to any mooring facilities, except to the mooring bollards, posts or bitts provided for the purpose.

SUBRULE 34-410 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - MEASUREMENT OF VESSELS

The Manager shall have the right to measure all watercraft when deemed necessary for the purpose of ascertaining dockage charges.

SUBRULE 34-415 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - EMERGENCY WATCH

Every self-propelled watercraft, except pleasure craft and fishing vessels under 110 feet in length, must at all times have on board a person in charge with authority to take such action in any emergency as may be demanded.

SUBRULE 34-420 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - SHIP'S DOCUMENTS

The master of any watercraft berthed at a terminal shall, upon demand, exhibit the enrollment, license or other document of such watercraft showing tonnage; and the owner, agent, manager or master of any watercraft shall, upon demand, furnish a copy of the manifest or bills of lading for cargo discharged and loaded.

SUBRULE 34-425 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - REMOVAL OF WATERCRAFT

Every master or person in charge of a watercraft docked or berthed at a public wharf shall remove his watercraft when ordered to do so by the Port Authority.

SUBRULE 34-430 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - RAISING OF VESSELS

In the event that a watercraft shall sink or submerge at a terminal, the owner, agent or permittee shall, at his own expense, cause such watercraft to be raised and immediately removed from the terminal.

SUBRULE 34-435 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - SPEED RESTRICTIONS

No watercraft shall be operated at a speed or in a manner which endangers unreasonably or is likely to endanger unreasonably persons or property.

SUBRULE 34-440 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BERTH USAGE - MOORING AND CARGO HANDLING TACKLE AND LABOR

Each permittee shall, at his own cost and expense, keep clean the premises covered by his permit, and provide all tackle, gear and labor for the docking or mooring of such watercraft at a terminal, and shall also provide at his own cost and expense, such appliances and employ such persons as he may require for the loading and unloading of passengers and cargo.

SUBRULE 34-445 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
RESPONSIBILITY FOR INJURIES AND DAMAGES

In the event any damage is done to any mooring facility or other facility at a terminal, the person or person responsible for, causing, or in any way connected with such damage, and the person to whom a berth at such mooring facility is assigned or by whom it is being used, and the master, owner, operator or agent of any watercraft, vehicle or other instrumentality involved in such damage shall make a full report to the Port Authority, giving the date and hour damage occurred, the names and addresses or descriptions of witnesses and other persons, watercraft, or instrumentalities involved in the damage, and all other available pertinent facts and information.

SUBRULE 34-450 ISSUED 27 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
INDEMNITY

The holder of a permit for use of a berth at a terminal shall indemnify and save harmless the Port Authority, its commissioners, officers and/or employees, from any and all claims and demands including, but without limitation thereto, claims and demands of third persons caused by the negligent acts or omissions of the permittee.

This provision subject to SUBRULE 34-001.

SUBRULE 34-455 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BURNING AND WELDING

No repairs to watercraft and no gas welding or cutting shall be permitted at a terminal without permission.

SUBRULE 34-461 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
LENGTH OVER ALL

The latest length over all of a vessel shall be stated in the latest issue of Lloyd's Register of Ships or the American Bureau of Shipping's Record at the option of the Port Authority.

SUBRULE 34-465 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
FIRE SIGNAL

In the event of fire occurring on board any watercraft in a terminal, except watercraft under way, such watercraft will sound five prolonged blasts of the whistle or siren as an alarm indicating fire on board or at the dock to which the watercraft is moored. Such signal may be repeated at intervals to attract attention, and is not a substitute for, but may be used in addition to other means for reporting a fire. The words "prolonged blast", as used in this rule, shall mean a blast of from four to six seconds duration. The signal is not to be used for other purposes.

SUBRULE 34-472 ISSUED 1 MAY 1999 EFFECTIVE 1 NOVEMBER 2008
SELF PROPELLED VESSELS – DOCKAGE

Loading or Discharging:

Length of Vessel in Feet		Charge per foot per 24 hour
Over	Not Exceeding	period or part thereof
0	400	$4.52
400	500	$5.42
500	600	$6.32
600	700	$7.83
700	800	$8.74
800	900	$9.33
900		$10.85
Minimum charge		$1,086.00

Not Loading or Discharging:

Length of Vessel in Feet Over	Not Exceeding	Charge per foot per 24 hour period or part thereof
0	400	$1.81
400	500	$2.41
500	600	$2.71
600	700	$3.02
700	800	$3.32
800	900	$3.92
900		$4.22
Minimum charge		$603.00

SUBRULE 34-482 ISSUED 19 DECEMBER 1999 EFFECTIVE 1 NOVEMBER 2008
NON-SELF PROPELLED VESSELS – DOCKAGE

Non-self propelled vessels, whether loading, discharging or in a tie-up or repair status shall be charged at the following rates:

Length of Vessel in Feet Over	Not Exceeding	Charge per 24 hours or part thereof
0	125	$162.24
125	250	$243.36
250	500	$540.80
500		$919.36

Crane: Floating Cranes, not engaged in loading or discharging cargo to and from vessels will be charged the following rates:

Length of Vessel in Feet Over	Not Exceeding	Charge per 24 hours or part thereof
0	125	$54.08
125	250	$81.12
250		$135.20

SUBRULE 34-483 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SPECIAL EVENTS VESSELS

Vessels associated with special events, as determined by the Manager, and not typically engaged in waterborne commerce, see SUBRULE 34-750.

SECTION D

WHARFAGE -- RULES

SUBRULE 34-505 ISSUED 25 JANUARY 1994 EFFECTIVE I JULY 2004
WHARFAGE - DEFINITION OF

A charge assessed against the cargo or vessel on all cargo passing or conveyed over, onto, or under wharves or between vessels (to or from barge, lighter, or water), when berthed at wharf or when moored in a slip adjacent to wharf. Wharfage is solely the charge for use of wharf and does not include charges for any other service. Wharfage shall be based on the cube or weight as stated on the manifest.

SUBRULE 34-510 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
WHARFAGE - NON-APPLICATION

Wharfage will not be assessed against:
a) Intra-harbor watercraft discharging or loading cargo destined to or from oceangoing vessels where the oceangoing vessel is liable for the charge.
b) Intra-harbor watercraft discharging or loading waterborne cargo destined to or from public warehouses at Port Authority Marine Terminals.

SUBRULE 34-515 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
BULK CARGO OR BALLAST - DEFINITION OF

Goods shipped liquid or dry in bulk, including such commodities as are loose or in mass and such commodities as must be pumped, shoveled, scooped, grabbed or forked in the loading or unloading and which are neither in packages, bundles nor in units which admit their being readily handled piece by piece.

SUBRULE 34-520 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
FOREST PRODUCTS - DEFINITION OF

Articles manufactured from wood, such as box or crate material, laths, pickets, piling, poles, posts, shingles, shooks, stakes, ties, etc.

SUBRULE 34-525 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CARGO - DEFINITION OF

All merchandise, goods, articles, or whatever is transported or to be transported by watercraft.

SUBRULE 34-530 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CARGO - PLACEMENT OF

Cargo shall be placed only in or upon areas designated for that purpose by the Port Authority

SUBRULE 34-535 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
TON (WHEN USED WITH REFERENCE TO CARGO OR MERCHANDISE)

Except when otherwise specified:
2,240 pounds weight, or 40 cubic feet measurement, at the option of the Port Authority.

SUBRULE 34-540 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CARGO HANDLING

Except when actually loading or discharging cargo to or from a watercraft lying alongside a mooring facility, no person, firm, or corporation shall place, leave or deposit such cargo, or any portion thereof, within six (6) feet of the edge of such mooring facility, or upon railroad tracks laid or constructed on any mooring facility.

SUBRULE 34-545 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
PASSENGERS - DEFINITION OF

Any persons, exclusive of watercrafts' officers and crew members, arriving from or departing by a watercraft operating in foreign, coastwise, or intercoastal service, including excursion boats and yachts.

SUBRULE 34-550 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY2004
CARGO FACILITIES - DEFINITION OF

PUBLIC CARGO FACILITIES
The cargo buildings and open areas at a marine terminal designated by the Port Authority for the handling of waterborne cargo and the holding of such cargo for further transportation.

LEASED CARGO FACILITIES
The cargo buildings and open areas at a marine terminal operated by firms, corporations, partnerships or individuals under agreements with the Port Authority and designated by the Port Authority from time to time for the holding of waterborne cargo for further transportation.

CONTAINER TERMINAL FACILITY
Container Terminal Facilities are leased cargo facilities used primarily for the purpose of receiving and delivery of containers for the loading or unloading to and from vessels.

INTERMODAL CONTAINER TRANSFER FACILITY
Intermodal Container Transfer Facilities are leased cargo facilities used primarily for the purpose of loading or unloading containers to/from railroad trains or rail cars.

SUBRULE 34-555 ISSUED 27 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
DANGEROUS CARGO - REMOVAL

Cargo consisting of dangerous articles, or having an offensive odor, or cargo which is liable to damage other cargo is subject to immediate removal by the Port Authority from a terminal or to locations within terminal premises, where such cargo will not endanger persons or property; in such cases removal will be at the expense and risk of the holder of the permit for the berth at which the watercraft is moored.
This provision subject to SUBRULE 34-001.

SUBRULE 34-560 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MATERIALS HANDLING EQUIPMENT - PERMIT TO USE

No persons shall keep or store in or upon any public wharf, public mooring facility, public cargo facility or public storage area or facility at any Port Authority Marine Terminal, any equipment used or to be used by him in connection with the loading and unloading of waterborne freight to or from vehicles (other than

railroad cars) except such carriers of freight by water, water from terminal operators and duly licensed stevedores, as may be authorized to do so by the Port Authority.

SUBRULE 34-565 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CHARGES - RESPONSIBILITY FOR

Charges for wharfage and shed usage or assessed against watercraft, and the operator, owner and general agent as well as the watercraft shall be liable therefore. All charges are payable in New York funds at the office of the Treasurer of the Port Authority.

SUBRULE 34-570 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CHARGES FOR SMALL WATERCRAFT - RESPONSIBILITY FOR

In the case of watercraft of 220 feet in length or under, charges for wharf usage are assessed against the vessel's owner, agent, or operator except wharfage applying to lumber and forest products, which are assessed against the owners thereof.

SUBRULE 34-575 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
CHARGES FOR FOREST PRODUCTS AND LUMBER - RESPONSIBILITY FOR

Charges for wharfage applying to lumber and forest products are assessed against the owners thereof.

SUBRULE 34-580 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
WHARFAGE - PASSENGER

No passengers shall be embarked or disembarked at and no cargo, goods or merchandise shall be moved across or upon or places upon or allowed to remain upon, or removed from any public wharf without the payment of such wharfage or other fees or charges as may from time to time be prescribed by the Port Authority. No person shall refuse to pay or evade or attempt to evade the payment of such charges.

SUBRULE 34-585 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
WHARFAGE

The following charge is assessed when cargo passes over or through a mooring facility or passes over the side of a vessel for the unloading to or loading from other vessels or to and from other rafts or water.

SUBRULE 34-590 ISSUED 25 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
WHARFAGE - RATES

All cargo, unless otherwise specifically provided for	$1.06 per metric ton
Automobiles, unboxed	$1.04 per measurement ton
Bulk cargo	$1.43 per metric ton
Steel and incidental metals discharged at a designated steel berth	$0.83 per metric ton
Scrap metals in bulk, except stainless steel	$1.48 per metric ton

Stainless Steel Scrap metal in bulk	$2.26 per metric ton
Bananas	$0.13 per metric ton
Cocoa	$2.20 per metric ton
Coffee	$2.20 per metric ton
Cement in bulk	$1.06 per metric ton
Lumber	$1.20 per thousand gross BMF

SUBRULE 34-595 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
SPECIAL CARGO MOVEMENTS

Unless covered by another Port Authority agreement, wharfage charges for special cargo movements such as oversized or heavy lifts, as determined by the Facility Manager, will be assessed as per SUBRULE 34-750.

SUBRULE 34-600 ISSUED 25 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
SHED USAGE

The following charge is assessed against vessels when cargo or merchandise is placed in a cargo shed incidental to loading or discharging operations.

All cargo, except steel at designated berths	$2.62 per metric ton
Steel and incidental cargoes discharged at a designated steel berth	$.36 per metric ton

SUBRULE 34-605 ISSUED 25 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
PASSENGER WHARFAGE

The following charge will be made against all vessels (exclusive of excursion boats or sight-seeing yachts), operating in foreign, coastwise or intercoastal service, which embark or disembark passengers over the mooring facilities at a terminal:

For each passenger, on an intra-harbor commuter ferry	$4.68 each
For all other passengers	$8.19 each

SECTION E

FREE TIME AND WHARF DEMURRAGE -- RULES

SUBRULE 34-610 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JUNE 2003
FREE TIME - DEFINITION OF

The specified period during which cargo may occupy available space, as determined by the Manager, assigned to it on terminal property free of wharf demurrage or terminal storage charges immediately prior to the loading or subsequent to discharge of such cargo on or off the vessel.

SUBRULE 34-615 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
FREE TIME - COMMENCEMENT OF

Free time on inbound cargo will commence on the day after discharge of cargo is completed.

Free time on outbound cargo will commence five days before the day on which vessel berths.

SUBRULE 34-620 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JUNE 2003
FREE TIME ALLOWANCES

Free time of five days to be allowed for automobiles only when space is available. The granting of free time may not impede any other vessel and/or cargo operations at or in the vicinity of the berth.

SUBRULE 34-625 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY 2004
PROJECT SHIPMENTS

Provide for an assembly period not to exceed 45 consecutive calendar days for consignments of outbound cargo being assembled for shipment in large lots. Such assembly time shall be granted only to cargo that is not susceptible to weather damage and the cargo shall be held in open or covered storage at the discretion of the Manager. Such assembly time shall be granted at the discretion of the Manager and only when arrangements therefore are made in advance of arrival of the cargo at the Port Authority terminal facilities and only when adequate storage space is available.

SUBRULE 34-630 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
OUTBOUND CARGO

Seven days (exclusive of Saturdays, Sundays and holidays). When a legal holiday falls on Sunday, the following Monday will be excluded.

SUBRULE 34-635 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY 2004
HOLIDAY - DEFINITION OF

New Year's Day, Martin Luther King's Birthday, Lincoln's Birthday, Washington's Birthday, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day, Christmas Eve, Christmas Day and New Year's Eve, each as determined by the appropriate State legislature and any day observed in lieu of any of the foregoing pursuant to law or any other holidays pursuant to law or waterfront labor contract duly made in pursuance of the collective bargaining agreement then in effect throughout the Port of New York providing for such holidays.

SUBRULE 34-640 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY 2004
WHARF DEMURRAGE - DEFINITION OF

A charge assessed against cargo remaining in or on terminal facilities after the expiration of free time unless arrangements have been made for storage. This charge is in addition to the provision for Unleased Space, Subrule 34-135.

SUBRULE 34-645 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
APPLICATION OF CHARGES

Wharf demurrage will be charged on inbound cargo remaining after the expiration of free time.

Wharf demurrage will be charged on outbound cargo remaining after the vessel leaves the berth, as well as on cargo arriving before the free time commences.

Wharf demurrage will be charged for Saturdays, Sundays, and holidays before or after the free time period.

SUBRULE 34-650 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
WHARF DEMURRAGE - RESPONSIBILITY FOR CHARGES

Charges for wharf demurrage are assessed against watercraft, and the operator, owner and general agent as well as the watercraft shall be liable therefore. All charges are payable in New York funds at the office of the Treasurer of the Port Authority.

SUBRULE 34-655 ISSUED 25 JANUARY 1994 EFFECTIVE 1 JULY 2004
WHARF DEMURRAGE - SMALL WATERCRAFT CHARGES, RESPONSIBILITY FOR

In the case of watercraft of 220 feet in length or under, charges for wharf demurrage are assessed against the vessel's owner, agent, or operator except wharf demurrage applying to lumber and forest products, which are assessed against the owners thereof.

SUBRULE 34-670 ISSUED 27 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
WHARF DEMURRAGE - REMOVAL OF CARGO

Cargo remaining on terminal premises after the expiration of the free time period provided in the schedule of charges and cargo intended for loading on a watercraft but not loaded thereon prior to clearance of such watercraft, any unless arrangements have been made for the payment of wharf demurrage thereon, be piled or repiled by the Port Authority to make space, or transferred to other locations at the terminal or removed from the terminal to public or private warehouses; such piling, repiling, or removal will be at the risk of loss and expense of the holder of the permit for the berth at which the watercraft was moored.

This provision subject to SUBRULE 34-001.

SUBRULE 34-675 ISSUED 25 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
WHARF DEMURRAGE ON CARGO

Automobiles, unboxed	$.77 per measurement ton
On all other cargo	$.68 per metric ton per day

SECTION F

MISCELLANEOUS CHARGES

SUBRULE 34-685 ISSUED 25 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
MISC. CHARGES - WATER

Per short ton	$3.92
When Port Authority labor is necessary for furnishing hook up and/or disconnect	$75.31 per hour or part thereof
Minimum Charge	$1,125.00.00

Damage to the water carts are the responsibility of the user and the repair costs will be billed to the user at the Port Authority's costs plus 30%.

SUBRULE 34-690 ISSUED 25 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
MISCELLANEOUS CHARGES - ELECTRICITY/LIGHTS

Wharf or shed or portable lights for each 12 hour period or fraction thereof	$2.34 per light
When Port Authority labor is necessary for furnishing hook up and/or disconnect	$75.31 per hour or part thereof

SUBRULE 34-695 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MISCELLANEOUS CHARGES - ELECTRICITY RATES

Electricity will be furnished at the same rate as would be charged if supplied directly to the user by the local utility company.

SUBRULE 34-700 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MISCELLANEOUS CHARGES - VESSEL FURNISHED CABLES

Where vessel furnishes shore cable, etc	Cost of labor for hooking up

SUBRULE 34-705 ISSUED 25 JANUARY 1994 EFFECTIVE 1 OCTOBER 2005
MISCELLANEOUS CHARGES - ELECTRICITY TERMINAL FURNISHED CABLES

Where terminal furnished shore cables etc.	This service is discontinued.

SUBRULE 34-715 ISSUED 27 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2007
MISCELLANEOUS CHARGES - CAR LOADING AND UNLOADING

The Port Authority shall not be responsible for railroad car demurrage, nor delays in unloading inbound cars; nor for delays in obtaining cars for outbound shipments .

This provision subject to SUBRULE 34-001.

SUBRULE 34-746 ISSUED 25 JANUARY 1994 EFFECTIVE 1 NOVEMBER 2008
MISCELLANEOUS CHARGES - TOW AWAY CHARGE

Charges for towing vehicles parked in violation of posted signs and or the rules and regulations. This charge is in addition to traffic violation and or storage charges, etc. that may be charged.

$60.25 per vehicle

SUBRULE 34-750 ISSUED 25 JANUARY 1994 EFFECTIVE 31 JANUARY 1994
MISCELLANEOUS CHARGES - SERVICES AND RATES NOT SPECIFIED

Services and rates therefore not specifically provided in the Schedule of Charges shall be subject of special agreement with the Port Authority.

SUBRULE 34-751 ISSUED 26 JANUARY 1996 EFFECTIVE 1 MARCH 1996
LATE CHARGES

All charges published in this tariff shall be due and payable upon presentation of an invoice. Invoices not paid within thirty (30) calendar days of the invoice date will be subject to a fee of .8% on the outstanding balance and then every fifteen (15) days thereafter.
The Port Authority reserves the right to deny to anyone the use of any terminal until all past due accounts are paid, and to apply any payment received against the oldest outstanding invoices.
Agents or representatives will be held fully responsible for all charges attributable to their action on behalf of their principals, in arranging services, facilities, equipment or other chargeable items, in accord with the rates therefore published in this tariff.
Delinquent invoice amounts plus late charges that are determined to be payable may be deducted by the Port Authority from any credits and/or discounts due to the debtor by the Port Authority.
Any account receivable in excess of thirty (30) days old is subject to the immediate withholding of all credits, discounts, subsidies, incentives, etc. whether or not related to the outstanding receivables, until such time as all receivables for the account are rendered current.

SUBRULE 34-752 ISSUED 1 OCTOBER 2006 EFFECTIVE 1 NOVEMBER 2008
NOTIFICATION OF DISPUTED INVOICES

Questions regarding the validity of invoice(s) must be submitted in writing to the Port Authority of New York and New Jersey (address listed below based on facility utilized), specifically noting the material errors and/or discrepancies with regard to the invoice(s), within 30 days from the date of the invoice(s). All disputes of invoices involving berth applications must utilize the Billing Adjustment Form found on the First Website (http://www.firstnynj.com) or by contacting the Business Manager (kopthof@panynj.gov) for New Jersey Marine Terminals or the Senior Marine Terminal Operations Representative (szuccaro@panynj.gov) for New York Marine Terminals. If the material errors and/or discrepancies are not reported as stated herein, the invoice(s) shall be considered valid, due and payable.

The Port Authority of New York & New Jersey
New York Marine Terminals
90 Columbia Street
Brooklyn, NY 11201

or

The Port Authority of New York & New Jersey
New Jersey Marine Terminals
260 Kellogg Street
Port Newark, NJ 07114

SUBRULE 34-753 ISSUED 1 OCTOBER 2006 EFFECTIVE 1 NOVEMBER 2008
BILLING REDUCTION ADJUSTMENT FEE

A billing adjustment resulting in a reduction of an issued billing invoice will be processed for a fee of One Hundred Sixty Two Dollars ($162.00) if the requested adjustment is the result of erroneous and or incorrect information provided to the Port Authority. All disputes of invoices must be provided for as noted in subrule 34-752.

SUBRULE 34-760 ISSUED 1 JULY 2004 EFFECTIVE 1 SEPTEMBER 2004
INTERMODAL CONTAINER LIFT – definition of

The loading or unloading of a cargo container to or from a railroad train or rail car at an Intermodal Container Transfer Facility.

SUBRULE 34-765 ISSUED 1 JULY 2004 EFFECTIVE 1 NOVEMBER 2008
INTERMODAL CONTAINER LIFT FEE – rates

Intermodal Container Lift Fee	$52.50 per Intermodal Container Lift

SUBRULE 34-800 ISSUED 1 JULY 2004 EFFECTIVE 1 JULY 2004
SEA LINK – definition of

Sea Link is a Trucker Identification System used for the interchange of containers between truckers/trucking companies and Container Terminals. Details for registration for this identification card can be obtained at the Port Authority offices for the New Jersey Marine Terminals at 260 Kellogg St, Port Newark, NJ 07114

SUBRULE 34-810 ISSUED 1 JULY 2004 EFFECTIVE 1 SEPTEMBER 2004
SEA LINK FEES

Container Terminals Subscription Fee
Container Terminal operators are charged an annual subscription fee based on each terminal's annual TEU volume.

Sea Link Container Terminal Subscription Fee Schedule:

0 to 100,000 TEU's	$ 2,500 per 3 month [calendar quarter] period
100,001 to 300,000 TEU's	$ 3,750 per 3 month [calendar quarter] period
Over 300,001 TEU's	$ 6,250 per 3 month [calendar quarter] period
Minimum Sea Link Subscription fee	$ 2,500 per 3 month [calendar quarter] period

Sea Link Transaction Fees:
Truck drivers, or the truck company, pay transaction fees for their registration into the system. Transaction fees may include, but are not limited to: new card application, replacement of lost or damaged card,

granting access of an existing truck driver to an additional trucking company [add-ons], renewal of expired card, etc.

Sea Link Transaction Fee Schedule:

New card application	$ 25.00
Replace lost or damaged card	$ 25.00
Add-ons	$ 25.00
Renewal for expired card	$ 25.00

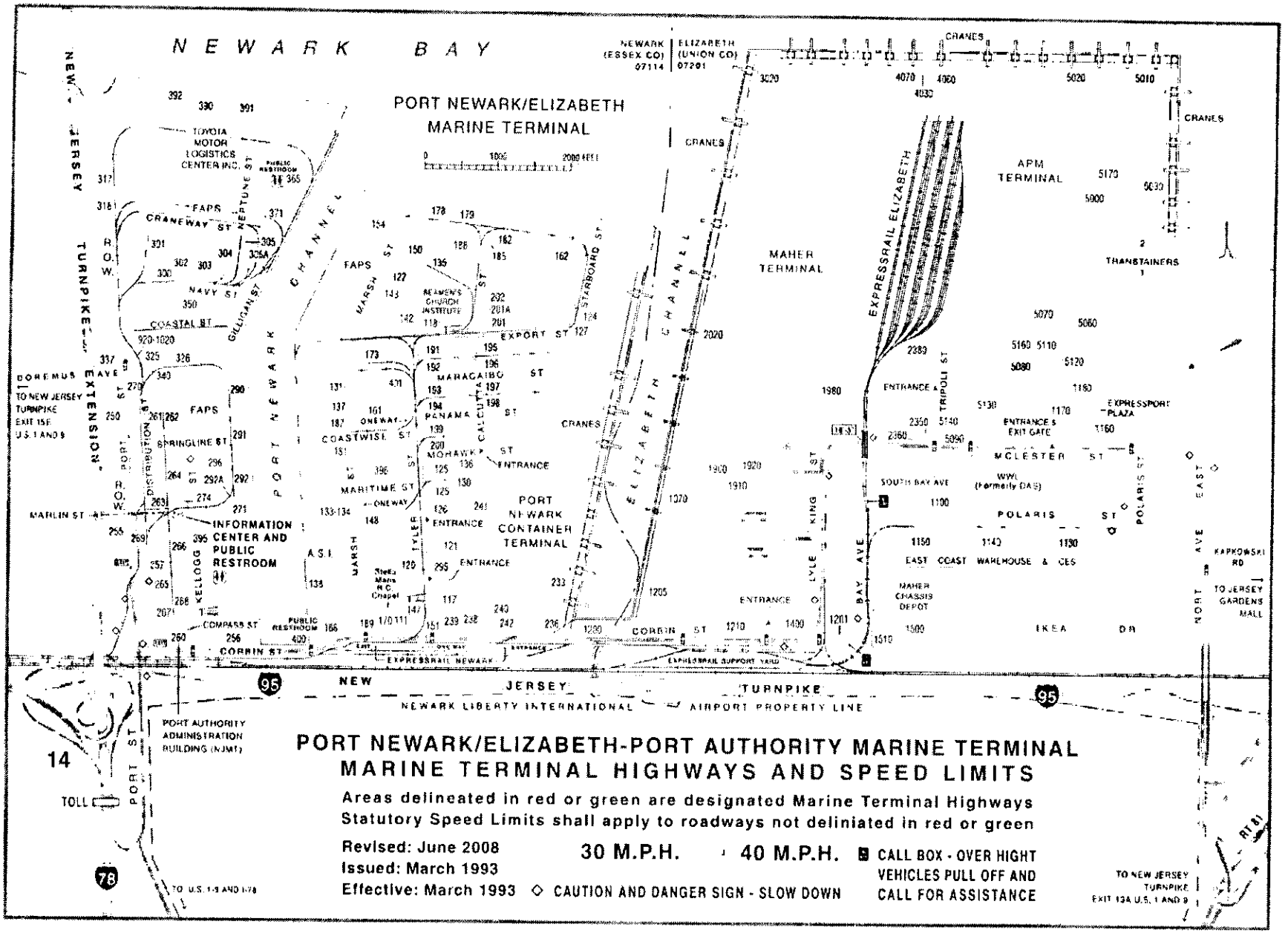
SUBRULE 34-850 ISSUED 1 JULY 2004 EFFECTIVE 1 SEPTEMBER 2004
PORT AUTHORITY ISSUED MARINE TERMINAL IDENTIFICATION CARD – definition of

Port Authority Issued Marine Terminal Identification Card is the Port Authority's identification card for individuals. This identification card, or any other acceptable identification card, must be displayed at all times by the cardholder when accessing areas on the facility and/or marine terminals. Registration for this identification card is made at the Port Authority offices for the New Jersey Marine Terminals at 260 Kellogg St, Port Newark, NJ 07114.

SUBRULE 34-860 ISSUED 1 JULY 2004 EFFECTIVE 1 JULY 2004
PORT AUTHORITY ISSUED MARINE TERMINAL IDENTIFICATION CARD – fees

Port Authority Issued Marine Terminal Identification Card Transaction fees:

New card application	$ 25.00
Replace lost or damaged card	$ 25.00
Add-ons	$ 25.00
Renewal for expired card	$ 25.00



PORT NEWARK/ELIZABETH-PORT AUTHORITY MARINE TERMINAL
MARINE TERMINAL HIGHWAYS AND SPEED LIMITS

Areas delineated in red or green are designated Marine Terminal Highways
Statutory Speed Limits shall apply to roadways not deliniated in red or green

Revised: June 2008
Issued: March 1993
Effective: March 1993

30 M.P.H. **40 M.P.H.**

◇ CAUTION AND DANGER SIGN - SLOW DOWN

CALL BOX - OVER HIGHT VEHICLES PULL OFF AND CALL FOR ASSISTANCE

Exhibit I

INTENTIONALLY DELETED